



# FEDERAL REGISTER

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Vol. 84

Wednesday,

No. 132

July 10, 2019

Pages 32839–32974

OFFICE OF THE FEDERAL REGISTER



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Federal Register

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

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 701

[Docket No. FSA–2019–0006]

RIN 0560–A146

#### Emergency Conservation Program

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

**SUMMARY:** The Agriculture Improvement Act of 2018 (2018 Farm Bill) amended provisions of the Emergency Conservation Program (ECP). This rule implements those changes to ECP and makes additional minor technical amendments to the ECP regulations. The Farm Service Agency (FSA) is amending regulations to add wildfires as an eligible natural disaster, expand eligibility requirements, increase the maximum payment amount certain participants may receive, provide cost-share for fence repair and replacement, and provide certain cost-share payments more expeditiously than was previously authorized under ECP. In addition, this rule makes minor changes related to the Emergency Forest Restoration Program (EFRP).

**DATES:** Effective July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Shanita Landon; telephone: (202) 690–1612; or email:

[shanita.landon@fxsp0.usda.gov](mailto:shanita.landon@fxsp0.usda.gov). Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

**SUPPLEMENTARY INFORMATION:**

#### Background

Through ECP, FSA provides payments to farmers and ranchers to rehabilitate farmland damaged by certain natural disasters and to implement emergency water conservation measures in periods of severe drought. ECP provides cost-share assistance to farmers or ranchers

to rehabilitate farmland damaged by wind erosion, floods, hurricanes, or other natural disasters as determined by the Deputy Administrator. Section 2403 of the 2018 Farm Bill (Pub. L. 115–334) made changes to the ECP provisions. For ECP, the 2018 Farm Bill amended the Agricultural Credit Act of 1978 (16 U.S.C. 2201), by adding wildfires as an eligible natural disaster for which payments may be provided to eligible producers. The changes to the regulations include:

- Adding an additional category to natural disasters to be consistent with the changes to the ECP provisions;
- Making a portion of the cost-share payments for the repair or replacement of fencing available to eligible producers prior to the producer carrying out the repair or replacement;
- Increasing the maximum payment amount a producer can receive under ECP;
- Establishing a maximum payment percentage that a producer who is a socially disadvantaged or beginning farmer or rancher may receive; and
- Making minor technical changes to the existing ECP and EFRP regulations.

#### Definitions

FSA is relocating definitions applicable to EFRP into the general definitions section in § 701.2. The defined terms are “Commercial forest land,” “Nonindustrial private forest land,” and “Owners of nonindustrial private forest land.”

#### Maximum Cost Share Percentages

Prior to this rule, a qualified limited resource farmer or rancher that participated in ECP may have received reimbursement of up to 90 percent of the total allowable cost. The 2018 Farm Bill expands this maximum cost-share to include socially disadvantaged and beginning farmers and ranchers, while in all cases limiting total payment for a single event to an amount not to exceed 50 percent of the agricultural value of the land.

This rule continues the maximum cost-share payments that can be made to a farmer or rancher who is not a limited-resource, socially disadvantaged, or beginning farmer or rancher, to no more than 75 percent of the total allowable cost, not to exceed 50 percent of the agricultural value of the land.

#### Maximum ECP Payments per Person or Legal Entity

Prior to this rule, a person or legal entity was limited to a maximum ECP cost share of \$200,000 per person or legal entity, per disaster event. This rule will increase the maximum per person or legal entity payment limitation to \$500,000.

#### Advanced Payment Option for Fences

The 2018 Farm Bill authorizes a set aside of funds to provide that 25 percent of funding is to be used for the repair or replacement of fencing. The rule also adds § 701.128 for advance payments of up to 25 percent of the cost of repairing or replacement of fencing before the repair or replacement is carried out. In the event this cost share assistance is not spent within 60 calendar days of being issued, the participant will be required to refund the cost-share payment.

#### EFRP Maximum Financial Assistance

The rule revises § 701.226 to clarify that an EFRP participant will not receive more than 75 percent of the total cost of the emergency measures carried out by the participant; and, that the \$500,000 maximum applies for a person or legal entity, per natural disaster. In addition, there is no provision for a waiver of the above-described EFRP limits for financial assistance.

#### Effective Date and Notice and Comment

The Administrative Procedure Act (APA; 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to benefits. This rule relates to benefits and thus falls within that exemption.

This rule is not a major rule under Congressional Review Act. Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review.

Therefore, this rule is effective on the date of publication the **Federal Register**.

#### Executive Orders 12866, 13563, 13771, and 13777

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of

available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant. Executive Order 13777, "Enforcing the Regulatory Reform Agenda," established a federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, "Regulatory Planning and Review," and therefore, OMB has not reviewed this rule and an analysis of the costs and benefits is not required under either Executive Orders 12866 or 13563.

Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," requires that in order to manage the private costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new costs must be offset by the elimination of at least two prior regulations. As this rule is designated not significant, it is not subject to Executive Order 13771. In a general response to the requirements of Executive Order 13777, USDA created a Regulatory Reform Task Force, and USDA agencies were directed to remove barriers, reduce burdens, and provide better customer service both as part of the regulatory reform of existing regulations and as an ongoing approach. FSA reviewed this regulation and made changes to improve any provision that was determined to be outdated, unnecessary, or ineffective.

#### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act since FSA is not required to publish a notice of proposed rulemaking for this rule.

#### **Environmental Review**

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). This rule includes changes mandated by the 2018 Farm Bill and discretionary technical amendments that are administrative in nature. Accordingly, the discretionary provisions of this action are covered by the Categorical Exclusion, found in 7 CFR 799.31(b)(2)(iii) for minor amendments or revisions to previously approved actions and § 799.31(b)(3)(i), for the issuance of minor technical corrections to regulations. No Extraordinary Circumstances (§ 799.33) exist. As such, the implementation of the discretionary technical amendments provided in this rule does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action and this rule serves as the environmental screening documentation of the programmatic environmental compliance decision for this federal action.

#### **Executive Order 12372**

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, "Civil Justice Reform." This rule would not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal

provisions of 7 CFR parts 11 and 780 are to be exhausted.

#### **Executive Order 13132**

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that 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.

FSA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that requires Tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2018 Farm Bill.

#### **Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, or the private sector. Agencies generally need to prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost



effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Federal Assistance Programs

The title and number of the Federal Domestic Assistance Program in the Catalog of Federal Domestic Assistance, to which this rule applies is 10.054—Emergency Conservation Program.

#### Paperwork Reduction Act

In the accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), this rule does not change the information collection approved by OMB under OMB control number 0560–0082.

#### E-Government Act Compliance

FSA are committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects in 7 CFR Part 701

Disaster assistance, Environmental protection, Forests and forest products, Grant programs—agriculture, Grant programs—natural resources, Reporting and recordkeeping requirements, Rural areas, Soil conservation, Water resources, Wildlife.

For the reasons discussed above, FSA amends 7 CFR part 701 as follows:

#### PART 701—EMERGENCY CONSERVATION PROGRAM, EMERGENCY FOREST RESTORATION PROGRAM, AND CERTAIN RELATED PROGRAMS PREVIOUSLY ADMINISTERED UNDER THIS PART

■ 1. The authority citation for part 701 continues to read as follows:

**Authority:** 16 U.S.C. 2201–2206; Sec. 101, Pub. L. 109–148, 119 Stat. 2747; and Pub. L. 111–212, 124 Stat. 2302.

#### Subpart B—Emergency Conservation Program

■ 2. In § 701.2, add definitions for “Commercial forest land”, “Nonindustrial private forest land”, and “Owners of nonindustrial private forest land” in alphabetical order.

The additions read as follows:

#### § 701.2 Definitions.

\* \* \* \* \*

(b) \* \* \*

*Commercial forest land* means forest land with trees intended to be harvested for commercial purposes that has a productivity potential greater than or equal to 20 cubic feet per year of merchantable timber.

\* \* \* \* \*

*Nonindustrial private forest land* means rural commercial forest lands with existing tree cover, or which are suitable for growing trees, that are owned by a private non-industrial forest landowner as defined in this section.

*Owners of nonindustrial private forest* means, for purposes of the EFRP, an individual, group, association, corporation, Indian Tribe, or other legal private entity owning nonindustrial private forest land or who receives concurrence from the landowner for making the claim in lieu of the owner; and, for practice implementation, the one who holds a lease on the land for a minimum of 10 years. Owners or lessees principally engaged in the primary processing of raw wood products are excluded from this definition. Owners of land leased to lessees who would be excluded under the previous sentence are also excluded.

■ 3. Amend § 701.103 as follows:

■ a. Revise section heading;

■ b. In paragraph (a), remove “or other” and add “wildfire, or other” in its place; and

■ c. In paragraph (b), remove “wind” and add “wildfire, wind” in its place.

The revision reads as follows:

#### § 701.103 Eligible losses, objective, and payments.

\* \* \* \* \*

■ 4. Amend § 701.126 as follows:

■ a. In paragraph (a), remove “lesser of the participant’s total actual cost or of the”;

■ b. Revise paragraph (b); and

■ c. In paragraph (c), remove “shall” and adding “will” in its place.

The revision reads as follow.

#### § 701.126 Maximum cost-share percentage.

\* \* \* \* \*

(b) However, notwithstanding paragraph (a) of this section, a producer who is a limited resource, socially disadvantaged, or beginning farmer or rancher that participates in ECP may receive up to 90 percent of the total allowable costs expended to perform the practice as determined under this part.

\* \* \* \* \*

#### § 701.127 [Amended]

■ 5. Amend § 701.127 by removing “\$200,000” and adding “\$500,000” in its place.

■ 6. Add § 701.128 to read as follows:

#### § 718.128 Repair or replacement of fencing.

(a) With respect to a payment to an agricultural producer for the repair or replacement of fencing, the agricultural producer has the option of receiving up to 25 percent of the projected payment, determined based on the applicable percentage of the fair market value of the cost of the repair or replacement, as determined by FSA before the agricultural producer carries out the repair or replacement.

(b) If the funds provided under paragraph (a) of this section are not spent by the agricultural producer within 60 calendar days of the date on which the agricultural producer receives those funds, the funds must be returned to FSA by a date determined by FSA.

(c) Payments made under this section are subject to the availability of funds.

■ 7. Amend § 701.203 as follows:

■ a. Revise the section heading; and

■ b. In paragraph (a), remove “on or after January 1, 2010,”.

The revision reads as follow.

#### § 701.203 Eligible measures, objectives, and assistance.

\* \* \* \* \*

#### § 701.205 [Amended]

■ 8. Amend § 701.205 paragraph (a)(2) by removing “, which occurred on or after January 01, 2010,”.

#### § 701.226 [Amended]

■ 9. Amend § 701.226 as follows:

■ a. In paragraph (b), remove “A person,” and add “A person, or legal entity,” in its place and remove “disaster” and add “natural disaster” in its place; and

■ b. Remove paragraph (c).

**Steven Peterson,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 2019–14346 Filed 7–9–19; 8:45 am]

BILLING CODE 3410–05–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA–R09–OAR–2019–0840; FRL–9996–12–Region 9]

### Designation of Areas for Air Quality Planning Purposes; California; Coachella Valley 8-Hour Ozone Nonattainment Area; Reclassification to Extreme

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

**ACTION:** Final rule.

**SUMMARY:** Under the Clean Air Act (CAA or the “Act”), the Environmental Protection Agency (EPA) is granting a request from the State of California to reclassify the Coachella Valley ozone nonattainment area from “Severe-15” to “Extreme” for the 1997 8-hour ozone national ambient air quality standards (NAAQS). This action does not reclassify any areas of Indian country within the boundaries of the Coachella Valley 1997 ozone nonattainment area.

**DATES:** This rule is effective on July 10, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0840. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Tom Kelly, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3856 or by email at [kelly.thomas@epa.gov](mailto:kelly.thomas@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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**I. Reclassification of Coachella Valley to Extreme Ozone Nonattainment**

Effective June 15, 2004, we classified a portion of Riverside County (Coachella Valley) under the CAA as “Serious” for the 1997 8-hour ozone NAAQS.<sup>1</sup> Our classification of Coachella Valley as a Serious ozone nonattainment area established a requirement that the area

attain the 1997 ozone NAAQS as expeditiously as practicable, but no later than eight years from designation, i.e., June 15, 2012. On November 28, 2007, the California Air Resources Board (CARB) requested that the EPA reclassify the Coachella Valley nonattainment area from Serious to Severe-15. The EPA granted the reclassification, effective June 4, 2010, with an attainment date of not later than June 15, 2019.<sup>2</sup> On June 11, 2019, CARB submitted a request that the EPA reclassify the Coachella Valley area from Severe-15 to Extreme for the 1997 ozone NAAQS.

We are approving CARB’s reclassification request under section 181(b)(3) of the Act, which provides for “voluntary reclassification.”<sup>3</sup> The provision for voluntary reclassification has been brought forward as part of the transition from the 1-hour ozone standard to the 1997 8-hour ozone standard.<sup>4</sup> Because the plain language of section 181(b)(3) mandates that we approve such a request, the EPA is granting CARB’s request for voluntary reclassification under section 181(b)(3) for the Coachella Valley nonattainment area for the 1997 ozone NAAQS, and the EPA is reclassifying the area from Severe-15 to Extreme. Because of this action, the Coachella Valley must now attain the 1997 ozone NAAQS as expeditiously as practicable, but no later than twenty years from the date of designation as nonattainment, i.e., June 15, 2024. We will propose a schedule for required plan submittals for Coachella Valley under the new classification in a separate action.

The EPA revoked the 1997 ozone NAAQS with the promulgation of the 2008 ozone NAAQS,<sup>5</sup> and certain requirements of the 1997 ozone NAAQS continue to apply as anti-backsliding measures under CAA section 172(e). The United States Court of Appeals for the District of Columbia Circuit’s decision in *South Coast Air Quality Management District v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018) (“*South Coast II*”) recently addressed the EPA’s obligation to reclassify areas for the revoked 1997 ozone NAAQS where those areas failed to attain by their attainment date.<sup>6</sup> The

Court held that the EPA is required to continue to reclassify areas that fail to attain by the relevant attainment deadlines because mandatory reclassification under CAA section 181(b)(2) must be retained as an anti-backsliding control after revocation.<sup>7</sup> The Court did not address voluntary reclassifications requested by states, but such reclassifications are consistent with the general scheme for implementing CAA emissions controls to achieve attainment and taking this action will serve to clarify the area’s anti-backsliding obligations with respect to the revoked 1997 standards.

Within the geographic boundaries of Coachella Valley is Indian country under the jurisdiction of the Agua Caliente Band of Cahuilla Indians, the Augustine Band of Cahuilla Mission Indians, the Cabazon Band of Mission Indians, the Santa Rosa Band of Cahuilla Indians, the Torres Martinez Desert Cahuilla Indians, and the Twenty-Nine Palms Band of Mission Indians. Because the State of California does not have jurisdiction over Indian country located within its borders, CARB’s request to reclassify the Coachella Valley does not apply to these areas of Indian country. The EPA implements federal CAA programs, including reclassifications, in Indian country consistent with our discretionary authority under sections 301(a) and 301(d)(4) of the CAA. The EPA has not received a reclassification request from any tribe with jurisdiction within the Coachella Valley, and this action does not reclassify any areas of Indian country within the Coachella Valley.<sup>8</sup> In this action, we are adding regulatory text to 40 CFR part 81 to distinguish the areas of Indian country that will retain the Severe-15 classification from the state areas that are included in the reclassification to Extreme.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with

EPA’s Phase 1 implementation rule for the 1997 ozone standard. *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006).

<sup>7</sup> *South Coast II*, 882 F.3d at 1147–48.

<sup>8</sup> The EPA has notified the Agua Caliente Band of Cahuilla Indians, the Augustine Band of Cahuilla Mission Indians, the Cabazon Band of Mission Indians, the Santa Rosa Band of Cahuilla Indians, the Torres Martinez Desert Cahuilla Indians, and the Twenty-Nine Palms Band of Mission Indians of CARB’s intention to seek a voluntary reclassification, and we clarified that CARB’s reclassification request includes only state lands and that the EPA’s approval of the request will not apply to Indian country.

<sup>1</sup> See 69 FR 23858 (April 30, 2004).

<sup>2</sup> See 75 FR 24409 (May 5, 2010).

<sup>3</sup> 42 U.S.C. 7511(b)(3).

<sup>4</sup> See 40 CFR 51.903(b) (“A State may request a higher classification for any reason in accordance with section 181(b)(3) of the CAA”) and 40 CFR 51.903(a), Table 1.

<sup>5</sup> 80 FR 12263 (March 6, 2015).

<sup>6</sup> *South Coast Air Quality Management Dist. v. EPA*, 882 F.3d 1138, 1147–48 (D.C. Cir. 2018). The term “*South Coast II*” is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as “*South Coast*.” The earlier decision involved a challenge to the

public participation where public notice and comment procedures are “impracticable, unnecessary or contrary to the public interest.” The EPA has determined that public notice and comment for this action is unnecessary because our action to approve voluntary reclassification requests under CAA section 181(b)(3) is nondiscretionary both in its issuance and in its content. As such, notice and comment rulemaking procedures would serve no useful purpose.

The EPA also finds that there is good cause under APA section 553(d)(3) for this reclassification to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. The schedule for required plan submittals for Coachella Valley under the new classification will be proposed in a separate action. For this reason, the EPA finds good cause under APA section 553(d)(3) for this reclassification to become effective on the date of publication.

## II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a “significant regulatory action” and therefore is not subject to Executive Order 12866. This action is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not significant under Executive Order 12866. With respect to lands under state jurisdiction, voluntary reclassifications under CAA section 181(b)(3) of the CAA are based solely upon requests by the state, and the EPA is required under the CAA to grant them. These actions do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by reclassification, reclassification does not impose a materially adverse impact under Executive Order 12866. For these reasons, this final action is also not subject to Executive Order 13211,

“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

In addition, I certify that this final rule 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.*), and that this final rule 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), because the EPA is required to grant requests by states for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate, and because tribes are not subject to implementation plan submittal deadlines that apply to states as a result of reclassifications.

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This reclassification action relates to ozone, a pollutant that is regional in nature, and is not the type of action that could result in the types of local impacts addressed in Executive Order 12898.

This final action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, nor on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final action does not alter the relationship or the distribution of power and responsibilities established in the CAA.

This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health

Risks and Safety Risks” (62 FR 19885, April 23, 1997), because EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

Reclassification actions do not involve technical standards and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section I of this preamble, including the basis for that finding. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 9, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: June 12, 2019.

Michael Stoker,

Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

# **PART 81—DESIGNATION FOR AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 1. The authority citation for part 81 continues to read as follows:

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

## **Subpart C—[Amended]**

■ 2. In § 81.305 the table entitled “California—1997 8-Hour Ozone NAAQS (Primary and Secondary)” is amended by revising the entry for “Riverside Co. (Coachella Valley), CA” and adding footnote g to read as follows:

### **§ 81.305 California.**

\* \* \* \* \*

## **CALIFORNIA—1997 8-HOUR OZONE NAAQS (PRIMARY AND SECONDARY)**

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Riverside Co. (Coachella Valley), CA:				
Riverside County (part) <sup>g</sup> .....		Nonattainment .....	6/12/19	Subpart 2/Extreme.
That portion of Riverside County which lies to the east of a line described as follows: Beginning at the Riverside-San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; then east along the Township line common to Township 8 South and Township 7 South; then north along the range line common to Range 5 East and Range 4 East; then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; then west along the Township line common to Township 5 South and Township 6 South; then north along the range line common to Range 4 East and Range 3 East; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; then north along the range line common to Range 2 East and Range 3 East; to the Riverside-San Bernardino County line.				
And that portion of Riverside County which lies to the west of a line described as follows: That segment of the southwestern boundary line of Hydrologic Unit Number 18100100 within Riverside County, further described as follows: Beginning at the Riverside-Imperial County boundary and running north along the range line common to Range 17 East and Range 16 East, San Bernardino Base and Meridian; then northwest along the ridge line of the Chuckwalla Mountains, through Township 8 South, Range 16 East and Township 7 South, Range 16 East, until the Black Butte Mountain, elevation 4504'; then west and northwest along the ridge line to the southwest corner of Township 5 South, Range 14 East; then north along the range line common to Range 14 East and Range 13 East; then west and northwest along the ridge line to Monument Mountain, elevation 4834'; then southwest and then northwest along the ridge line of the Little San Bernardino Mountains to Quail Mountain, elev. 5814'; then northwest along the ridge line to the Riverside-San Bernardino County line.				
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.
Augustine Band of Cahuilla Indians <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.
Cabazon Band of Mission Indians <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.
Santa Rosa Band of Cahuilla Indians <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.
Torres Martinez Desert Cahuilla Indians <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.
Twenty-Nine Palms Band of Mission Indians of California <sup>e</sup> .....		Nonattainment .....	( <sup>2</sup> )	Subpart 2/Severe-15.

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>e</sup> Includes Indian country of the tribe listed in this table. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. The EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

<sup>g</sup> Excludes Indian country of the Agua Caliente Band of Cahuilla Indians, the Augustine Band of Cahuilla Mission Indians, the Cabazon Band of Mission Indians, the Santa Rosa Band of Cahuilla Indians, the Torres Martinez Desert Cahuilla Indians, and the Twenty-Nine Palms Band of Mission Indians in Riverside County.

<sup>1</sup> This date is 30 days after November 13, 2009, unless otherwise noted.

<sup>2</sup> This date is July 2, 2014, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 2019-14612 Filed 7-9-19; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Part 8365****[LLCAC09400 L19200000.NU0000  
XXXL1109RM LRORBX619900  
(MO4500135321)]****Notice of Final Supplementary Rules  
for Fort Ord National Monument,  
California****AGENCY:** Bureau of Land Management,  
Interior.**ACTION:** Final supplementary rules.**SUMMARY:** The California State Director of the Bureau of Land Management (BLM) is issuing final supplementary rules related to dog management and other public safety issues on public lands at Fort Ord National Monument (FONM), California.**DATES:** These rules are effective August 9, 2019.**ADDRESSES:** You may submit inquiries by mail, hand-delivery, or electronic mail. Mail: FONM Manager, BLM, Central Coast Field Office, 940 2nd Avenue, Marina, CA 93933. Electronic mail: [blm\\_ca\\_fonm\\_dog\\_mgt\\_plan@blm.gov](mailto:blm_ca_fonm_dog_mgt_plan@blm.gov).**FOR FURTHER INFORMATION CONTACT:** Eric Morgan, FONM Manager, Bureau of Land Management, Central Coast Field Office, 940 2nd Avenue, Marina, CA 93933, at telephone: 831-582-2200, or email: [emorgan@blm.gov](mailto:emorgan@blm.gov). Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800-877-8339 to contact Mr. Morgan during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.**SUPPLEMENTARY INFORMATION:****I. Background**

The former Fort Ord military installation closed in 1994. The Secretary of the Army transferred administration of part of the installation to the Department of the Interior. In 2012, the lands became part of the 14,651 acre FONM pursuant to Presidential Proclamation No. 8803. The Army continues to manage approximately 7,446 acres of the FONM and will transfer those lands to the BLM for administration following a munitions cleanup being performed in

accordance with the Comprehensive Environmental Response, Compensation, and Liability Act.

On December 5, 1996, the BLM issued an emergency closure notice (61 FR 64530) that applied to former Fort Ord lands that had been transferred to the Department of the Interior.

On September 7, 2007, the BLM State Director approved a Record of Decision for the Southern Diablo Mountain Range and Central Coast of California Resource Management Plan (RMP). To protect health and public safety from exposure to munitions and to promote coordination with local law enforcement, that RMP directed the BLM's Central Coast Field Office to develop a dog-management plan for the FONM, which was completed in July 2016. As set forth later, these final rules are consistent with both the 2016 dog-management plan and the 2007 RMP.

In addition to dog-management provisions, these final supplementary rules include revised versions of the restrictions in the 1996 emergency closure order. In these final supplementary rules, the BLM is also adopting some Monterey County ordinances, in order to facilitate cooperation between BLM rangers and local law enforcement officials.

The BLM California State Director proposed these supplementary rules in the **Federal Register** on November 4, 2016 (81 FR 76905). The BLM received no public comments in response.

**II. Discussion**

These supplementary rules are necessary to support the mission of the BLM to protect the natural resources of the FONM, and to protect the health and safety of those using the public lands.

The supplementary rules (see Section IV) are broken into three categories. Supplementary rules numbered 1 through 9 are new, and implement new direction from the approved dog-management plan. Supplementary rules 10 through 15 are not completely new, since they are revisions of previous restrictions that were established in 1996 (see 61 FR 64530), and are consistent with the national monument proclamation of 2012 (*i.e.*, Proclamation 8803), and the BLM 2007 RMP. Finally, supplementary rules 16 and 17 are existing Monterey County ordinances that the BLM has adopted as supplementary rules in order to facilitate cooperation between BLM rangers and local law enforcement officials.

**III. Procedural Matters****Regulatory Planning and Review  
(Executive Orders 12866 and 13563)**

These final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Orders 12866 and 13563. They do not have an effect of \$100 million or more on the economy. The final supplementary rules do not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The final supplementary rules do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The final supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients nor do they raise novel legal or policy issues. They merely impose rules of conduct and impose other limitations on certain recreational and commercial activities on certain public lands to protect natural resources and human health and safety.

**National Environmental Policy Act**

The BLM prepared an environmental assessment (EA) that analyzed different dog-management alternatives on FONM under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C), pursuant to 43 CFR 46.205(b) and 46.210(i). On July 5, 2016, the BLM approved the Final FONM Dog Management Plan and associated EA (DOI-BLM-CA-C090-2016-0021-EA) and Finding of No Significant Impact (FONSI). All of the final supplementary rules were analyzed in the Dog Plan EA and FONSI. The final supplementary rules are also consistent with the Record of Decision for the Southern Diablo Mountain Range and Central Coast of California RMP approved in 2007.

**Regulatory Flexibility Act**

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rules merely impose reasonable restrictions on certain recreational activities on public lands in order to protect natural

resources and the environment, and provide for human health and safety. Therefore, the BLM has determined under the RFA that the final supplementary rules do not have a significant economic impact on a substantial number of small entities.

#### *Small Business Regulatory Enforcement Fairness Act*

The final supplementary rules are not a “major rule” as defined under 5 U.S.C. 804(2). The final supplementary rules merely revise the rules of conduct for public use of limited areas of public lands and do not affect commercial or business activities of any kind.

#### *Unfunded Mandates Reform Act*

The final supplementary rules do not impose an unfunded mandate of more than \$100 million per year on State, local, or tribal governments in the aggregate, or on the private sector, nor do they have a significant or unique effect on small governments. The final supplementary rules have no effect on governmental or tribal entities and impose no requirements on any of these entities. The final supplementary rules merely revise the rules of conduct for public use of limited areas of public lands and do not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act at 2 U.S.C. 1531.

#### *Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)*

The final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that the final supplementary rules do not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 13132, Federalism*

The final supplementary rules do 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. Therefore, in accordance with Executive Order 13132, the BLM has determined that the final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

#### *Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the BLM has determined that the final supplementary rules do not unduly burden the judicial system, and that they meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, the BLM has found that the final supplementary rules do not include policies that have tribal implications. The final supplementary rules merely revise the rules of conduct for public use of limited areas of public lands.

#### *Executive Order 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, the BLM has determined that these final supplementary rules do not impede facilitating cooperation conservation; take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources. The rules properly accommodate local participation in the Federal decision-making process, and provide that the programs, projects, and activities are consistent with protecting public health and safety.

#### *Information Quality Act*

In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554). In accordance with the Information Quality Act, the Department of the Interior (DOI) has issued guidance regarding the quality of information that it relies on for regulatory decisions. This guidance is available on the DOI’s website at [http://www.doi.gov/ocio/information\\_management/iq.cfm](http://www.doi.gov/ocio/information_management/iq.cfm).

#### *Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Under Executive Order 13211, the BLM has determined that the final supplementary rules do not comprise a significant energy action, and that they do not have an adverse effect on energy supplies, production, or consumption.

#### *Paperwork Reduction Act*

The final supplementary rules do not directly provide for any information collection that the Office of Management and Budget must approve

under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. Moreover, any information collection that may result from Federal criminal investigations or prosecutions conducted under the final supplementary rules are exempt from the provisions of 44 U.S.C. 3518(c)(1).

#### *Author*

The principal author of these final supplementary rules is Eric Morgan, Monument Manager, Central Coast Field Office, 940 2nd Avenue, Marina, CA 93933.

### **IV. Final Supplementary Rules**

For the reasons stated in the preamble and under the authorities for final supplementary rules found under 43 CFR 8365.1–6, 43 U.S.C. 1733(a), 16 U.S.C. 670h(c)(5), and 43 U.S.C. 315a, the BLM California State Director issues final supplementary rules for public lands managed by the BLM within the boundaries of the FONM, to read as follows:

#### *Definitions*

*Designated route* means any road or trail that the BLM has signed and shown on trail maps where public use is authorized.

*Dog* means any domestic dog that is not classified as a “service animal.”

*Off-leash-opportunity route* means a specific road or trail on FONM that has been designated by the BLM to allow some opportunities for dogs to be off leash under specific circumstances.

*Service animal* means a dog that is individually trained to do work or perform tasks for people with disabilities as covered under the Americans with Disabilities Act.

*Street-legal vehicle* means a vehicle, such as an automobile, motorcycle, or light truck, that is equipped and licensed for use on a public street and/or highway and that is subject to registration under the California Vehicle Code 4000(a)(1).

*Unattended dog* means any dog that is unaccompanied by an owner and/or handler whether on tether or otherwise.

*Yield* means slowing or stopping forward progress to a point where it is possible to safely pass another visitor without injuring, startling, or surprising that visitor. For bicycles, the passing speed shall be no greater than 10 mph on roads, and 5 mph on single-track trails.

#### *Final Supplementary Rules*

Unless otherwise authorized by the BLM, the following supplementary rules apply to all BLM-managed public lands

on the Fort Ord National Monument (FONM):

**Final Supplementary Rules From the Dog Management Plan**

1. Dogs are not permitted in the Inland Range Planning Unit. Service animals accompanying a disabled person as accommodated by the Americans with Disabilities Act are excluded from this provision.

2. Dogs must be under control and on a leash or cord not to exceed 6 feet in length, at all times while on a road or trail that has not been designated as an “off-leash-opportunity route.”

3. To eliminate exposure to munitions, individuals and/or their dog must not walk or roam off a designated route, including any route designated as an “off-leash-opportunity route.”

4. Dogs must be under control, or kept on a leash or cord not to exceed 6 feet in length, on a designated “off-leash-opportunity route” when within 100 feet of another person and/or dog that is not with your party.

5. Dogs must not roam over 50 feet away from you while on a designated “off-leash-opportunity route.”

6. Dogs must not enter any vernal pool or pond, or roam within 20 feet of any such area, unless you and your dog are on a route designated for public use.

7. A leash for each dog is required to be in your possession.

8. Dogs must not be left unattended, even if on a tether, within a crate, or within an unoccupied motor vehicle.

9. Visitors must yield the path, on both roads and trails, to other visitors in the following manner: Bicycles must yield to pedestrians and equestrians; and pedestrians must yield to equestrians. For bicycles, the passing speed shall be no greater than 10 mph

on roads, and 5 mph on single-track trails.

**Final Supplementary Rules That Clarify Existing Restrictions Established in 1996 and Direction From the 2007 Record of Decision**

10. Motorized vehicles and other motorized devices, including electronic bicycles, are prohibited on all roads and trails excluding Creekside Terrace Road and Badger Hills Driveway. Motorized vehicle use on these two roadways is restricted to highway licensed street-legal vehicles.

11. Use and/or occupancy of all lands within the FONM, including leaving personal property unattended, is prohibited between ½ hour after sunset and ½ hour before sunrise.

12. All use (including pet use) is restricted to designated routes and trails. Open routes and trails are indicated on BLM maps and signed with route or trail markers. Any unsigned route which does not appear on the most current BLM map is closed to all uses.

13. Campfires and other open flame fires are prohibited.

14. Possession or discharge of fireworks, including “safe and sane” fireworks, is prohibited.

15. Wood cutting and the collection of downed wood are prohibited.

**Final FONM Supplementary Rules That Are Currently Monterey County Ordinances**

16. It shall be unlawful for the owner or person having custody of any dog, either willfully or through failure to exercise due care or control, to allow said dog to defecate and to allow the feces thereafter to remain on FONM other than within trash receptacles

provided for such purposes. This includes bagged feces—Reference Monterey County ordinance, 8.36.030.

17. All dogs under 4 months of age shall be kept under control by the owner, keeper, or harborer when on FONM—Reference Monterey County ordinance, 8.20.020.

18. Dogs on FONM shall wear a license tag attached at all times to a collar, harness, or other suitable device upon the dog for which the license tag was issued—Reference Monterey County ordinance, 8.08.040.

**Exemptions**

The following persons are exempt from these final supplementary rules: Any Federal, State, or local officer or employee in the scope of their duties; members of any organized law enforcement, rescue, or fire-fighting force in performance of an official duty; and any person whose activities are authorized in writing by the BLM.

**Enforcement**

Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both.

In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of California law.

**Joe Stout,**

*Acting State Director, Bureau of Land Management, California.*

[FR Doc. 2019–14717 Filed 7–9–19; 8:45 am]

**BILLING CODE 4310–40–P**

# Proposed Rules

Federal Register

Vol. 84, No. 132

Wednesday, July 10, 2019

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 HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 101 and 102

[Docket No. FDA-2019-D-0892]

#### The Use of an Alternate Name for Potassium Chloride in Food Labeling; Draft Guidance for Industry; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification of availability; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or we) is extending the comment period for the draft guidance for industry entitled “The Use of an Alternate Name for Potassium Chloride in Food Labeling,” which was announced in the **Federal Register** of May 20, 2019. In the notification, FDA requested comments on the use of “potassium chloride salt” as an alternate common or usual name for potassium chloride. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

**DATES:** FDA is extending the comment period on the draft guidance published May 20, 2019 (84 FR 22749). Submit either electronic or written comments by September 17, 2019, to ensure that we consider your comment on the draft guidance before we begin work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows.

#### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2019-D-0892 for “The Use of an Alternate Name for Potassium Chloride in Food Labeling.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The

second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Andrea Krause, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2371.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 20, 2019, FDA published a notification announcing the availability of a draft guidance entitled “The Use of an Alternate Name for Potassium Chloride in Food Labeling; Draft Guidance for Industry” with a 60-day comment period to request comments on the use of “potassium chloride salt” as an alternate common or usual name for potassium chloride. The draft guidance is intended to explain to food manufacturers our intent to exercise enforcement discretion for the declaration of the name “potassium chloride salt” in the ingredient statement on food labels as an alternative to the common or usual name “potassium chloride.”

We have received requests for a 60-day extension of the comment period for the draft guidance. The requests conveyed concern that the current 60-day comment period does not allow



sufficient time to develop a meaningful or thoughtful response to the draft guidance.

We have considered the requests and are extending the comment period for the draft guidance for 60 additional days, until September 17, 2019. We believe that a 60-day extension allows adequate time for interested persons to submit comments.

Dated: July 3, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-14666 Filed 7-9-19; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2019-0300]

RIN 1625-AA08

#### Special Local Regulations; Festival of Sail Duluth 2019, Lake Superior, Duluth, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary special local regulation for a designated area of the Duluth Harbor entrance to Superior Bay on Lake Superior during the Festival of Sail 2019 event in Duluth, MN. This action is necessary to provide for the safety of life on these navigable waters around the port of Duluth, MN during a sail festival with tall ships beginning on August 11, 2019 and ending the afternoon of August 13, 2019. This proposed rulemaking would prohibit persons and vessels from being in the designated region unless authorized by the Captain of the Port Duluth or a designated representative. We invite the public to comment on this supplemental notice of proposed rulemaking, specifically on the extended time of the special local regulation.

**DATES:** Comments and related material must be received by the Coast Guard on or before July 17, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG-2019-0300 using the Federal eRulemaking Portal at <https://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 Lieutenant Abbie Lyons, Waterways Management, MSU Duluth, U.S. Coast Guard; telephone 218-725-3818, email [Abbie.E.Lyons@uscg.mil](mailto:Abbie.E.Lyons@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

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

On December 11, 2018, Draw Events LLC notified the Coast Guard that it will be conducting a Festival of Sail event in Duluth, MN from August 11 through August 13, 2019. The Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on May 8, 2019. A public comment period was held from May 8, 2019 to July 7, 2019 with no comments received; however, concerns were raised by local law enforcement and public safety of the initial proposed temporary special local regulation only covering the parade of sail on August 11, 2019 from 7:00 a.m. to 1:00 p.m. Due to the influx of spectator vessel traffic during this event, we are proposing to extend the special local regulation to include the entire Festival of Sail, from August 11, 2019 at 7:00 a.m. to August 13, 2019 at 1:00 p.m. This special local regulation will be enforced from 7:00 a.m. through 1:00 p.m. on August 11, 2019 during the Parade of Sail event. It will be enforced at other times during the effective period as deemed necessary by the Captain of the Port Duluth (COTP) or her on-scene representatives. Notice of enforcement of the special local regulation will be provided by Broadcast Notice to Mariners and by the COTP's on-scene representatives. The purpose of this supplemental notice of proposed rulemaking is to solicit comments on the extended effective time period of the regulation.

The legal basis for this proposed rule is the Coast Guard's authority under 46 U.S.C. 70041; 33 CFR 1.05-1.

##### III. Discussion of Proposed Rule

The COTP is proposing to establish a special local regulation from 7 a.m. on August 11, 2019 to 1 p.m. on August 13, 2019. The special local regulation would cover designated navigable waters in the vicinity of Duluth Harbor.

The duration of the zone is intended to protect the safety of vessels and these

navigable waters before, during, and immediately after the scheduled Festival of Sail. Only the designated sailing vessels associated with the event are permitted within the zone while it is being enforced. No other vessels or persons will be permitted to enter the zone without obtaining permission from the COTP or a designated representative. The COTP or a designated representative may be contacted via VHF Channel 16 or by telephone at (218) 428-9357. The regulatory text proposed appears at the end of this document.

##### IV. Regulatory Analyses

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

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This SNPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the SNPRM 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 availability of the Superior Harbor entrance as an alternate entry into Superior Bay, the short time frame of the special local regulation, and the estimated number of spectator vessels around the Duluth Harbor entrance for the event. We anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine Channel 16 about the zone, and the rule would allow 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

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

#### D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have

a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting 3 days that would prohibit entry within a designated area around the Duluth Harbor entrance. Normally such actions are categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of 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.

#### V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://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 <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 100

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T09–0300 to read as follows:

#### § 100.T09–0300 Special Local Regulations; Festival of Sail Duluth 2019, Lake Superior, Duluth, MN.

(a) *Regulated Areas:* This Area includes all waters of Lake Superior and Duluth Harbor bounded by Rice's Point to the west and Duluth to the north, within the following boundaries: Beginning at position 46°46'48.36" N, 092°05'16.44" W, across Duluth Harbor to 46°47'02.76" N, 092°05'17.88" W, turning north toward the Duluth Lift

Bridge to 46°47'19.32" N, 092°04'04.80" W, to 46°46'50.88" N, 092°05'17.88" W, out the Duluth Harbor Entrance at 46°46'45.12" N, 092°05'35.16" W, then northwest to 46°46'45.12" N, 092°05'39.84" W, back to the north Duluth Entrance Light at 46°47'01.32" N, 092°05'51.00" W, through the canal at 46°47'00.60" N, 092°05'52.08" W, then along Minnesota Point at 46°46'51.60" N, 092°05'46.32" W, entering Minnesota Slip at 46°46'39.00" N, 092°06'03.96" W, encompassing the slip from 46°46'32.16" N, 092°05'38.76" W to 46°46'41.52" N, 092°05'36.24" W and back out the slip at 46°46'42.60" N, 092°05'34.44" W and back to the starting position of 46°46'48.36" N, 092°05'16.44" W.

(b) *Special Local Regulations.* (1) In accordance with the general regulations in § 100.35 of this part, entry into, transiting, or anchoring within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Duluth or on-scene representatives.

(2) Vessels and persons receiving COTP Duluth or on-scene representative authorization to enter the area of this special local regulation must do so in accordance with the following restrictions:

(i) Vessels and persons must transit at a speed not exceed six (6) knots or at no wake speed, whichever is less. Vessels proceeding under sail will not be allowed in this Area unless also propelled by machinery, due to limited maneuvering ability around numerous other spectator craft viewing the Festival of Sail; and

(ii) Vessels and persons will not be permitted to impede the parade of sail from 7:00 a.m. to 1 p.m. on August 11, 2019 once it has commenced, as the tall ships are extremely limited in their ability to maneuver.

(3) The Coast Guard will provide notice of the regulated area prior to the event through Local Notice to Mariners and Broadcast Notice to Mariners. Notice of actual enforcement will be provided by on-scene representatives.

(4) The "on-scene representative" of the COTP Duluth is any Coast Guard commissioned, warrant, or petty officer and any Federal, State, or local officer designated by the COTP to act on her behalf.

(5) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP Duluth by telephone at (218) 428-9357, or on-scene representative via VHF radio on Channel 16, to obtain permission to do so. Vessel operators given permission to enter, operate, transit through, anchor in, or remain within the regulated areas

must comply with all instructions given by COTP Duluth or on-scene representatives.

(c) *Effective date.* These regulations are effective Sunday, August 11, 2019 at 7:00 a.m. through August 13, 2019 at 1:00 p.m. These regulations will be enforced from 7:00 a.m. through 1:00 p.m. on August 11, 2019 during the Parade of Sail, and actual notice of enforcement during various periods of time will be conducted by the on-scene representative throughout the event.

Dated: July 3, 2019.

**F.M. Smith,**

*Commander, U.S. Coast Guard, Captain of the Port Duluth.*

[FR Doc. 2019-14606 Filed 7-9-19; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2018-0711; FRL-9996-42-Region 4]

### Air Plan Approval; GA; Miscellaneous Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, in a letter dated July 31, 2018. EPA is proposing to approve changes to the Georgia's Nonattainment New Source Review (NNSR) permitting rule. This action is being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

**DATES:** Comments must be received on or before August 9, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. at EPA-R04-OAR-2018-0711 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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:

Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can also be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

GA EPD submitted a SIP revision through a letter dated July 31, 2018, to EPA for review and approval into the Georgia SIP that contains changes to a number of Georgia's air quality rules in Rule 391-3-1.<sup>1</sup> The changes that EPA is proposing to approve into the SIP through this rulemaking revises Rule 391-3-1-.01, "Definitions," Rule 391-3-.02(2)(c), "Incinerators," and Rule 391-3-1-.03 "Permits."

#### II. Analysis of State's Submittal

Georgia's submittal makes several administrative and clarifying edits to Rule 391-3-1-.01, "Definitions." Specifically, the change to Rule 391-3-1-.01(oo), "Manager" removes "office" and replaces with "compliance assistance program." The change to Rule 391-3-1-.01(kkk), "Small Business Advisory Panel" adds "Compliance" to the title of this rule and the change to Rule 391-3-1-.01(III), "Small business stationary source or facility" at subparagraph (5) removes the major stationary source description for sources and facilities emitting less than 75 tons of regulated pollutants. Lastly, the revision to Rule 391-3-1-.01(mmm), "Small business stationary source technical and environmental office," changes the title to "Small business stationary source technical and environmental compliance assistance program," and removes Air Protection Branch from the definition.

<sup>1</sup> EPA received the submittal on August 2, 2018. The cover letter includes other rule changes that have been or will be addressed in separate EPA actions.

Additionally, Georgia's July 31, 2018, SIP revision makes changes to Rule 391-3-1-.02(2)(c), "Incinerators." The change updates rule titles for Hospital/Medical/Infectious Waste Incinerators, Commercial and Industrial Solid Waste, and Sewage Sludge Incinerators in Subparagraphs (6)(iv), (v), (vi), (vii), and (xiii). Lastly, a typographical edit is made to Rule 391-3-1-.03(11)(b)(11), "Peanut/Nut Shelling Operations" at Subparagraph (i)(II). EPA is proposing to approve these changes because they are minor and clarifying changes that do not relax or alter the meaning of the rules.

### III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the GA EPD Rule 391-3-1-.01, "Definitions," Rule 391-3-.02(2)(c), "Incinerators," and Rule 391-3-1-.03(11) "Permit by Rule," which clarifies the rule by updating rule titles and making typographical corrections, state effective June 18, 2018. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Proposed Action

EPA is proposing to approve the aforementioned changes to Georgia August 2, 2018, SIP submittal that make changes to Rule 391-3-1-.01, "Definitions," Rule 391-3-.02(2)(c), "Incinerators," and Rule 391-3-1-.03(11) "Permit by Rule." EPA views these changes as being consistent with the CAA.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

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

Dated: June 26, 2019.

**Mary S. Walker,**  
Region 4.

[FR Doc. 2019-14610 Filed 7-9-19; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271 and 272

[EPA-R06-RCRA-2016-0549; FRL-9993-44-Region 6]

### Texas: Proposed Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** On October 24, 2018, the Environmental Protection Agency (EPA) published a proposed rule and provided for a thirty-day public comment period. The public comment period closed on November 23, 2018 and EPA received three comments. The purpose of this document is to reopen the comment period for an additional 30 days. This extension of the comment period is provided to allow the public additional time to provide comment on the October 24, 2018 proposed rule. All comments submitted during the original comment period as well those submitted during this extension of the comment period will be accepted and considered.

**DATES:** Comments on this proposed rule must be received by August 9, 2019.

**ADDRESSES:** Submit your comments by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Email:** [jones.bruced@epa.gov](mailto:jones.bruced@epa.gov) or [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).
- **Fax:** (214) 665-6762 (prior to faxing, please notify Alima Patterson at (214) 665-8533).

- **Mail:** Alima Patterson, Regional Authorization/Codification Coordinator, RCRA Permit Section (LCR-RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

- **Hand Delivery or Courier:** Deliver your comments to Alima Patterson, Regional Authorization/Codification Coordinator, RCRA Permit Section (LCR-RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270

**Instructions:** EPA must receive your comments by August 9, 2019. Direct your comments to Docket ID Number EPA-R06-RCRA-2016-0549. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>

[www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or email. The Federal <http://www.regulations.gov> website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA’s public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets/commenting-epa-dockets>.)

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You may view and copy the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA, Region 6, 1201 Elm Street Suite 500, Dallas, Texas 75270, contact: Alima Patterson, phone number: (214) 665–8533. Interested persons wanting to examine these documents in person should contact Ms. Patterson to make an appointment.

**FOR FURTHER INFORMATION CONTACT:** Bruce Jones, Office of Regional Counsel (ORC), (214) 665–3184 and Email address [jones.bruce@epa.gov](mailto:jones.bruce@epa.gov); or Alima

Patterson, Regional Authorization/Codification Coordinator, Permit Section (LCR–RP), Land, Chemical and Redevelopment (214) 665–8533 and Email address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov); EPA Region 6, 1201 Elms, Suite 500, Dallas, Texas 75202–2733.

**SUPPLEMENTARY INFORMATION:** On October 24, 2018 (83 FR 53595), the EPA published a Proposed Rule to approve state-initiated changes and incorporation by reference of the State of Texas hazardous waste program under (RCRA). EPA is reopening the comment period due to a comment noting the public needed additional time to comment and that some items were not in the docket on [www.regulations.gov](http://www.regulations.gov). EPA has now put these documents into the docket identified by Docket ID EPA–R06–RCRA–2016–0549 at [www.regulations.gov](http://www.regulations.gov) and provided this additional comment period.

#### List of Subjects

##### 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

##### 40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

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

Dated: June 28, 2019.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2019–14422 Filed 7–9–19; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

**RIN 0648–XG809**

#### Notification of the Rejection of the Petition To Ban Imports of All Fish and Fish Products From New Zealand That Do Not Satisfy the Marine Mammal Protection Act

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Rejection of the petition to ban imports through emergency rulemaking.

**SUMMARY:** NMFS announces the rejection of a petition for emergency rulemaking under the Administrative Procedure Act. Sea Shepherd Legal, Sea Shepherd New Zealand Ltd., and Sea Shepherd Conservation Society petitioned the U.S. Department of Commerce and other relevant Departments to initiate emergency rulemaking under the Marine Mammal Protection Act (“MMPA”), to ban importation of commercial fish or products from fish that have been caught with commercial fishing technology that results in incidental mortality or serious injury of Māui dolphin (*Cephalorhynchus hectori Māui*) in excess of United States standards.

**DATES:** The petition for rulemaking was denied on June 18, 2019.

**FOR FURTHER INFORMATION CONTACT:** Nina Young, NMFS F/IASI (Office of International Affairs and Seafood Inspection) at [Nina.Young@noaa.gov](mailto:Nina.Young@noaa.gov) or 301–427–8383.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(2) of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1371(a)(2), states that: “The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards.” In August 2016, NMFS published a final rule (81 FR 54390; August 15, 2016) implementing the fish and fish product import provisions in section 101(a)(2) of the MMPA. This rule established conditions for evaluating a harvesting nation’s regulatory programs to address incidental and intentional mortality and serious injury of marine mammals in fisheries operated by nations that export fish and fish products to the United States. In that rule’s preamble, NMFS stated that it may consider emergency rulemaking to ban imports of fish and fish products from an export or exempt fishery having or likely to have an immediate and significant adverse impact on a marine mammal stock.

##### The Petition

NMFS received a petition on February 6, 2019, from Sea Shepherd Legal, Sea Shepherd New Zealand Ltd., and Sea

Shepherd Conservation Society, stating that the Secretaries of Commerce and other relevant federal Departments are required under section 101(a)(2) of the MMPA (16 U.S.C. 1371(a)(2)), to “ban the importation of commercial fish or products from fish” sourced in a manner that “results in the incidental kill or incidental serious injury” of Māui dolphin “in excess of United States standards.” The petition requested that the relevant Secretary ban the importation of all fish and fish products caught in set nets or trawls inside the Māui dolphin’s range and from the west coast of New Zealand’s North Island and the Cook Strait, unless affirmatively identified as having been caught with a gear type other than set nets or trawls within that area or affirmatively identified as caught outside the Māui dolphin’s range.

As support for the need for this action, the petition cites several reports and studies, which note various estimates of decline. The petitioners assert that for the Māui dolphin, set net and trawl bycatch has driven the species from a population of approximately 2,000 individuals in 1971, to 111 in 2004, to 55 in 2011. Further, the petition notes that in 2018 the Scientific Committee of the International Whaling Commission reported an abundance estimate of 57 individuals, with a 95 percent confidence interval of 44 to 75 individuals, which equates to an average decline of 2 percent every year and a total decline of 59 percent over the 31-year period from 1985 to 2016.

The petitioners maintain that any fishery using set nets, trawls, or gillnets in the Māui dolphin range along the west coast of New Zealand’s North Island violates U.S. standards under the MMPA. The petitioners provide a list of 11 fish species harvested within the Māui dolphin range by set nets, trawls, or gillnets that are potentially imported into the U.S. as fish or fish products.

#### *NMFS Determination*

NMFS reviewed the petition, supporting documents, previous risk assessments and threat management plans and New Zealand’s 2019 risk assessment and Threat Management Plan (TMP). NMFS is rejecting the petition because the Government of New Zealand is implementing a regulatory program comparable in effectiveness to the United States and for the following reasons:

1. New Zealand has in place an existing regulatory program to reduce Māui dolphin bycatch.
2. Through its 2019 risk assessment, New Zealand evaluated the effectiveness of this regulatory program

in meeting bycatch reduction targets defined as the Population Sustainability Threshold (PST).

3. Based on the 2019 assessment, New Zealand is now proposing additional regulatory measures which, when fully implemented, will likely further reduce risk and Māui dolphin bycatch below Potential Biological Removal level (PBR).

New Zealand has undertaken the same process as NMFS does through its take reduction team process: implemented a regulatory plan, evaluated whether the plan reduced bycatch below PBR, and revised the plan when it was determined that bycatch has not been reduced below PBR.

Since 2012, the Government of New Zealand has had in place measures restricting set nets and trawls in certain areas of Māui dolphin habitat, and required increased observer coverage and other monitoring mechanisms. From 1995/96 to present, there have been no observed captures of Māui dolphins in set net or trawl fisheries (Roberts et al. 2019).

According to the risk assessment, for Māui dolphins on the West Coast of the North Island (WCNI), the estimated annual deaths from commercial set nets was 0.09 individuals per year, (95 percent CI = 0.0–0.3) and for the inshore trawl fishery was 0.02 individuals per year (95 percent CI = 0.0–0.1). Therefore, estimated bycatch in set and trawl fisheries is approximately equivalent to the PBR level of 0.11 for Māui dolphin, assuming the distribution of Māui dolphins can be accurately approximated by the Hector’s dolphin habitat preference model. The estimated bycatch is also less than New Zealand’s PST (their PBR equivalent) of 0.28 (*i.e.*, assuming a calibration coefficient ( $\Phi$ ) value of 0.2 corresponding to a population recovery target at 90 percent of carrying capacity) or alternately the PST = 0.14 (if the population recovery objective for Māui dolphins is recovery to 95 percent of its carrying capacity). Therefore, the best estimate of annual mortalities for assessed commercial fisheries did not exceed the annual PST between 2014/15 and 2016/17, indicating that the recent mortality levels for these fisheries would not individually or collectively depress the equilibrium population below 90 percent of carrying capacity. For Māui dolphins, the estimated annual deaths, fishing effort, and risk ratios have declined through time since 1992/93.

New Zealand’s 2019 spatial risk assessment of threats to Māui dolphin informs the revised TMP for this subspecies (Roberts et al. 2019).

According to the 2019 assessment, bycatch of Māui dolphins in commercial fishing operations is currently at or below PBR and PST. However, because the population of Māui dolphins is very small, New Zealand is committed to reducing the risk of all human-induced deaths to as close as possible to zero to provide the best chance of preventing further population decline, and allow the population to increase as rapidly as possible. Based on the mortality estimates in the risk assessment, New Zealand is proposing to implement additional mitigation measures with the proposed outcome of reducing the current level of fisheries risk by at least 50 percent. On June 17, 2019, New Zealand published a TMP containing additional options to reduce Māui dolphin bycatch. New Zealand’s Hector’s and Māui dolphin Threat Management Plan is currently under public review and comment with final regulatory action by the New Zealand’s Ministers scheduled for late 2019 (See: <https://www.fisheries.govt.nz/news-and-resources/consultations/hectors-and-maui-dolphins-threat-management-plan-review/>).

New Zealand’s TMP proposes a range of bycatch mitigation measures to complement measures already in place and reduce the residual risk from both set netting and trawling. An additional mitigation measure, in addition to the mitigation options proposed in the 2019 TMP, is the inclusion of a trigger mechanism where set net and trawl fishing would be halted throughout the range of the Māui dolphins if a fisheries capture occurred. The TMP is the functional equivalent to a take reduction plan under the MMPA. The immediate goal of take reduction plans is to reduce, within six months of its implementation, the incidental mortality or serious injury of marine mammals from commercial fishing to less than the PBR level (16 U.S.C. 1387(f)(2)). Most of the options contained in New Zealand’s TMP, once implemented, would further reduce the risk of Māui dolphin bycatch. With the exception of the status quo option, all options within the TMP, once implemented, will likely further reduce Māui dolphin bycatch to well below PBR and PST.

Therefore, based on the current regulatory regime and assuming the implementation of additional measures outlined in the TMP, NMFS does not believe that import restrictions under the MMPA Import Provisions are warranted at this time and is rejecting the petition. As part of the MMPA Import Provisions, NMFS will continue to evaluate New Zealand’s

implementation of its regulatory regime governing set net and trawl fisheries with the potential to interact with Māui dolphin to ensure that the regulatory regime is comparable in effectiveness to the U.S. regulatory regime.

#### Responses to Comments on the Notification of the Petition

NMFS received comments on the notification of the petition from fishing industry groups, environmental non-governmental organizations (NGOs), private citizens, the Marine Mammal Commission, and foreign governments.

#### General Comments

NMFS received comment letters and petitions from private citizens primarily through environmental NGOs supporting the petition. Specifically, the majority of commenters expressed their support for the petition and the application of trade restrictions. NMFS received more than 88,678 petitioners on the Care2 comments, most with minimal substantive comment. Forty-three public comments generally supported the petition. In addition, we received substantive comments from the Marine Mammal Commission, industry (2), marine mammal scientists (1) and environmental NGOs (3) for a total of 88,726 comments/petitioners. Comments received are available on the internet at <http://www.regulations.gov> under Docket ID “NOAA–NMFS–2019–0013.” In the following section, NMFS responds to those comments most applicable to this determination.

#### The Adequacy of Existing Measures Regulating Commercial Fishing Throughout the Range of the Māui Dolphin

*Comment 1:* The petitioners and the Marine Mammal Commission expressed concern about the adequacy of measures to mitigate Māui dolphin bycatch. The petitioners cited the 2018 report of the IWC Scientific Committee that stated: “existing management measures in relation to bycatch mitigation fall short of what has been recommended previously” (IWC 2018). Since 2015, the Scientific Committee expressed concerns about New Zealand’s regulatory regime and in 2018 “reiterate[d] its previous recommendation that highest priority should be assigned to immediate management actions to eliminate bycatch of Māui dolphins including closures of any fisheries within the range of Māui dolphins that are known to pose a risk of bycatch to dolphins (i.e., set net and trawl fisheries).” The petitioners and the Marine Mammal Commission expressed concern over the

portion of Māui dolphin habitat closed to set net and trawl fishing (14 percent and 5 percent, respectively) stating that the current closures were insufficient to cover the range and density of Māui dolphins. Likewise, the petitioners and the Marine Mammal Commission expressed concern over the small percentage of observed set net and trawl fishery operations (12.7 percent and 14.6 percent, respectively) stating the coverage has been too low to estimate the magnitude of incidental catch of Māui dolphins precisely or accurately to detect trends in the catch.

*Response:* 50 CFR 216.24(h)(7) outlines additional considerations for comparability finding determinations. Those considerations include the extent to which the harvesting nation has successfully implemented measures in the export fishery to reduce the incidental mortality and serious injury of marine mammals caused by the harvesting nation’s export fisheries to levels below the bycatch limit; and whether the measures adopted by the harvesting nation for its export fishery have reduced or will likely reduce the cumulative incidental mortality and serious injury of each marine mammal stock below the bycatch limit, and the progress of the regulatory program toward achieving its objectives (50 CFR 216.24(h)(7)(i–ii)).

As noted by the Marine Mammal Commission, the two population estimates produced since the establishment of the prohibition zones, made five years apart, were very similar (Slooten and Dawson 2018), suggesting that protection provided by the current regulatory regime may have slowed or halted the population’s decline. This observation is supported by the bycatch estimates in the current risk assessment, which now estimate Māui dolphin bycatch at 0.1 animals annually over the last three years. Additionally, the 2019 TMP contains additional options for bycatch mitigation, which, with the exception of the status quo, extends protection over a larger portion of Māui dolphin habitat. The evidence presented in terms of abundance estimates and risk assessments supports the adequacy of existing protection measures. Therefore, NMFS believes the existing and the proposed regulatory regime is sufficient to maintain Māui dolphin bycatch below PBR.

*Comment 2:* The National Fisheries Institute (NFI) claims that in multiple recent studies assessing various nations for management of their Exclusive Economic Zones, determining whether countries’ fisheries management systems are compliant with the United Nations Food and Agriculture

Organization’s code of conduct, and ranking the overall effectiveness of fishery management regimes, New Zealand is in the first rank of nations. NFI questioned, “if New Zealand/MPI cannot meet American requirements for effective conservation of the Māui dolphin, it is not clear what country’s fishery management regulators could meet those requirements as to their marine mammals.” NFI also states if NMFS is “badgered” into imposing multiple embargoes of the kind Petitioners seek, then the commercial damage to the U.S. seafood industry—and the tens of millions of consumers it serves—will be significant indeed. NFI also claimed that “repeated establishment of unwarranted MMPA embargoes of this nature, moreover, eventually will trigger similar requirements aimed at the United States and its seafood exports. That will raise costs and create uncertainty for U.S. harvesters who seek predictable access to their own export markets, and who stand to lose that access if the U.S. fishery management system is found similarly, and arbitrarily, wanting by foreign fishery management agencies.”

*Response:* NFI’s comments have misinterpreted the MMPA Import Provisions. These provisions do not evaluate a nation’s overall fishery management regime, but rather the management measures that apply to the bycatch of marine mammals in its fisheries that export fish and fish products to the United States. It is those management measures that must be comparable in effectiveness to the U.S. regulatory program.

*Comment 3:* The petitioners and the Marine Mammal Commission state that “while the New Zealand management system includes many of the elements found in the U.S. system, the dire situation facing Māui dolphins, and their declining trend and the lack of confidence in the measures in place to reverse this trend, suggests that New Zealand’s program is not comparably effective.” To support this assertion, the Commission again cites the IWC 2018 Scientific Committee report, noting that New Zealand had not implemented any new protective measures for the subspecies since 2013 (IWC 2018). As well as the Scientific Committee conclusion that the “existing management measures in relation to bycatch mitigation fall short of what has been recommended previously”; the Committee expressed “continued grave concern over the status of this small, severely depleted subspecies” (IWC 2018).

The Marine Mammal Commission states that “to address the unacceptably



high level of mortality and serious injury of a subspecies such as Māui dolphin, it is likely that NMFS long ago would have (i) assigned highest priority to developing a take reduction plan to reduce mortality and (ii) invoked the emergency rulemaking provisions under MMPA section 118(g) given the apparent “immediate and significant adverse effect” of fisheries on the population. It is also likely that NMFS would have substantially increased observer coverage to better understand and track the impacts of fisheries interactions. It is not clear that New Zealand’s efforts to date have been comparable to what is required of NMFS and U.S. fisheries under the MMPA.”

*Response:* While the Commission may be correct in stating that NMFS would likely have convened a take reduction team, any assertion as to the outcome of that process is speculative. New Zealand has implemented a functional equivalent to the take reduction process, its risk assessment and TMP. Similarly, since 2012 New Zealand has successfully increased fisheries observer coverage in West Coast North Island set net and trawl fisheries since 2012. The TMP will inform further modifications to its existing regulatory program. New Zealand is proposing additional bycatch mitigation options that would implement bycatch mitigation over a larger portion of the Māui dolphin’s range. Such actions should address any perceived uncertainty in the risk assessment model or its assumptions, and any unaccounted for bycatch risk such as that associated with recreational and illegal fishing. This iterative process to implement, reconsider, and refine bycatch reduction measures, is similar to the take reduction process for marine mammal stocks such as the Gulf of Maine harbor porpoise and the North Atlantic right whale.

*Comment 4:* The petitioners claim that PBR and PST are not comparable and states that the New Zealand Government readily admits that PST is not equivalent to PBR. The Ministry for Primary Industries (MPI), the lead authority for New Zealand fisheries, summarizes PST as follows: The PST is an index of the population productivity, adapted from the PBR. It is an estimate of the maximum number of human-caused mortalities that will allow populations to recover to and/or stabilize and remain at or above a defined population target. The PST differs from the PBR by explicitly including the uncertainty in population size, instead of using a conservative point estimate of population size, and by utilizing a scaling factor that can be tuned to achieve different population

recovery outcomes, reflecting a policy decision (Sharp 2018). The petitioners state that “the PST differs from PBR by (1) fixing the end-goal as maintenance of population at only half of ‘carrying capacity,’ as opposed to including a recovery factor that aims to ‘allow that stock to reach or maintain its optimum sustainable population’; (2) including a two-century time horizon no matter the specific context; and (3) using the full distribution of the population size estimate, rather than an estimated minimum.” The petitioners claim that to be “consistent with U.S. standards (as required by the MMPA Imports Provision), New Zealand must adopt the PBR methodology.”

*Response:* The MMPA Import Provisions do not require harvesting nations to use PBR. These provisions define “Bycatch limit” as the calculation of a potential biological removal level for a particular marine mammal stock, as defined in § 229.2 of this chapter, or comparable scientific metric established by the harvesting nation or applicable regional fishery management organization or intergovernmental agreement. As noted, the PST differs in using mean populations estimate ( $N$ ) rather than  $N_{min}$  and  $\Phi$  as a general policy parameter instead of a recovery factor ( $F_r$ ). The choice for the policy parameter is left to managers. In the current 2019 Hector’s-Māui dolphin risk assessment, New Zealand reports PST values based on a default value of 0.2 for  $\Phi$ , corresponding to a population recovery goal at 90 percent of carrying capacity. In the officials’ advice to policy makers (New Zealand government ministers) under the TMP, New Zealand officials recommend use of the default value for Hector’s dolphins, and a more precautionary value of  $\Phi = 0.1$  for Māui dolphins, reflecting their urgent conservation status. The greatest differences between the PST and the PBR calculation come from different values for  $R_{max}$  (one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size) and the level of protection conferred by  $F_r$  (or  $\Phi$ ). In the case of Māui dolphin the PBR is 0.11 while the PST is 0.28 ( $\Phi = 0.2$ ) or 0.14 ( $\Phi = 0.1$ ). At this level, the difference between PBR and PST is negligible.

Whether the Apparent Decline in the Māui Dolphin Population Due to Commercial Fishing Meets the Standard of “Immediate and Significant Adverse Impact on a Marine Mammal Stock” Within the Meaning of the MMPA

*Comment 5:* The petitioners, Marine Mammal Commission, and other

environmental NGOs cited the 2012 Māui dolphins Threat Management Plan (MPI/DOC 2012). Citing that approximately 95 percent of human-induced Māui dolphin mortalities were caused by fishing (commercial, recreational, customary and illegal fishing combined) and an estimated that 5 Māui dolphins, on average, were killed each year due to fisheries interactions, these groups used the Currey et al. (2012) assessment as the foundation for their conclusion that fishing is the primary cause of the decline in Māui dolphins and that this threat has had an “immediate and significant adverse impact” on the subspecies. The petitioners stated that “current estimates of mortalities from fisheries (ranging from two to five individuals per year) exceed PBR several times over.”

*Response:* The previous multi-threat risk assessment for Māui dolphins used an expert panel to estimate threat-specific annual deaths for a range of perceived key threats to this subspecies, relative to a PBR (Currey et al. 2012). Changes in data availability (e.g., longer time series of fisheries information, more comprehensive necropsy methods, and improvements to habitat-based spatial distribution information parameterized using data from new aerial surveys) and advances in scientific approaches to risk assessment (Sharp 2018) have resulted in a new risk assessment with revised estimates of Māui dolphins bycatch, and the conclusion that toxoplasmosis is a major cause of death for Māui dolphins (Roe et al. 2013). It is mortality associated with disease, not commercial fisheries bycatch, that results in the annual mortality of Māui dolphins exceeding PBR.

Specific Fisheries Are or May Be Directly Associated With Potential Mortality of Māui Dolphin and Therefore Fall Within the Scope of the Petition for Emergency Action

*Comment 6:* Sea Shepherd asserts that eleven fish species may be the source of exports to the United States. Ten of those species are drawn from a list prepared by Sanford Ltd and Moana Ltd when they prepared their Māui Protection Plan. The Marine Mammal Commission agrees with the petitioners that the specific fisheries which are, or may be, directly associated with mortality of Māui dolphins are the gillnet and trawl fisheries that operate within the core range of the Māui dolphin. The Commission states that although the MMPA Import Provisions focuses on identifying particular offending fisheries, it is the statutory



language that should be controlling. “In this case, the language of the MMPA states, ‘[t]he Secretary . . . shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards.’” The Commission states that it “recognizes that it may be difficult at this time to track fish and fish products to specific offending fisheries. If that is the case and NMFS does move forward with a ban, the Commission recommends that NMFS include imports of fish and fish products from all gillnet and trawl fisheries that operate, even partially, in the core of the Māui dolphin’s range.” Fisheries Inshore New Zealand stated that its information indicates that products sourced from Māui habitat are not exported to the United States.

**Response:** NMFS disagrees. NMFS cannot implement import restrictions that affect fisheries that do not export to the United States. Both the MMPA Import Provisions and the statute turn on the importation of fish and fish products from a specific fishery, not just any fishery, and certainly not all fisheries operating within the range of a marine mammal regardless of whether they export product to the United States. While there are set net and trawl fisheries on the List of Foreign Fisheries that operate within the Māui dolphin range, NMFS, working with the Government of New Zealand, has not been able to establish conclusively that these fisheries export to the United States.

**Comment 7:** NFI expressed concern over the petitioners’ reliance on industry information to supply the statutorily required nexus between specific fisheries and the habitat of the Māui dolphin. NFI asks what purpose NMFS’s determination related to the LOFF serves if petitioners can simply jettison them in favor of more attractive data points. NFI states that “if Petitioners in this instance can meet their MMPA burden by relying primarily on information obtained outside of, and in contradiction to, final LOFF determinations, then no stakeholder in this process can rely on those determinations.”

**Response:** NMFS disagrees. The MMPA Import Provisions at 50 CFR 216.24(h)(3)(iv) clearly state that NMFS may consider other readily available and relevant information about such commercial fishing operations and the frequency of incidental mortality and serious injury of marine mammals, including: Fishing vessel records;

reports of on-board fishery observers; information from off-loading facilities, port-side officials, enforcement agents and officers, transshipment vessel workers and fish importers; government vessel registries; regional fisheries management organizations documents and statistical document programs; and appropriate certification programs. Other sources may include published literature and reports on fishing vessels with incidental mortality and serious injury of marine mammals from government agencies; foreign, state, and local governments; regional fishery management organizations; nongovernmental organizations; industry organizations; academic institutions; and citizens and citizen groups.

*Concerns About Further Delay in the Implementation of Bycatch by Deferring Action on the Petition*

**Comment 8:** Fisheries Inshore New Zealand recommended deferring action on the petition until the TMP process has been completed and the decisions of the New Zealand Government are known. The NFI claimed the petition is badly flawed and fails to establish the statutorily required nexus between the Māui dolphin and most of the fisheries to which it is supposed to apply. NFI urged NMFS to deny the Petition in whole. The petitioners, several environmental NGOs, and the Marine Mammal Commission urged NMFS to conclude its consultations and accelerate emergency rulemaking to ban imports of fish and fish products from fisheries known or likely to take Māui dolphin in excess of U.S. standards. The Marine Mammal Commission stated it “recognizes that New Zealand is currently developing a revised threat management plan (the TMP) expected to contain further measures to reduce the impact of fishing on Māui dolphins.” The Commission noted that “such processes often take much longer than expected and do not always achieve the desired results.” The Commission believes that Māui dolphins are at too great a risk of further decline and extinction to allow for customary, but potentially drawn-out procedures that, in the end, may not sufficiently mitigate the main threats facing Māui dolphins.”

**Response:** NMFS disagrees with the comments from petitioners, the Commission, and environmental NGOs on this point. NMFS sees no benefit at this time in imposing import restrictions on fisheries operating within the range of Māui dolphins. The risk assessment clearly identifies that disease, not commercial fisheries, is the primary factor causing the annual mortality of

Māui dolphins to exceed PBR. Nevertheless, New Zealand has published the current TMP for public comments and expects to implement additional regulations by October 2019. With the exception of the status quo, all options move, to some extent, set net and trawl fisheries out of Māui dolphin habitat, further reducing the bycatch risk and increasing the likelihood that the annual mortality from commercial fisheries will remain below PBR. NMFS will continue to evaluate New Zealand’s implementation of its regulatory regime governing set net and trawl fisheries with the potential to interact with Māui dolphin to ensure that the regulatory regime is comparable in effectiveness to the U.S. regulatory regime.

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Dated: July 5, 2019.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2019–14720 Filed 7–9–19; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register

Vol. 84, No. 132

Wednesday, July 10, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—Review of Major Changes in the Supplemental Nutrition Assistance Program (SNAP)

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection. This is a reinstatement, with change, of a previously approved collection for which approval has expired. The previously approved collection is associated with State agencies notifying FNS of and thereafter reporting on Major Changes in their operation of SNAP. The final rule entitled Supplemental Nutrition Assistance Program: Review of Major Changes in Program Design and Management Evaluation Systems was published on January 19, 2016. The Office of Management and Budget (OMB) cleared the associated information collection requirements (ICR) on March 10, 2016.

**DATES:** Written comments must be received on or before September 9, 2019.

**ADDRESSES:** Comments may be submitted in writing by one of the following methods:

- *Preferred Method:* Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Send comments to Program Design Branch, Program Development Division, FNS, 3101 Park Center Drive, Room 800, Alexandria, Virginia 22302.
- All written comments submitted in response to this information collection will be included in the record and will

be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via <http://www.regulations.gov>. All written comments will be open for public inspection at the FNS office during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Room 800, Alexandria, Virginia 22302. All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Ms. Mary Rose Conroy at (703) 305-2803.

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Review of Major Changes in Program Design.

*OMB Number:* 0584-0579.

*Expiration Date:* 5/31/2019.

*Type of Request:* Reinstatement, with change, of a previously approved collection for which approval has expired.

*Abstract:* Section 11 of the Act (7 U.S.C. 2020) requires the Department to develop standards for identifying major changes in the operations of State agencies that administer SNAP. Regulations at 7 CFR 272.15 require State agencies to notify the Department when planning to implement a major change in operations and State agencies to collect any information required by the Department to identify and correct

any adverse effects on program integrity or access, including access by vulnerable households. Since these rules have been in effect for about two years, FNS has gained experience with the number and type of major changes States have reported. However, since decisions to make major changes to program operations rest with each individual State agency, the frequency and timing of future major changes can only be estimated based upon the last two years of FNS' experience.

Regulations at 7 CFR 272.15(a)(3) require States to provide both descriptive and analytic information regarding the major change. We estimate it takes 8 hours to describe the change and 32 hours to complete the required analysis for a total of 40 hours per response. State agencies are required to provide descriptive information regarding the major change together with an analysis of its projected impacts on program operations. The regulations also set out requirements for the State to collect and report additional monthly information collected and gathered at the program/State levels that are submitted on a quarterly basis to FNS. Reporting continues for at least a year after the change is completely implemented. It is not uncommon for a State to pilot a change prior to statewide implementation. FNS can require information from the pilot to be submitted to FNS as well as information regarding the statewide impacts of the change after full implementation.

There are six categories of major changes: (1) Changes to the States automated system, (2) changing the responsibilities of merit system personnel, (3) office closings, (4) reductions in State SNAP merit system personnel, (5) changes that may make it more difficult for households to report and (6) an undefined "other" category.

Once a State has triggered one of the six criteria, the State is required to report the "automatic" information as required in § 272.15(b)(2)–(4) and FNS must determine what, if any, additional data the State will be required to collect and report as provided for in § 272.15(b)(5). FNS has determined the automatic reporting requirements and its ongoing data collection it requires will be sufficient to provide to FNS the needed information on a major change. Additional data will occasionally need to be generated from States' automated

eligibility systems or gathered by conducting additional case review surveys.

Based upon FNS' experience over the last two years, out of 53 State agencies this data collection impacts, FNS estimates only 10 States to submit major changes annually. The total estimated burden hours associated with the Major Change requirements since the final rule are being revised from 9,663.75 to 2,160. While the number of expected major changes States are expected to report annually is revised from 22.5 to 20, most of the decrease is based due to the initial overestimated need for additional reporting beyond the "automatic" provisions of the rule. The final rule estimated that 6.75 States would be required to gather and report additional data, while to date FNS has not required this of any State so the estimate has been revised to one (1) State annually will gather and report additional data to FNS. This correction accounts for a decrease in hours from 7,377 in the final rule to 896 in this notice.

*Affected Public:* State, Local and Tribal governments.

*Estimated Number of Respondents:* 10 States per year.

*Estimated Number of Responses per Respondent:* 5.

*Estimated Total Annual Responses:* 50.

*Estimated Time per Response:* 43.2 hours (average).

*Estimated Total Annual Burden on Respondents:* 2,160.

While FNS' experience has resulted in a change to the number of Major Changes FNS expects States to report annually and the number that will require additional reporting, there is no basis to change original estimates of time/staff needed by States to complete the required notification reports. Thus, with an estimated 10 States reporting one major change per year (based upon the last two years), the initial reporting and analysis aspect of the rulemaking would be 10 annual responses  $\times$  40 hours per initial response per State = an estimated 400 burden hours per year.

In terms of State reporting after the initial notification, no additional reporting has been required beyond the automatic reporting requirements. Therefore, FNS is projecting that for nine of the ten major changes expected each year there would be no additional reporting burden beyond the automatic reporting. All 10 of the major changes estimated each year are expected to require some automated system reprogramming to generate the required

automatic data reporting. At 48 hours per reprogramming effort, this would be 480 hours per year ( $10 \times 48$ ). Preparing the 40 quarterly reports are estimated to require 12 hours each. The total for the 10 States would be  $480 + 480$  hours = 960 total hours for reporting (divided by the 10 states = 96 hours per State per year).

For the 1 State projected to require additional data collection, this requirement would be in addition to the 960 hours above. Such data will generally be collected through a sample of case reviews. While the required sample sizes may vary based on the type of major change and the proportion of the State's SNAP caseload it may affect, 200 cases per quarter would likely be an upper limit on what FNS could ask of a State. At an estimated one hour to review and report on a case, this would require 800 hours per year for one State each year. When the 400 hours for notifications and the 960 hours are added for the automatic information, the total for the 10 States is 2,160 (or 216 hours per State per year).

With all 10 States reporting quarterly, there would be 40 responses annually. One of the 40 reports would contain additional information from sample data.

Section	Requirement	States responding per year	Responses per respondent	Number of responses	Hours per response	Total burden hours
272.15(a)(3) .....	Initial analysis of Major Change .....	10	1	10	40	400
272.15(b)(2)-(4) ...	Reports required without additional data collection.	9	4	36	24	864
272.15(b)(5) .....	Reports required with additional data collection.	1	4	4	224	896
Totals .....	.....	10	*5	50	* 43.2	2,160

(average)

Dated: June 28, 2019.

**Brandon Lipps,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2019-14696 Filed 7-9-19; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Information Collection: Generic Clearance To Conduct Survey Improvement Projects

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and

organizations on a new generic information collection request, *Generic Clearance To Conduct Survey Improvement Projects*.

**DATES:** Comments must be received in writing on or before September 9, 2019 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Send written comments to Kenli Kim, National Program Leader for Social Science Research, Forest Service, 1400 Independence Ave. SW, Mailstop 1114, Washington, DC 20250-1114, or by electronic mail to [kenli.kim@usda.gov](mailto:kenli.kim@usda.gov), with "PRA comment" in the subject line. If comments are sent by electronic mail, the public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the

information collection request, explain the reasons for any recommended changes, and, where possible, reference the specific section or paragraph being addressed.

All timely and properly submitted comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this information collection at the USDA Forest Service Headquarters, 201 14th St. SW, Washington, DC 20250 between the hours of 10:00 a.m. to 5:00 p.m. on business days. Those wishing to inspect comments should contact Kenli Kim to facilitate an appointment and entrance to the building.

**FOR FURTHER INFORMATION CONTACT:** Kenli Kim, National Program Leader for

Social Science Research at the Forest Service, [kenli.kim@usda.gov](mailto:kenli.kim@usda.gov). Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 twenty-four hours a day, every day of the year, including holidays.

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Generic Clearance for Survey Improvement Projects.

*OMB Number:* 0596-NEW.

*Expiration Date of Approval:* NEW.

*Type of Request:* NEW.

*Abstract:* The USDA Forest Service has broad responsibilities for caring for the forests and grasslands of the nation. In order to fulfill this mission, the Agency needs an accurate understanding of the range of views and preferences held by stakeholders regarding the management and conservation of forests and other natural resources. We do so through various information collections of social and economic data. The Forest Service requests approval from the Office of Management and Budget (OMB) for this generic clearance to allow the Forest Service to rigorously develop, test, and evaluate its survey instruments and other data collection instruments.

The Forest Service has instituted state-of-the art techniques to improve the quality and timeliness of surveys and related data collection and analyses, while simultaneously reducing respondents' workload and burden. The purpose of this generic clearance is to allow the Forest Service to evaluate, adopt, and use these state-of-the-art techniques to improve its current data collections on forest and natural land management. This clearance will also be used to aid in the development of new surveys and data collection methods. Additionally, the Forest Service anticipates the benefit of increased response rates through improved survey design, a goal tied directly to improving response rates and reducing non-response bias.

*Estimate of Annual Burden on Respondents:* 900 hours per year (2,700 hours for the 3 year period).

*Type of Respondents:* Individuals and households, state & local government representatives, tribal representatives, private sector businesses, and non-profit organizations.

*Estimated Annual Number of Respondents:* 2,500 per year.

*Estimated Annual Number of Responses per Respondent:* 1 response/respondent.

*Comment is Invited:* Comment is invited on: (1) Whether this collection of information is necessary for the stated

purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The Forest Service will consider the comments received and amend the information collection request as appropriate. The final information collection request package will then be submitted to OMB for review and approval.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for final Office of Management and Budget approval.

Dated: June 17, 2019.

**Alexander L. Friend,**

*Deputy Chief, Research & Development.*

[FR Doc. 2019-14685 Filed 7-9-19; 8:45 am]

**BILLING CODE 3411-15-P**

## **DEPARTMENT OF COMMERCE**

**[Docket Number: 190703544-9544-01]**

### **Comment Request; Report on the State of Counterfeit and Pirated Goods Trafficking and Recommendations**

**ACTION:** Notice; request for comments.

**SUMMARY:** The Department of Commerce is seeking comments from intellectual property rights holders, online third-party marketplaces and other third-party intermediaries, and other private-sector stakeholders on the state of counterfeit and pirated goods trafficking through online third-party marketplaces and recommendations for curbing the trafficking in such counterfeit and pirated goods. All responses to this notice will be shared with interagency teams, and specifically the Department of Homeland Security (DHS), for use in preparing a report for the President as directed by the April 3, 2019 Presidential Memorandum on "Combating Trafficking in Counterfeit and Pirated Goods" (Presidential Memorandum).

**DATES:** Comments must be received by 5:00 p.m. Eastern time on Monday, July 29, 2019.

**ADDRESSES:** You may submit comments and responses to the questions below by one of the following methods. All comments must be submitted through the Federal eRulemaking Portal at <http://www.regulations.gov>, Docket No. DOC-2019-0003, unless the commenter does not have access to the internet. Commenters who do not have access to the internet may submit the original and one copy of each set of comments by mail or hand delivery/courier as noted in option (b) below.

(a) *Electronic Submission:* Submit all electronic comments via the Federal eRulemaking Portal at <http://www.regulations.gov> (at the home page, enter [DOCKET NUMBER] in the "Search" box, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments). The materials in the docket will not be edited to remove identifying or contact information, and the Department cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. Comments containing references to studies, research, and other empirical data that are not widely published should include copies of the referenced materials. If you want to submit a comment with business confidential information that you do not wish to be made public, submit the comment in the manner detailed below. Submissions of "Business Confidential Information": For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC". Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. If you request business confidential treatment, you must certify that the information is business confidential and would not customarily be released to the public. Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or

rebuttal comments. Failure to follow these procedures may result in the public posting of the submissions in their entirety. If these procedures are not sufficient to protect business confidential information or otherwise protect business interests, please contact Raquel Cohen at [Raquel.Cohen@trade.gov](mailto:Raquel.Cohen@trade.gov) to assess whether alternative arrangements are possible.

(b) *Written/Paper Submissions:*

Commenters who do not have access to the internet may send written/paper submissions to: The Office of Intellectual Property Rights (OIPR), International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 21028, Washington, DC 20230. Submissions of "Business Confidential Information": Please review the "Business Confidential Information" instructions noted in (a), above.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, contact Raquel Cohen at the U.S. Department of Commerce, International Trade Administration, Office of Intellectual Property Rights, by email to [Raquel.Cohen@trade.gov](mailto:Raquel.Cohen@trade.gov), telephone number (202) 482-4146.

**SUPPLEMENTARY INFORMATION:** Section 2 of the Presidential Memorandum of April 3, 2019, "Combating Trafficking in Counterfeit and Pirated Goods," directs the Secretary of Homeland Security, in coordination with the Secretary of Commerce and in consultation with other agencies and offices to prepare and submit a report to the President on the "State of Counterfeit and Pirated Goods Trafficking and Recommendations," with particular emphasis on the role of online third-party marketplaces and other third-party intermediaries, and, consistent with applicable law, to consult with intellectual property rights holders, online third-party marketplaces and other third-party intermediaries, and other private-sector stakeholders in preparing the report. Specifically, the report shall:

(i) Analyze available data and other information to develop a deeper understanding of the extent to which online third-party marketplaces and other third party intermediaries are used to facilitate the importation and sale of counterfeit and pirated goods; identify the factors that contribute to trafficking in counterfeit and pirated goods; and describe any market incentives and distortions that may contribute to third-party intermediaries facilitating trafficking in counterfeit and pirated goods. This review should include data regarding the origins of counterfeit and

pirated goods and the types of counterfeit and pirated goods that are trafficked, along with any other relevant data, and shall provide a foundation for any recommended administrative, regulatory, legislative, or policy changes.

(ii) Evaluate the existing policies and procedures of third-party intermediaries relating to trafficking in counterfeit and pirated goods, and identify the practices of those entities that have been most effective in curbing the importation and sale of counterfeit and pirated goods, including those conveyed through online third-party marketplaces. The report should also evaluate the effectiveness of Federal efforts, including the requirement for certain Federal contractors to establish and maintain a system to detect and avoid counterfeit electronic parts under the Defense Federal Acquisition Regulation Supplement (DFARS) 252.246-7007, as well as steps taken by foreign governments, such as France and Canada, to combat trafficking in counterfeit and pirated goods.

(iii) To the extent that certain types of data are not currently available to the Federal Government, or accessible in a readily usable form, recommend changes to the data collection practices of agencies, including specification of categories of data that should be collected and appropriate standardization practices for data.

(iv) Identify appropriate administrative, statutory, regulatory, or other changes, including enhanced enforcement actions, that could substantially reduce trafficking in counterfeit and pirated goods or promote more effective law enforcement regarding trafficking in such goods. The report should address the practices of counterfeiters and pirates, including their shipping, fulfillment, and payment logistics, and assess means of mitigating the factors that facilitate trafficking in counterfeit and pirated goods.

(v) Identify appropriate guidance that agencies may provide to third-party intermediaries to help them prevent the importation and sale of counterfeit and pirated goods.

(vi) Identify appropriate administrative, regulatory, legislative, or policy changes that would enable agencies, as appropriate, to more effectively share information regarding counterfeit and pirated goods, including suspected counterfeit and pirated goods, with intellectual property rights holders, consumers, and third-party intermediaries.

(vii) Evaluate the current and future resource needs of agencies and make appropriate recommendations for more

effective detection, interdiction, investigation, and prosecution regarding trafficking in counterfeit and pirated goods, including trafficking through online third-party marketplaces and other third-party intermediaries. These recommendations should include suggestions for increasing the use of effective technologies and expanding collaboration with third party intermediaries, intellectual property rights holders, and other stakeholders.

(viii) Identify areas for collaboration between the Department of Justice and Department of Homeland Security on efforts to combat trafficking in counterfeit and pirated goods.

The Presidential Memorandum defines:

- "Online third-party marketplace" to mean "any web-based platform that includes features primarily designed for arranging the sale, purchase, payment, or shipping of goods, or that enables sellers not directly affiliated with an operator of such platforms to sell physical goods to consumers located in the United States;" and

- "Third-party intermediaries" to mean "online third-party marketplaces, carriers, customs brokers, payment providers, vendors, and other parties involved in international transactions."

The Secretary of Homeland Security, in coordination with the Secretary of Commerce, and in consultation with relevant agencies ("interagency"), is required to deliver this report to the President by October 30, 2019. A public version of the report will be published in the **Federal Register** within 30 days thereafter.

In response to this directive, as part of its coordination in preparation of the report, the Department of Commerce is facilitating stakeholder outreach to better understand, *inter alia*:

- The extent to which online third-party marketplaces and other third-party intermediaries are used to facilitate importation and sale of counterfeit and pirated goods;

- The existing practices of online third-party marketplaces and/or other third-party intermediaries that are most effective in curbing importation and sale of counterfeit and pirated goods; and

- Recommendations for potential policy, administrative, regulatory, and/or legislative changes by the Federal Government that could be effective in curbing the importation and sale of counterfeit and pirated goods through online third-party marketplaces and/or enabling more effective law enforcement regarding the importation and sale of such goods.

In preparing the report, the interagency already is considering

information and recommendations submitted by stakeholders in response to other U.S. Government solicitations for public submissions, including those received in connection with USTR's annual Special 301 Report on intellectual property protection and Review of Notorious Markets for piracy and counterfeiting. For this notice, the Department particularly is seeking input beyond that provided through those other process.

In addition, the interagency currently is considering potential "best practices" guidance for online third-party marketplaces designed to prevent counterfeit and pirated goods from being offered for sale, such as:

- i. Conducting an advance vetting of the potential sellers/vendors, including to ensure that the goods are not being produced by forced labor (19 U.S.C. 1307; 18 U.S.C. 1589);
- ii. establishing and enforcing a "prohibited items" list of those goods that may not be sold through the marketplace (due to, *e.g.*, the risks to public health and safety that would be posed by counterfeit or pirated versions of such goods and/or the high likelihood that such goods would be counterfeit or pirated in light of the nature of the authorized distribution channels for the legitimate versions of those goods);
- iii. taking down listings for counterfeit and pirated goods;
- iv. notifying customers that the marketplace has determined that the customer has, or may have, purchased counterfeit or pirated goods, and providing appropriate remedies to such customers; and
- v. notifying other third-party intermediaries, intellectual property rights holders, other stakeholders, and law enforcement that the online third-party marketplace has determined that a particular seller/vendor has been supplying counterfeit or pirated goods.

#### **Request for Information and Recommendations**

Given the nature and import of the Presidential Memorandum, the Secretary requests information and recommendations from interested stakeholders, including but not limited to: Intellectual property rights holders affected by the importation and sale of counterfeit and pirated goods through online third-party marketplaces or other third-party intermediaries; online third-party marketplaces and other third-party intermediaries; and other affected persons or entities.

Respondents may address any, all or none of the following questions, and may address additional related topics that have implications for combating the

trafficking in counterfeit and pirated goods. Please identify, where possible, the questions your comments are intended to address.

Respondents may organize their submissions in any manner, and all responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this notice will be considered. Reminder: Respondents have the burden to request that any information contained in a submission be treated as "Business Confidential Information" and must certify that such information is business confidential and would not customarily be released to the public by the submitter.

While the Department welcomes all input considered relevant to the development of a report on the state of counterfeit and pirated goods trafficking through online third-party marketplaces and recommendations to combat such trafficking, the Department specifically seeks the following types of information and recommendations:

1. How are your interests affected by counterfeit or pirated goods imported through online third-party marketplaces and other third-party intermediaries as those terms are defined in the Presidential Memorandum? (Specific examples and/or data would be helpful, including on the origins of counterfeit and pirated goods and the types of counterfeit and pirated goods that are trafficked. Information that is not publicly available can be submitted as "business confidential" in accordance with the instructions in the **ADDRESSES** section).
2. What factors contribute to trafficking in counterfeit and pirated goods through online third-party marketplaces or other third-party intermediaries, and what market incentives and distortions may contribute to the use of online third-party marketplaces and other third-party intermediaries to traffic in counterfeit and pirated goods?
3. Are there effective technologies, the use of which—by the private sector and/or law enforcement agencies—could substantially reduce the sale and importation of counterfeit and pirated goods through online third-party marketplaces and/or enable more effective law enforcement regarding the trafficking in such goods? Please reference and provide copies of any available studies that demonstrate the efficacy of such technologies, or any available data that may be used to do so.
4. To what degree can expanded collaboration and information sharing among online third-party marketplaces, other third-party intermediaries, intellectual property rights holders,

other private-sector stakeholders and/or U.S. law enforcement organizations substantially reduce trafficking in counterfeit and pirated goods and/or enable more effective law enforcement regarding the trafficking in such goods?

5. Are there Federal agency data collection or standardization practices, or practices involving provision of data to parties, that could promote more effective detection, interdiction, investigation or prosecution of underlying violations of U.S. customs laws and of intellectual property rights?

6. What existing policies, procedures or best practices of online third-party marketplaces, other third-party intermediaries, intellectual property rights holders, and/or other private-sector stakeholders have been effective in curbing the importation and sale of counterfeit and pirated goods, including those conveyed through online third-party marketplaces?

7. What additional policies, procedures or best practices of online third-party marketplaces, other third-party intermediaries, intellectual property rights holders, and/or other private-sector stakeholders can be effective in curbing the importation and sale of counterfeit and pirated goods, including those conveyed through online third-party marketplaces? What would it cost for industry to adopt such practices?

8. What policy remedies, including administrative, regulatory, or legislative changes by the Federal Government (including enhanced enforcement actions) could substantially reduce the trafficking in counterfeit and pirated goods and/or promote more effective law enforcement regarding the trafficking in such goods? Please reference any available analyses that shed light on the efficacy and potential impacts of such proposed remedies.

Dated: July 5, 2019.

**Earl Comstock,**

*Director of the Office of Policy and Strategic Planning, Department of Commerce.*

[FR Doc. 2019-14715 Filed 7-5-19; 4:15 pm]

**BILLING CODE 3510-17-P**



## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-583-856]

**Certain Corrosion-Resistant Steel Products From Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in Taiwan, are circumventing the antidumping duty (AD) order on CORE from Taiwan.

**DATES:** Applicable July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** Shanah Lee and Peter Zukowski, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6386 and (202) 482-0189, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

Certain domestic interested parties, ArcelorMittal USA LLC, California Steel Industries, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners) filed an allegation<sup>1</sup> that imports of CORE from Vietnam made from HRS and/or CRS sourced from Taiwan and exported to the United States as CORE from Vietnam are circumventing the *Taiwan CORE Order*.<sup>2</sup> In their allegation, the petitioners requested that Commerce initiate an anti-circumvention inquiry pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the Taiwanese-origin HRS and/or CRS substrate for completing into CORE in Vietnam and subsequent sale of that

CORE to the United States constitutes circumvention of the *Taiwan CORE Order*.

On August 2, 2018, Commerce published the notice of initiation of anti-circumvention inquiry on imports of CORE from Vietnam.<sup>3</sup> For a complete description of the events that followed the initiation of this inquiry, see the Preliminary Decision Memorandum.<sup>4</sup> 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 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 the electronic versions of the Preliminary Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>5</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

**Scope of the Order**

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a

complete description of the scope of the order, see the Preliminary Decision Memorandum.

**Scope of the Anti-Circumvention Inquiry**

This anti-circumvention inquiry covers CORE produced in Vietnam from HRS and/or CRS substrate input manufactured in Taiwan and subsequently exported from Vietnam to the United States (merchandise under consideration). This preliminary ruling applies to all shipments of merchandise under consideration on or after the date of initiation of this inquiry. Importers and exporters of CORE produced in Vietnam using: (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS and/or CRS processed into CORE in Vietnam did not originate in Taiwan, as provided for in the certifications attached to the **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping duties if Commerce makes an affirmative final determination in this inquiry.

**Methodology**

Commerce is conducting this anti-circumvention inquiry in accordance with section 781(b) of the Act. Because Vietnam is a non-market economy country, within the meaning of section 771(18) of the Act,<sup>6</sup> Commerce has calculated the value of certain processing and merchandise using factors of production and market-economy values, as discussed in section 773(c) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, see the Preliminary Decision Memorandum.

**Preliminary Finding**

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE produced in Vietnam from HRS and/or CRS sourced from Taiwan is circumventing the *Taiwan CORE Order*. We therefore preliminarily determine that it is appropriate to include this merchandise within the *Taiwan CORE Order* and to instruct U.S. Customs and Border Protection (CBP) to suspend any

<sup>1</sup> See Petitioners' letter, "Certain Corrosion-Resistant Steel Products from Taiwan: Request for Circumvention Ruling," dated June 12, 2018.

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Taiwan CORE Order*).

<sup>3</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018) (*Initiation Notice*).

<sup>4</sup> See Memorandum, "Decision Memorandum for the Preliminary Determination in the Anti-Circumvention Inquiry of Certain Corrosion-Resistant Steel Products from Taiwan," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>5</sup> See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 29, 2019. All deadlines in this segment have been extended by 40 days.

<sup>6</sup> See, e.g., *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 81 FR 24797 (October 14, 2016) (unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results Antidumping Administrative Review; 2014-2015*, 82 FR 18611 (April 20, 2017)).



entries of CORE from Vietnam produced from HRS and/or CRS from Taiwan.

### Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding of circumvention of the *Taiwan CORE Order* by exports to the United States of CORE produced by any Vietnamese company from Taiwanese-origin HRS and/or CRS inputs. In accordance with 19 CFR 351.225(l)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of the anti-circumvention inquiry. The suspension of liquidation instructions will remain in effect until further notice.

CORE produced in Vietnam from HRS and/or CRS that is not of Taiwanese-origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or CRS from China is subject to the AD/CVD orders on CORE from China,<sup>7</sup> and CORE produced in Vietnam from HRS and/or CRS from Korea has preliminarily been found to be circumventing the AD/CVD orders on CORE from Korea.<sup>8</sup> Imports of such merchandise are also subject to certification requirements and cash deposits may be required. If an importer imports CORE from Vietnam and claims that the CORE was not produced from HRS and/or CRS substrate manufactured in Taiwan, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced from non-Taiwanese-origin HRS and/or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the

Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from the exporter of CORE who did not use the Taiwanese-origin HRS and/or CRS substrate.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent)).<sup>9</sup> This is to prevent evasion, given that the *CORE China Circumvention Final* rates are higher than the AD and CVD rates established for CORE from Korea and Taiwan. In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.<sup>10</sup> This is to prevent evasion, given that the AD and CVD rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan.

### Verification

As provided in 19 CFR 351.307, Commerce intends to verify 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 final

verification report is issued in this anti-circumvention inquiry, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>11</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this anti-circumvention inquiry 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.

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.

### International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to this anti-circumvention inquiry within the *Taiwan CORE Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the merchandise under consideration. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

### Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

<sup>7</sup> *See Certain Corrosion-Resistant Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018) (*CORE China Circumvention Final*).

<sup>8</sup> *See Federal Register* notice, "Certain Corrosion-Resistant Steel Products from Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders," and accompanying Preliminary Decision Memorandum, dated concurrently with this notice.

<sup>9</sup> *See CORE China Circumvention Final*, 83 FR at 23896.

<sup>10</sup> *See Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The "all-others rate" was subsequently amended as the result to litigation. *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018). *See also Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, Korea CORE Orders).

<sup>11</sup> *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Dated: June 28, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Scope of the Anti-Circumvention Inquiry
- V. Period of Inquiry
- VI. Surrogate Countries and Methodology for Valuing Inputs from Taiwan and Processing in Vietnam
- VII. Statutory Framework
- VIII. Use of Facts of Available with An Adverse Inference
- IX. Statutory Analysis
- X. Country-Wide Determination
- XI. Certification for Not Using Taiwanese-Origin HRS and/or CRS
- XII. Recommendation

## Appendix II

### Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Taiwan, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the **Federal Register**. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy,

within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention." For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after July 19, 2019, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for China all-others rate (39.05 percent)).<sup>12</sup> In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.

## Appendix III

### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct

personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have "direct personal knowledge" of the importation of the product (*e.g.*, the name of the exporter) in its records;

- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);

- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or Commerce;

- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

- the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

- I understand that agents of the importer, such as brokers, are not permitted to make this certification;

- This certification was completed at or prior to the time of Entry; and

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

<sup>12</sup> See *CORE China Circumvention Final*, 83 FR at 23896.

Signature \_\_\_\_\_  
 NAME OF COMPANY OFFICIAL \_\_\_\_\_  
 TITLE \_\_\_\_\_  
 DATE \_\_\_\_\_

## Appendix IV

### Exporter Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};

- I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.

- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan:

- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

- the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

- This certification was completed at or prior to the time of shipment;

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_  
 NAME OF COMPANY OFFICIAL \_\_\_\_\_  
 TITLE \_\_\_\_\_  
 DATE \_\_\_\_\_

[FR Doc. 2019-14695 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-092]

### Mattresses From the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is amending the preliminary determination of the less-than-fair-value investigation of mattresses from the People's Republic of China (China) to correct significant ministerial errors.

**DATES:** Applicable July 10, 2019.

#### FOR FURTHER INFORMATION CONTACT:

Jonathan Hill, Lilit Astvatsatryan, or Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3518, (202) 482-6412, or (202) 482-0193, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On June 4, 2019, Commerce published its notice of preliminary determination in the antidumping duty investigation of mattresses from China.<sup>1</sup> On May 30, 2019, Foshan City Shunde Haozuan Furniture Co., Ltd. (Foshan Haozuan) submitted comments alleging significant ministerial errors in our preliminary determination.<sup>2</sup> On May 31, 2019, Jiashan Nova Co., Ltd. (Nova) and Foshan Suilong Furniture Co., Ltd. (Suilong) submitted comments alleging

<sup>1</sup> See *Mattresses from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances*, 84 FR 25732 (June 4, 2019) (*Preliminary Determination*) and the accompanying Preliminary Decision Memorandum.

<sup>2</sup> See letter from Foshan Haozuan, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Ministerial Error Comments and Request to Immediately Correct **Federal Register** Notice Prior to Publication," dated May 30, 2019 (Foshan Haozuan's ME Allegation).

significant ministerial errors in our preliminary determination.<sup>3</sup> On June 5, 2019, Zinus (Xiamen) Inc. and Zinus (Zhangzhou) Inc., and their affiliated sellers and U.S. importers (collectively, Zinus), Healthcare Co., Ltd. and its affiliated exporters and U.S. importers (collectively, Healthcare), and Corsicana Mattress Company, Elite Comfort Solutions, Future Foam Inc., FXI, Inc., Innocor, Inc., Kolcraft Enterprises Inc., Leggett & Platt, Incorporated, Serta Simmons Bedding, LLC, and Tempur Sealy International, Inc. (collectively, the petitioners), submitted comments alleging significant ministerial errors in our calculation of the preliminary margins for Healthcare and Zinus and in our assignment of separate rates to certain companies.<sup>4</sup>

#### Period of Investigation

The period of investigation is January 1, 2018, through June 30, 2018.

#### Scope of the Investigation

The product covered by this investigation is mattresses from China. For a complete description of the scope of this investigation, see the Appendix to this notice.

#### Analysis of Significant Ministerial Error Allegation

Commerce will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination according to 19 CFR 351.224(e). A ministerial error is defined in 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial."<sup>5</sup> A significant ministerial error is defined as a ministerial error,

<sup>3</sup> See letter from Nova, "Mattresses from People's Republic of China: Omission from Notice of Preliminary Determination," dated May 31, 2019 (Nova's ME Allegation); see letter from Suilong, "Mattresses from People's Republic of China: Ministerial Error Omission from Notice of Preliminary Determination," dated May 31, 2019 (Suilong's ME Allegation).

<sup>4</sup> See letter from Zinus, "Mattresses from the People's Republic of China: Ministerial Error Allegation," dated June 5, 2019 (Zinus' ME Allegation); see letter from Healthcare, "Mattresses from People's Republic of China: Ministerial Error Comments for the Preliminary Determination," dated June 5, 2019 (Healthcare's ME Allegation); see also letter from the petitioners, "Mattresses from the People's Republic of China: Mattress Petitioners' Request for Correction of a Significant Ministerial Error in the Preliminary Determination Margin Calculation of Healthcare," dated June 5, 2019 (the petitioners' ME Allegation).

<sup>5</sup> See also section 735(e) of the Tariff Act of 1930, as amended (the Act).

the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the antidumping duty rate calculated in the original preliminary determination; or (2) a difference between an antidumping duty rate of zero or *de minimis* and an antidumping duty rate of greater than *de minimis* or *vice versa*.<sup>6</sup>

#### Amended Preliminary Determination

Pursuant to 19 CFR 351.224(e) and (g)(1), Commerce is amending the *Preliminary Determination* to reflect the correction of seven ministerial errors made in the calculation of the estimated weighted-average dumping margin for Healthcare,<sup>7</sup> the assignment of separate rates for certain companies explained below, and the correction to the China-wide rate based on a typographical error. Regarding Zinus, although Commerce finds that two of its three claimed errors are ministerial in nature, as defined by 19 CFR 351.224(f), the ministerial errors are not “significant” in accordance with 19 CFR 351.224(g).<sup>8</sup>

Specifically, the combined impact of the ministerial errors represent a change of less than 25 percent of the margin calculated in the *Preliminary Determination*. Concerning Healthcare, Commerce finds that the petitioners’ claimed error is a significant ministerial error within the meaning of 19 CFR 351.224(g), because Healthcare’s weighted-average dumping margin increases from 38.56 to 69.30<sup>9</sup> percent as a result of correcting this ministerial error, which exceeds the specified threshold, *i.e.*, a change of at least five absolute percentage points in, but not less than 25 percent of, the dumping margin calculated in the original *Preliminary Determination*. Further, in the *Preliminary Determination*, Commerce calculated a weighted-average of the dumping margins of Healthcare and Zinus,<sup>10</sup> and assigned this rate to the non-examined respondents that preliminarily received a separate rate.<sup>11</sup> Accordingly, as part of this amended preliminary determination, Commerce will amend the estimated weighted-average

dumping margin to 81.31 percent for each non-examined respondent that preliminarily received a separate rate.<sup>12</sup>

Additionally, in the *Preliminary Determination*, under the section entitled “Preliminary Determination,” we inadvertently did not identify Foshan Haozuan, Nova, and Suilong as having received a separate rate. Also, Commerce incorrectly spelled Shanghai Glory Home Furnishings Co., Ltd. Further, Commerce inadvertently listed Healthcare Sleep Products Limited as the producer of Healthcare Sleep Products Limited’s exports while, in fact, Healthcare Co. Ltd. is the producer in this exporter/producer combination. Finally, Commerce inadvertently listed Luen Tai Global Limited as the producer of Luen Tai Global Limited’s exports while, in fact, Shenzhen L&T Industrial Co., Ltd. is the producer in this exporter/producer combination.

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the following exporter-producer combinations:

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Zinus (Xiamen) Inc .....	Zinus (Xiamen) Inc .....	84.64
Healthcare Co., Ltd .....	Healthcare Co., Ltd .....	69.30
Foshan City Shunde Haozuan Furniture Co., Ltd .....	Foshan City Shunde Haozuan Furniture Co., Ltd .....	81.31
Jiashan Nova Co., Ltd .....	Jiashan Nova Co., Ltd .....	81.31
Foshan Suilong Furniture Co. Ltd .....	Foshan Suilong Furniture Co. Ltd .....	81.31
Healthcare Sleep Products Limited .....	Healthcare Co. Ltd .....	81.31
Luen Tai Global Limited .....	Shenzhen L&T Industrial Co., Ltd .....	81.31
Dockter China Limited .....	Healthcare Co., Ltd .....	81.31
Dockter China Limited .....	Huizhou Lemeijia Household Products Co., Ltd. (a.k.a. Better Zs, Ltd.) .....	81.31
Dockter China Limited .....	Dongguan Beijianing Household Products Co., Ltd. (a.k.a. Better Zs, Ltd.) .....	81.31
Foshan Chiland Furniture Co., Ltd .....	Foshan Chiland Furniture Co., Ltd .....	81.31
Foshan City Jinxingma Furniture Manufacture Co., Ltd .....	Foshan City Jinxingma Furniture Manufacture Co., Ltd .....	81.31
Foshan City Kewei Furniture Co., Ltd .....	Foshan City Kewei Furniture Co., Ltd .....	81.31
Foshan EON Technology Industry Co., Ltd .....	Foshan EON Technology Industry Co., Ltd .....	81.31
Foshan Mengruo Household Furniture Co., Ltd .....	Foshan Mengruo Household Furniture Co., Ltd .....	81.31
Foshan Qisheng Sponge Co., Ltd .....	Foshan Qisheng Sponge Co., Ltd .....	81.31
Foshan Ruixin Non Woven Co., Ltd .....	Foshan Ruixin Non Woven Co., Ltd .....	81.31
Foshan Ziranbao Furniture Co., Ltd .....	Foshan Ziranbao Furniture Co., Ltd .....	81.31
Guangdong Diglant Furniture Industrial Co., Ltd .....	Guangdong Diglant Furniture Industrial Co., Ltd .....	81.31
Hong Kong Gesin Technology Limited .....	Inno Sports Co., Ltd .....	81.31
Inno Sports Co., Ltd .....	Inno Sports Co., Ltd .....	81.31
Jiangsu Wellcare Household Articles Co., Ltd .....	Jiangsu Wellcare Household Articles Co., Ltd .....	81.31
Jiaxing Taien Springs Co., Ltd .....	Jiaxing Taien Springs Co., Ltd .....	81.31
Jiaxing Visco Foam Co., Ltd .....	Jiaxing Visco Foam Co., Ltd .....	81.31
Jinlongheng Furniture Co., Ltd .....	Jinlongheng Furniture Co., Ltd .....	81.31
Luen Tai Group (China) Limited .....	Shenzhen L&T Industrial Co., Ltd .....	81.31

<sup>6</sup> See 19 CFR 351.224(g).

<sup>7</sup> See Memorandum, “Less-Than-Fair-Value Investigation of Mattresses from the People’s Republic of China: Allegation of Ministerial Errors in the Preliminary Determination,” dated concurrently with this notice (Ministerial Error Memorandum).

<sup>8</sup> See Ministerial Error Memorandum.

<sup>9</sup> See Memorandum, “Analysis for the Amended Preliminary Determination of the Less-Than-Fair-Value Investigation of Mattresses from the People’s Republic of China for Healthcare Co., Ltd.,” dated concurrently with this notice.

<sup>10</sup> See Memorandum, “Calculation of the Rate for Separate Rate Respondents,” dated May 28, 2019.

<sup>11</sup> See *Preliminary Determination*, 84 FR at 25733.

<sup>12</sup> As a result of the change to Healthcare’s preliminary margin the separate rate for non-selected companies also changed. See Memorandum, “Calculation of the Rate for Separate Rate Respondents,” dated July 5, 2019.

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Man Wah Furniture Manufacturing (Hui Zhou) Co., Ltd., Man Wah (MACAO Commercial Offshore), Ltd. and Man Wah (USA), Inc.	Man Wah Household Industry (Huizhou) Co., Ltd .....	81.31
Ningbo Megafeat Bedding Co., Ltd .....	Ningbo Megafeat Bedding Co., Ltd .....	81.31
Ningbo Shuibishen Home Textile Technology Co., Ltd .....	Ningbo Shuibishen Home Textile Technology Co., Ltd .....	81.31
Nisco Co., Ltd .....	Healthcare Co., Ltd .....	81.31
Quanzhou Hengang Imp. & Exp. Co., Ltd .....	Quanzhou Hengang Industries Co., Ltd .....	81.31
Shanghai Glory Home Furnishings Co., Ltd .....	Shanghai Glory Home Furnishings Co., Ltd .....	81.31
Sinomax Macao Commercial Offshore Limited .....	Dongguan Sinohome Limited .....	81.31
Sinomax Macao Commercial Offshore Limited .....	Sinomax (Zhejiang) Polyurethane Technology Ltd .....	81.31
Wings Developing Co., Limited .....	Quanzhou Hengang Industries Co., Ltd .....	81.31
Xianghe Kaneman Furniture Co., Ltd .....	Xianghe Kaneman Furniture Co., Ltd .....	81.31
Xilinmen Furniture Co., Ltd .....	Xilinmen Furniture Co., Ltd .....	81.31
Zhejiang Glory Home Furnishings Co., Ltd .....	Zhejiang Glory Home Furnishings Co., Ltd .....	81.31
China-wide Entity .....	China-wide Entity .....	1,731.75

### Amended Cash Deposits and Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised according to the rates calculated in this amended preliminary determination. Because Healthcare's amended rate and the consequent amended separate rate for non-selected companies result in increased cash deposits, these amended rates will be effective on the publication date of this amended preliminary determination. As Commerce preliminarily found that critical circumstances exist for imports of subject merchandise from the non-examined respondents that preliminarily received a separate rate, and the China-wide entity,<sup>13</sup> the amended rate for these entities will be effective on the publication date of this amended preliminary determination. Entities subject to critical circumstances in the *Preliminary Determination* (i.e., separate rate companies and the China-wide entity) will continue to be subject to a rate of 74.65 percent effective March 6, 2019, i.e., 90 days before the publication of the *Preliminary Determination*, until the effective date of this amended preliminary determination. Parties will be notified of this determination, in accordance with section 733(d) and (f) of the Act.

### Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the amended preliminary determination, in accordance with 19 CFR 351.224.

<sup>13</sup> See *Preliminary Determination*, 84 FR at 25732 and *Preliminary Decision Memorandum*, at 4–5.

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission of our amended preliminary determination.

### Notification to Interested Parties

This amended preliminary determination is issued and published pursuant to sections 733(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: July 3, 2019.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

### Appendix

#### Scope of the Investigation

The scope of this investigation covers all types of youth and adult mattresses. The term “mattress” denotes an assembly of materials that at a minimum includes a “core,” which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) “upholstery,” the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) “ticking,” the outermost layer of fabric or other material (e.g., vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this investigation is restricted to only “adult mattresses” and “youth mattresses.” “Adult mattresses” have a width exceeding 35 inches, a length exceeding 72 inches, and a depth exceeding 3 inches on a nominal basis. Such mattresses are frequently described as “twin,” “extra-long twin,” “full,” “queen,” “king,” or “California king” mattresses. “Youth mattresses” have a width exceeding 27 inches, a length exceeding 51 inches, and a depth exceeding 1 inch (crib mattresses have a depth of 6 inches or less from edge to edge) on a nominal basis. Such

mattresses are typically described as “crib,” “toddler,” or “youth” mattresses. All adult and youth mattresses are included regardless of actual size description.

The scope encompasses all types of “innerspring mattresses,” “non-innerspring mattresses,” and “hybrid mattresses.” “Innerspring mattresses” contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as “innerspring mattresses” or “hybrid mattresses.” “Hybrid mattresses” contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

“Non-innerspring mattresses” are those that do not contain any innerspring units. They are generally produced from foams (e.g., polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this investigation may be imported independently, as part of furniture or furniture mechanisms (e.g., convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this investigation are “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes

completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Further, also excluded from the scope of this investigation are any products covered by the existing antidumping duty order on uncovered innerspring units. *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009).

Additionally, also excluded from the scope of this investigation are "mattress toppers." A "mattress topper" is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this investigation are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

[FR Doc. 2019-14689 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-847]

#### Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico: Amended Final Results of Antidumping Duty Administrative Review; 2016-2017

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on heavy walled rectangular welded carbon steel pipes and tubes (HWR) from Mexico to correct a ministerial error.

**DATES:** Applicable July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** David Crespo or Jacob Garten, 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) 482-3693 or (202) 482-3342, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 28, 2019, Commerce issued the final results of the first administrative review of the AD order on HWR from Mexico.<sup>1</sup> Also on this date, Atlas Tube, a division of Zekelman Industries, and Searing Industries (collectively, the domestic producers), submitted comments alleging a ministerial error in Commerce's *Final Results*.<sup>2</sup>

##### Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."<sup>3</sup> With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce "will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review. . . ."

##### Ministerial Errors

Commerce committed an inadvertent error within the meaning of section 735(e) of the Act and 19 CFR 351.224(f)<sup>4</sup> with respect to the cash deposit rate assigned to the companies not selected for individual examination. In the *Final Results*, we stated our intention to base this calculation on the average of the margins calculated for Maquilacero S.A. de C.V. (Maquilacero) and Productos Laminados de Monterrey S.A. de C.V. (Prolamsa), weighted by their publicly-ranged sales quantities.<sup>5</sup> However, we did not rely on Prolamsa's most recently-submitted publicly-ranged sales quantity. Accordingly, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), that an unintentional ministerial error was made in the *Final*

*Results*. Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of this ministerial error. Specifically, we have now revised the calculation to include Prolamsa's correct U.S. quantity.<sup>6</sup> This correction changes the cash deposit rate for the non-individually-examined companies from 5.88 percent to 6.13 percent.<sup>7</sup> For a detailed discussion of this ministerial error, as well as Commerce's analysis, *see* Ministerial Error Memorandum.<sup>8</sup>

##### Amended Final Results of the Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period March 1, 2016 through August 31, 2017:

Exporter/producer	Weighted-average dumping margin (percent) <sup>9</sup>
Maquilacero S.A. de C.V. ....	1.43
Productos Laminados de Monterrey S.A. de C.V. ....	8.09

Review-Specific Average Rate Applicable to the Following Companies:<sup>10</sup>

Exporter/producer	Weighted-average dumping margin (percent)
Arco Metal S.A. de C.V. ....	6.13
Forza Steel S.A. de C.V. ....	6.13
Industrias Monterrey, S.A. de C.V. ....	6.13
Perfiles y HERRAJES LM S.A. de C.V. ....	6.13
PYTCO S.A. de C.V. ....	6.13
Regiomontana de Perfiles y Tubos S.A. de C.V. ....	6.13
Ternium S.A. de C.V. ....	6.13
Tuberia Nacional S.A. de C.V. ....	(*)
Tuberia Procarisa S.A. de C.V. ....	6.13

\*No shipments or sales subject to this review.

<sup>6</sup> See *Final Results Average Rate Memo*.

<sup>7</sup> See Memorandum, "Amended Calculation of the Cash Deposit Rate for Non-Reviewed Companies," dated concurrently with this notice (Amended Final Results Review-Specific Average Rate Memo).

<sup>8</sup> See Memorandum, "Antidumping Duty Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico; 2016-2017: Ministerial Error Memorandum," dated concurrently with this notice (Ministerial Error Memorandum).

<sup>9</sup> We note that Maquilacero's and Prolamsa's margins remain unchanged from the *Final Results*.

<sup>10</sup> See Amended Final Results Review-Specific Average Rate Memo. This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis*, or based entirely on facts available. *See* section 735(c)(5)(A) of the Act.

<sup>1</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 24473 (May 28, 2019) (*Final Results*).

<sup>2</sup> See Domestic Producers' letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Ministerial Error Comments," dated May 28, 2019.

<sup>3</sup> See 19 CFR 351.224(f).

<sup>4</sup> *Id.*

<sup>5</sup> See Memorandum, "Calculation of the Cash Deposit Rate for Non-Reviewed Companies," dated May 20, 2019 (*Final Results Average Rate Memo*); and *Final Results*, 84 FR at 24474.

## Disclosure

We intend to disclose the calculation performed for these amended final results in accordance with 19 CFR 351.224(b).

## Antidumping Duty Assessment

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review.

Pursuant to 19 CFR 351.212(b)(1), where Maquilacero and Prolamsa reported the entered value of their U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondents did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. In addition, for entries of subject merchandise during the period of review (POR) produced by Maquilacero or Prolamsa for which the respondent did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company or companies involved in the transaction. The all-others rate is 4.91 percent.<sup>11</sup> We will also instruct CBP to take into account the "provisional measures cap" in accordance with 19 CFR 351.212(d).

For the companies which were not selected for individual review, we will assign an assessment rate based on the average<sup>12</sup> of the cash deposit rates calculated for Maquilacero and Prolamsa. The amended final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the amended final results of this review and

for future deposits of estimated duties, where applicable.<sup>13</sup>

We intend to issue liquidation instructions to CBP 41 days after publication of the final results of this administrative review.

## Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively, as appropriate, for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the May 28, 2019, the date of publication of the *Final Results* of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the amended final results, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies, including those for which Commerce may have determined they had no shipments during the POR, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 4.91 percent established in the less-than-fair-value investigation.<sup>14</sup> These deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

## Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

## Notification to Interested Parties

These amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: July 1, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019-14688 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-878; C-580-879]

### Certain Corrosion-Resistant Steel Products From Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from Korea.

**DATES:** Applicable July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** Chien-Min Yang, 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) 482-5484.

**SUPPLEMENTARY INFORMATION:**

<sup>11</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Antidumping Duty Orders*, 81 FR 62865, 62866 (September 13, 2016) (*AD Orders*). We note that the *Final Results* contained an incorrect all-others rate.

<sup>12</sup> This rate was calculated as discussed in footnote 10, above.

<sup>13</sup> See section 751(a)(2)(C) of the Act.

<sup>14</sup> See *AD Orders*.



## Background

Certain domestic interested parties, ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, Steel Dynamics, Inc. and California Steel Industries (collectively, the petitioners) filed an allegation<sup>1</sup> that imports of CORE from Vietnam made from HRS and/or CRS sourced from the Korea and exported to the United States as CORE from Vietnam are circumventing the *Korea CORE Orders*.<sup>2</sup> In their allegation, the petitioners requested that Commerce initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the Korean-origin HRS or CRS substrate for completing into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *Korea CORE Orders*. In their allegation, the petitioners requested Commerce initiate anti-circumvention inquiries pursuant to section 781(b) of the Act and 19 CFR 351.225(h), to determine whether the importation of the Korean-origin HRS or CRS substrate for completion into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *Korea CORE Orders*.

On August 2, 2018, Commerce published the notice of initiation of anti-circumvention inquiries on imports of CORE from Vietnam.<sup>3</sup> For a complete description of the events that followed the initiation of these inquiries, see the Preliminary Decision Memorandum.<sup>4</sup> 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 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 the electronic versions of the Preliminary Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>5</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

## Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, see the Preliminary Decision Memorandum.

## Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam from HRS or CRS substrate input manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). This preliminary ruling applies to all shipments of merchandise under consideration on or after the date of initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS

produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in Korea, as provided for in the certifications attached to this **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties if Commerce makes affirmative final determination in these inquiries.

## Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because certain interested parties did not cooperate to the best of their abilities in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, see the Preliminary Decision Memorandum.

## Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE produced in Vietnam from HRS and/or CRS sourced from Korea is circumventing the *Korea CORE Orders*. We therefore preliminarily determine that it is appropriate to include this merchandise within the *Korea CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CORE from Vietnam produced from HRS and/or CRS from Korea.

## Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding of circumvention of the *Korea CORE Orders* by exports to the United States of CORE produced by any Vietnamese company from Korean-origin HRS and/or CRS input. In accordance with 19 CFR 351.225(1)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of the anti-circumvention inquiries. The suspension of liquidation instructions will remain in effect until further notice.

CORE produced in Vietnam from HRS and/or CRS that is not of Korean origin is not subject to these inquiries. Therefore, cash deposits pursuant to the *Korea CORE Orders* are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or

<sup>1</sup> See Petitioners' letter, "Certain Corrosion-Resistant Steel Products from Korea: Request for Circumvention Ruling," dated June 12, 2018 (Circumvention Ruling Request).

<sup>2</sup> See *Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The "all others rate" was subsequently amended as the result of litigation. See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *Korea CORE Orders*).

<sup>3</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018) (*Initiation Notice*).

<sup>4</sup> See Memorandum, "Decision Memorandum for the Preliminary Determination in the Anti-Circumvention Inquiry of Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>5</sup> See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 29, 2019. All deadlines in this segment have been extended by 40 days.



CRS from China is subject to the AD/CVD orders on CORE from China,<sup>6</sup> and CORE produced in Vietnam from HRS and/or CRS from Taiwan has preliminarily been found to be circumventing the AD order on CORE from Taiwan.<sup>7</sup> Imports of such merchandise are also subject to certification requirements and cash deposits may be required. If an importer imports CORE from Vietnam and claims that the CORE was not produced from HRS and/or CRS substrate manufactured in Korea, in order not to be subject to Korea CORE Orders cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced from non-Korean-origin HRS and/or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from the exporter of CORE who did not use the Korean-origin HRS and/or CRS substrate.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent)).<sup>8</sup> This is to prevent evasion, given that the *CORE China Circumvention Final* rates are higher than the AD and CVD rates established for CORE from Korea and Taiwan. In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no

other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.<sup>9</sup> This is to prevent evasion, given that the AD and CVD rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than thirty days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries 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.

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.

### International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the U.S. International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anticircumvention inquiries within the *Korea CORE Orders*.

Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed

inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

### Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: June 28, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

### Appendix I

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Period of Inquiries
- VI. Statutory Framework
- VII. Use of Facts Available with an Adverse Inference
- VIII. Anti-Circumvention Determination
- IX. Country-Wide Determination
- X. Certification for Not Using Korean-Origin HRS and/or CRS
- XI. Recommendation

### Appendix II

#### Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Korea, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documents. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is also required to complete and maintain the exporter certification attached hereto as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the **Federal Register**. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was

<sup>6</sup> See *Certain Corrosion-Resistant Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018) (*CORE China Circumvention Final*).

<sup>7</sup> See **Federal Register** notice, "Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order," dated concurrently with this notice.

<sup>8</sup> See *CORE China Circumvention Final*, 83 FR at 23896.

<sup>9</sup> See *Korea CORE Orders*.

<sup>10</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention.” Similarly, the bullet in the exporter certification that reads, “This certification was completed at or prior to the time of shipment,” could be edited as follows: “The shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention.” For such entries/ shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/ shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after July 19, 2019, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the CORE China Circumvention Final rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for China all-others rate (39.05 percent)). In the situation where a certification is provided for the AD/CVD orders on CORE from China, but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.

### Appendix III

#### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the

Customs territory of the United States of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own records. For example, the importer should have “direct personal knowledge” of the importation of the product (*e.g.*, the name of the exporter) in its records;

- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. “Personal knowledge” includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

• I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or Commerce;

• I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
- the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at or prior to the time of Entry; and

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_

NAME OF COMPANY OFFICIAL

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

### Appendix IV

#### Exporter Certification

I hereby certify that:

• My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};

• I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products that were sold to the United States under invoice number(s) {INSERT INVOICE NUMBER(S)}. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have “direct personal knowledge” of the producer's identity and location.

• These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
- the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;
- This certification was completed at or prior to the time of shipment;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_

NAME OF COMPANY OFFICIAL \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

[FR Doc. 2019-14694 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-881, C-580-882]

#### **Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that imports of certain cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from Korea.

**DATES:** Applicable July 10, 2019.

#### **FOR FURTHER INFORMATION CONTACT:**

Tyler Weinhold or Fred Baker, 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) 482-1121 or (202) 482-2924, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Certain domestic interested parties, ArcelorMittal USA LLC (AMUSA), California Steel Industries (CSI), Nucor Corporation (Nucor), Steel Dynamics, Inc. (SDI), and United States Steel Corporation (USSC) (collectively, the petitioners) filed an allegation<sup>1</sup> that imports of CRS from Vietnam made from HRS sourced from Korea and

exported to the United States as CRS from Vietnam are circumventing the *CRS Orders*.<sup>2</sup> In their allegation, the petitioners requested that Commerce initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the Korean-origin HRS substrate for completing into CRS in Vietnam and subsequent sale of that CRS to the United States constitutes circumvention of the *CRS Orders*.

On August 2, 2018, Commerce published the notice of initiation of anti-circumvention inquiries on imports of CRS from Vietnam.<sup>3</sup> For a complete description of the events that followed the initiation of these inquiries, see the Preliminary Decision Memorandum.<sup>4</sup> 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 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 the electronic versions of the Preliminary Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29,

<sup>2</sup> See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*CRS Korea AD Order*); see also *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*CRS Korea CVD Order*) (collectively, *CRS Orders*).

<sup>3</sup> See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37790 (August 2, 2018) (*Initiation Notice*).

<sup>4</sup> See Memorandum, "Preliminary Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Cold-Rolled Steel Flat Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

2019.<sup>5</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

#### **Scope of the Orders**

The products covered by these orders are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other nonmetallic substances. For a complete description of the scope of the orders, see the Preliminary Decision Memorandum.

#### **Scope of the Anti-Circumvention Inquiries**

These anti-circumvention inquiries cover CRS produced in Vietnam from HRS substrate input manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). These preliminary rulings apply to all shipments of the merchandise under consideration on or after the date of the initiation of these inquiries. Importers and exporters of CRS produced in Vietnam using HRS manufactured in Vietnam or third countries must certify that the HRS processed into CRS in Vietnam did not originate in Korea, as provided for in the certifications attached to the **Federal Register** notice at Appendices II, III, and IV. Otherwise, their merchandise may be subject to antidumping and countervailing duties if Commerce makes affirmative final determinations in these inquiries.

#### **Methodology**

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because Vietnam is a non-market economy country within the meaning of section 771(18) of the Act,<sup>6</sup> Commerce has calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. For a full description of the methodology underlying Commerce's preliminary determination,

<sup>5</sup> See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>6</sup> See, e.g., *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 81 FR 24797 (October 14, 2016) (unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18611 (April 20, 2017)).

<sup>1</sup> See Petitioners' Letter, "Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated June 12, 2018.

see the Preliminary Decision Memorandum.

### Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CRS produced in Vietnam from HRS sourced from Korea is circumventing the *CRS Orders*. We therefore preliminarily determine that it is appropriate to include this merchandise within the *CRS Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CRS from Vietnam produced from HRS from Korea.

### Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding of circumvention of the *CRS Orders* by exports to the United States of CRS produced by any Vietnamese company from Korean-origin HRS inputs. In accordance with section 19 CFR 351.225(l)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of the anti-circumvention inquiry. The suspension of liquidation instructions will remain in effect until further notice.

CRS produced in Vietnam from HRS that is not of Korean origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. However, CRS produced in Vietnam from CRS from China is subject to the AD/CVD orders on CRS from China.<sup>7</sup> Imports of such merchandise are also subject to certification requirements and cash deposits may be required. If an importer imports CRS from Vietnam and claims that the CRS was not produced from HRS substrate manufactured in Korea, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CRS produced from non-Korean-origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (see Appendix IV). In addition, importers of such CRS must prepare and maintain an Importer

Certification (see Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of the Exporter Certification (see Appendix IV) and relevant supporting documentation from the exporter of CRS who did not use Korean-origin HRS substrate.

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CRS China Circumvention Final* rates (i.e., the AD rate established for the China-wide entity (199.76 percent) and the CVD rate established for the China all-others rate (256.44 percent)).<sup>8</sup> This is to prevent evasion, given that the *CRS China Circumvention Final* rates are higher than the AD and CVD rates established for CRS from Korea. In the situation where a certification is provided for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (i.e., 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>9</sup>

### Verification

As provided in 19 CFR 351.307, Commerce intends to verify 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 final verification report is issued in these anti-circumvention inquiries, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case

briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries 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.

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.

### International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anti-circumvention inquiries within the *CRS Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the merchandise under consideration. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

### Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: June 28, 2019.

**Jeffrey I. Kessler,**

Assistant Secretary, for Enforcement and Compliance.

### Appendix I

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders

<sup>10</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

<sup>8</sup> See *CRS China Circumvention Final*, 83 FR at 23892.

<sup>9</sup> See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*CRS Korea AD Order*); *Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (*CRS Korea CVD Order*).

<sup>7</sup> See *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*).

- IV. Scope of the Anti-Circumvention Inquiries
- V. Period of Inquiry
- VI. Surrogate Countries and Methodology for Valuing Inputs from Korea and Processing in Vietnam
- VII. Statutory Framework
- VIII. Use of Facts Available with an Adverse Inference
- IX. Statutory Analysis
- X. Country-Wide Determination
- XI. Certification for Not Using Korean-Origin HRS
- XII. Recommendation

## Appendix II

### Certification Requirements

If an importer imports certain cold-rolled steel flat products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced from hot-rolled steel substrate (substrate) manufactured in the Republic of Korea (Korea), the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the **Federal Register**. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention. For such entries/ shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/ shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after July 19, 2019, for which certifications are required, importers should complete the

required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CRS China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.76 percent) and the CVD rate established for the China all-others rate (256.44 percent)).<sup>11</sup> In the situation where a certification is provided for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>12</sup>

## Appendix III

### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the cold-rolled steel flat products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have "direct personal knowledge" of the importation of the product (*e.g.*, the name of the exporter) in its records;

<sup>11</sup> See *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*).

<sup>12</sup> See *CRS Korea AD Order*, 81 FR at 64434; *CRS Korea CVD Order*, 81 FR at 64438.

- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);

- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea:

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or Commerce;

- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
- the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

- I understand that agents of the importer, such as brokers, are not permitted to make this certification;

- This certification was completed at or prior to the time of Entry; and

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_

NAME OF COMPANY OFFICIAL

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

**Appendix IV****Exporter Certification**

I hereby certify that:

• My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};

• I have direct personal knowledge of the facts regarding the production and exportation of the cold-rolled steel flat products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.

• These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea:

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

○ the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;

• This certification was completed at or prior to the time of shipment;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature \_\_\_\_\_

NAME OF COMPANY OFFICIAL \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

[FR Doc. 2019-14721 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-928, A-791-821, A-552-803]

**Uncovered Innerspring Units From the People's Republic of China, South Africa, and Socialist Republic of Vietnam: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on uncovered innerspring units from the People's Republic of China (China), South Africa, and Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of dumping as indicated in the "Final Results of Sunset Reviews" section of this notice.

**DATES:** Applicable July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2243.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 1, 2019, Commerce published the initiation of the second five-year (sunset) reviews of the antidumping duty orders on uncovered innerspring units from China, South Africa, and Vietnam, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), as amended.<sup>1</sup> Commerce received notices of intent to participate in these sunset reviews from Leggett & Platt, Incorporated (the domestic interested party), within the 15-day period specified in 19 CFR 351.218(d)(1)(i). The domestic interested party claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product.

Commerce received adequate substantive responses to the *Notice of Initiation* from the domestic interested party within the 30-day period specified in 19 CFR 351.218(d)(3)(i). Commerce received no substantive response from any respondent interested parties. In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the antidumping duty orders

on uncovered innerspring units from China, South Africa, and Vietnam.<sup>2</sup>

**Scope of the Orders**

The products subject to these orders are uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.*, twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. The complete scope language of these orders is listed in the Issues and Decision Memorandum,<sup>3</sup> which is hereby adopted by this notice.

The products subject to the orders are currently classifiable under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (HTSUS). On January 11, 2011, Commerce included the 9404.29.9005 and 9404.29.9011 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP). On January 7, 2013, Commerce included the 7326.20.0071 HTSUS classification number to the customs case reference file, pursuant to a request by CBP. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these orders is dispositive.

**Analysis of Comments Received**

All issues raised in these reviews are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of dumping margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

<sup>2</sup> See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009); *Antidumping Duty Order: Uncovered Innerspring Units from South Africa*, 73 FR 75390 (December 11, 2008); *Antidumping Duty Order: Uncovered Innerspring Units from the Socialist Republic of Vietnam*, 73 FR 75391 (December 11, 2008).

<sup>3</sup> See Issues and Decision Memorandum for the Final Results of Expedited Second Sunset Reviews of the Antidumping Duty Orders on Uncovered Innerspring Units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam, dated concurrently with this notice (Issues and Decision Memorandum).

<sup>1</sup> See *Initiation of Five-Year (Sunset) Review*, 84 FR 7021 (March 1, 2019) (*Notice of Initiation*).

Electronic Services System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and is available to all parties in the Central Records Unit in Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <https://enforcement.trade.gov/frn/index.html>. A list of the issues discussed in the decision memorandum is attached as the Appendix to this notice. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

### Final Results of Sunset Reviews

Commerce determines that revocation of the antidumping duty orders on uncovered innerspring units from China, South Africa, and Vietnam would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins: China, up to 234.51 percent; South Africa, up to 121.39 percent; and Vietnam, up to 116.31 percent.

### Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

Commerce is issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.221(c)(5)(ii).

Dated: July 1, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. History of the Orders
- IV. Scope of the Orders
- V. Discussion of the Issues
- VI. Final Results of Reviews
- VII. Recommendation

[FR Doc. 2019-14687 Filed 7-9-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XH085**

### New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint VMS/Enforcement Committee and Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Thursday, July 25, 2019 at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone: (603) 436-2121.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

#### SUPPLEMENTARY INFORMATION:

#### Agenda

The Committee and Advisory Panel will give an update on the Compliance Assistance Program (CAP) boardings since the last enforcement committee meeting. They will also discuss Northeast Multispecies (Groundfish) Catch Share (Sector) Review as well as capture enforcement challenges under current regulations for inclusion in the Catch Share Review. The committee and advisory will also discuss compliance improvement recommendation—Groundfish Sector Management and review alternatives under consideration in Amendment 23 and provide recommendations regarding their enforceability in particular (a) Dockside Monitoring Program in terms of inspection of fish holds; (b) Exemptions for vessels fishing exclusively west of 72 degrees 30 minutes west longitude or 71 degrees 30 minutes west longitude in regards to increased VMS polling and transit rules; (c) At-sea monitoring (human observers and electronic monitoring; (d) Audit model electronic monitoring option and (e) Maximized

retention option. Other business may be discussed as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

### Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: July 5, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-14712 Filed 7-9-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Evaluation of State Coastal Management Programs

**AGENCY:** Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments on the performance evaluation of the Georgia Coastal Management Program.

**DATES:** *Georgia Coastal Management Program Evaluation:* The public meeting will be held on August 28, 2019, and written comments must be received on or before September 6, 2019.

For specific dates, times, and locations of the public meetings, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** You may submit comments on the coastal program NOAA intends



to evaluate by any of the following methods:

**Public Meeting and Oral Comments:** A public meeting will be held in Brunswick, Georgia. For the specific location, see **SUPPLEMENTARY INFORMATION**.

**Written Comments:** Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or email comments [Carrie.Hall@noaa.gov](mailto:Carrie.Hall@noaa.gov). Comments that the Office for Coastal Management receives are considered part of the public record and may be publicly accessible. Any personal identifying information (e.g., name, address) submitted voluntarily by the sender may also be publicly accessible. NOAA will accept anonymous comments.

**FOR FURTHER INFORMATION CONTACT:** Ralph Cantral, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 2234 South Hobson Avenue, Charleston, SC 29405, by phone at (843) 740-1143 or email comments [Ralph.Cantral@noaa.gov](mailto:Ralph.Cantral@noaa.gov). Copies of the previous evaluation findings and 2016–2020 Assessment and Strategy may be viewed and downloaded on the internet at <http://coast.noaa.gov/czm/evaluations>. A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved state and territorial coastal programs. The process includes one or more public meetings, consideration of written public comments, and consultations with interested Federal, state, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

You may participate or submit oral comments at the public meeting scheduled as follows:

*Date:* August 28, 2019.

*Time:* 5:30–6:30 p.m., local time.

*Location:* Susan Shipman

Environmental Learning Center, Georgia Department of Natural Resources, 1 Conservation Way, Brunswick, GA 31520.

Written public comments must be received on or before September 6, 2019.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: July 5, 2019.

**Nkolika Ndubisi,**

*Management and Program Analyst, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2019-14710 Filed 7-9-19; 8:45 am]

**BILLING CODE 3510-08-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Availability of a Draft Environmental Assessment of a Proposed Boundary Expansion of the Guana Tolomato Matanzas National Estuarine Research Reserve

**AGENCY:** Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**ACTION:** Notice of availability of a draft environmental assessment; request for comments.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) is soliciting comments from the public on a draft environmental assessment for a proposed boundary expansion of the Guana Tolomato Matanzas (GTM) National Estuarine Research Reserve.

**DATES:** Comments must be received no later than 30 days after publication of this notice.

**ADDRESSES:** The draft environmental assessment can be downloaded or viewed at <https://coast.noaa.gov/czm/compliance/>. You may submit comments via email to [steph.robinson@noaa.gov](mailto:steph.robinson@noaa.gov). You may also submit comments or request a copy of the draft environmental assessment by mail addressed to Stephanie Robinson, Office for Coastal Management, 2234 South Hobson Ave., Charleston, SC 29405. Comments submitted by any other method or after the comment period may not be considered. All comments are a part of the public record and may be publicly accessible. Any personal identifying information (e.g., name, address) submitted voluntarily by the

sender may also be accessible. NOAA will accept anonymous comments.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Robinson at (843) 740-1174 and [steph.robinson@noaa.gov](mailto:steph.robinson@noaa.gov), or Erica Seiden at (240) 533-0781 and [erica.seiden@noaa.gov](mailto:erica.seiden@noaa.gov) of NOAA's Office for Coastal Management.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Florida Department of Environmental Protection, as lead agency for managing the GTM Reserve, has requested to modify the approved management boundary of the Reserve by adding three new parcels. Pursuant to 15 CFR 921.33(a), NOAA may require public notice, including notice in the **Federal Register** and an opportunity for public comment before approving a boundary or management plan change. In addition, changes in the boundary of a Reserve involving the acquisition of properties not listed in the management plan or final environmental impact statement (EIS) require public notice and the opportunity for comment. The Marsh View Preserve parcel was not evaluated in the Reserve's original EIS. Therefore, NOAA has developed an environmental assessment (EA) to analyze the effects of requested change to the Reserve boundary, which would result in a net increase in acreage of 3,346.44 acres, and is publishing notice of the EA's availability for public review and comment.

##### II. NOAA Proposed Action and Alternatives

NOAA is releasing a draft EA prepared in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4332(2)(c), and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500-1508). NOAA's proposed action would be to approve a change in the management boundary of the GTM Reserve to add three parcels to the approved boundary.

The draft EA identifies and assesses potential environmental impacts associated with the proposed project, and identifies a preferred alternative and a no action alternative. The preferred alternative would add three parcels to the Reserve's boundary. Although the preferred alternative would add three parcels outside the boundary originally designated for the Reserve, the addition of these three parcels would allow and enhance the Reserve's ability to: (1) Educate the community; (2) protect and manage the estuaries and their watersheds; (3)



provide aquatic/upland management; and (4) research and monitor the area. The proposed boundary expansion is therefore preferred over the no action alternative.

Dated: July 5, 2019.

**Nkolika Ndubisi,**

*Management and Program Analyst, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2019-14713 Filed 7-9-19; 8:45 am]

BILLING CODE 3510-08-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XR014

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Bremerton Ferry Terminal Dolphin Relocation Project in Washington State

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; incidental harassment authorization; request for comments on proposed renewal.

**SUMMARY:** NMFS received a request from the Washington State Department of Transportation (WSDOT) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to the dolphin (a man-made structure that protects other structures from being struck by boats) relocation project at the Bremerton Ferry Terminal in Washington State. These activities consist of activities that are covered by the current authorization but will not be completed prior to its expiration. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the requested Renewal not previously provided during the initial 30-day comment period.

**DATES:** Comments and information must be received no later than July 25, 2019.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National

Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to [ITP.Fowler@noaa.gov](mailto:ITP.Fowler@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

#### FOR FURTHER INFORMATION CONTACT:

Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have

an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “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, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA;

- The request for Renewal must include the following:

- (1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS

determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals). Any comments received on the potential Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

#### National Environmental Policy Act

Issuance of an MMPA 101(a)(5)(D) authorization requires compliance with the National Environmental Policy Act (NEPA).

NMFS preliminary determined the issuance of the proposed Renewal is consistent with categories of activities identified in CE B4 (issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for which no serious injury or mortality is anticipated) of NOAA's Companion Manual for NAO 216-6A, and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216-6A that would preclude this categorical exclusion under NEPA.

We will review all comments submitted in response to this notice prior to making a final decision as to whether application of this CE is appropriate in this circumstance.

#### History of Request

On August 24, 2018, NMFS issued an IHA to WSDOT to take marine mammals incidental to Bremerton and Edmonds Ferry Terminal Dolphin Relocation Project in Washington State (83 FR 45897; September 11, 2018), effective from October 1, 2018 through September 31, 2019. On May 8, 2019, NMFS received a request for the Renewal of that initial IHA. As described in the request for Renewal, the activities for which incidental take is requested consist of activities that are

covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report (available at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>), which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

#### Description of the Specified Activities and Anticipated Impacts

WSDOT proposes to relocate one dolphin to improve safety at the Bremerton Ferry Terminal. The Olympic Class ferries have an atypical shape, which at some terminals causes the vessels to make contact with the inner dolphin prior to the stern of the vessel reaching the intermediate or outer dolphin. This tends to cause rotation of the vessel away from the wingwalls, which presents a safety issue. Relocating the dolphin will reduce the risk of landing issues for Olympic Class ferries at the Bremerton ferry terminal. Due to NMFS and the U.S. Fish and Wildlife Service (USFWS) in-water work timing restrictions to protect ESA-listed salmonids, planned WSDOT in-water construction at the Bremerton ferry terminal is limited to August 1, 2019 through February 15, 2020. All work proposed by WSDOT would be conducted within this window.

The specified activities described for this Renewal are an identical subset of the activities covered by the initial IHA. NMFS previously published notices of proposed IHA (83 FR 16330; April 16, 2018) and issued IHA (83 FR 45897; September 11, 2018). These documents, as well as WSDOT's initial IHA application and the preliminary monitoring report for the previously issued IHA, are available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-washington-state-department-transportation-ferry-terminal>.

Similarly, the anticipated impacts are identical to those described in the initial IHA. Specifically, we anticipate the take of individuals of eleven marine mammal stocks (including four pinniped and seven cetacean stocks), by Level B harassment only, incidental to noise resulting from pile driving associated with the proposed activities. WSDOT was not able to complete the pile driving activities analyzed in the initial IHA by the date that IHA is set to expire

and anticipates the need for additional pile driving to complete the project.

The following documents are referenced in this notice and include important supporting information, and may be found at the indicated location:

- Initial Proposed IHA: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Bremerton and Edmonds Ferry Terminals Dolphin Relocation Project in Washington State (83 FR 16330; April 16, 2018). Available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-washington-state-department-transportation-ferry-terminal>;
- Initial Final IHA: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Bremerton and Edmonds Ferry Terminals Dolphin Relocation Project in Washington State (83 FR 45897; September 11, 2018). Available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-washington-state-department-transportation-ferry-terminal>; and
- Preliminary Monitoring Report from Initial IHA. Available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-washington-state-department-transportation-ferry-terminal>.

#### Detailed Description of the Activity

As described above, WSDOT was not able to complete the activities analyzed in the initial IHA by the date that IHA is set to expire (September 30, 2019). As such, the activities WSDOT proposes to conduct between August 1, 2019 and February 15, 2020 would be a continuation of the activities as described in the initial 2018 IHA and would be identical to the activities analyzed in the initial IHA (e.g., same location, equipment, methods, seasonality). The initial IHA analyzed the potential impacts to marine mammals from the relocation of one dolphin each at the Edmonds and Bremerton ferry terminals to accommodate the Olympic Class ferries.

WSDOT completed all planned activities at the Edmonds ferry terminal in the 2018–2019 in-water work period but no work was conducted at the Bremerton ferry terminal. The numbers of each pile size that were planned to be driven during the 2018–2019 work window is shown in Table 1 of the initial proposed IHA (83 FR 16330; April 16, 2018). WETA planned to install and remove a total of 30 piles in the 2018–2019 work window (11 at the Edmonds ferry terminal and 19 at the Bremerton ferry terminal). However, as described above, WSDOT was only able

to complete pile driving at the Edmonds ferry terminal. Four 36-inch steel pipe piles were removed with a vibratory hammer and seven steel pipe piles (three 30-inch and four 36-inch) were installed with a vibratory hammer at the Edmonds ferry terminal. Construction occurred on six days between January 29 and February 7, 2019. WSDOT therefore proposes to complete pile driving activities at the Bremerton ferry terminal in the 2019–2020 work window.

The proposed activities at the Bremerton ferry terminal include vibratory installation and removal of steel pipe piles. A total of 19 steel pipe piles will be installed and removed at the Bremerton ferry terminal. One temporary 36-inch indicator pile will be installed with a vibratory hammer. The temporary indicator pile will be used as a visual landing aid for vessel captains during construction. Once the indicator pile is in place, the 6 36-inch piles that comprise the left outer dolphin will be removed with a vibratory hammer and/or by direct pull and clamshell removal. Using a vibratory hammer, three 30-inch reaction piles will be installed as a back group of piles to provide stability to the dolphin. A concrete diaphragm atop the back piles will be installed, followed by four additional 30-inch reaction piles installed with a vibratory hammer. Three 36-inch steel pipe fender piles will be installed with a vibratory hammer. Fenders and rub panels will be installed to absorb energy from the vessel as it makes contact with the dolphin. Finally, using a vibratory hammer, the 36-inch temporary indicator pile will be removed and reinstalled as the last fender pile. Vibratory removal of both 30- and 36-inch piles is expected to take up to 15 minutes per pile. Vibratory installation of 30- and 36-inch piles is expected to take up to 20 minutes per pile. Underwater sound resulting from pile driving could result in the harassment of marine mammals. The proposed Renewal would be effective from August 1, 2019 through July 31, 2020.

#### Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance,

status, distribution, and hearing, may be found in the Notices of the proposed IHA for the initial authorization (83 FR 16330; April 16, 2018). The marine mammal species for which take was authorized in the initial IHA, and for which take is proposed in this requested Renewal are: Pacific harbor seal (*Phoca vitulina richardii*), Northern elephant seal (*Mirounga angustirostris*), California sea lion (*Zalophus californianus*), eastern Distinct Population Segment (eDPS) Steller sea lion (*Eumetopias jubatus*), transient killer whales (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), and common dolphin (*Delphinus delphis*).

NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature. The 2018 Stock Assessment Report notes that the estimated abundance of California sea lions has decreased slightly and the estimated abundances of Eastern North Pacific gray whales and California/Oregon/Washington humpback whales increased slightly. Additionally, since January 1, 2019, elevated gray whale strandings have occurred along the west coast of North America from Mexico through Alaska. NMFS declared an Unusual Mortality Event on May 31, 2019. As of June 27, 2019, a total of 85 gray whales have stranded along the U.S. coast, with a combined additional 86 whales stranded in Mexico and Canada. Full or partial necropsy examinations have been conducted on a subset of the stranded gray whales. Preliminary findings in several of the whales have shown evidence of emaciation. However, neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the *Description of the Marine Mammals in the Area of Specified Activities* contained in the supporting documents for the initial IHA.

#### Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine

mammals and their habitat for the activities for which take is proposed here may be found in the Notices of the proposed IHA for the initial authorization (83 FR 16330; April 16, 2018). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

#### Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the Notice of proposed IHA (83 FR 16330; April 16, 2018) and issued IHA (83 FR 45897; September 11, 2018) for the initial authorization. The pile driving equipment that may result in take, as well as the source levels, marine mammal stocks taken, and the methods of take estimation remain unchanged from the previously issued IHA. Changes in the density of seven stocks are indicated below, though they result in only minor changes in the take estimates that do not affect our findings, as described.

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to acoustic sources (*i.e.*, vibratory pile driving). Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, shutdowns) discussed in detail below in Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized.

As described above, WSDOT completed all pile driving activities at the Edmonds ferry terminal in the 2018–2019 in-water work period and proposes to install and remove a total of 19 piles at the Bremerton ferry terminal in the 2019–2020 work period to complete the project. All piles to be installed and removed at the Bremerton ferry terminal would be 30- and 36-inch steel pipe piles. The number of piles for each respective size and element are shown in Table 1.

TABLE 1—NUMBER AND SIZES OF PILES PROPOSED FOR INSTALLATION AND REMOVAL, AND ESTIMATED DURATION OF PILE DRIVING

Pile element	Method	Size (inch)	Number of piles	Duration/pile (min)	Number of piles per day	Duration (days)
Indicator pile .....	Vibratory install .....	36	1	20	1	1

TABLE 1—NUMBER AND SIZES OF PILES PROPOSED FOR INSTALLATION AND REMOVAL, AND ESTIMATED DURATION OF PILE DRIVING—Continued

Pile element	Method	Size (inch)	Number of piles	Duration/pile (min)	Number of piles per day	Duration (days)
Indicator pile .....	Vibratory removal .....	36	1	15	1	1
Existing dolphin .....	Vibratory removal .....	36	6	15	3	2
Relocate dolphin install .....	Vibratory install .....	36	4	20	3	2
Relocated dolphin install .....	Vibratory install .....	30	7	20	3	3
Total .....	.....	.....	19	345	.....	9

Distances to the isopleths corresponding to the Level B harassment threshold for each pile size are shown in Table 2. Distances to the isopleths corresponding to the Level A harassment thresholds for the various marine mammal functional hearing groups, by pile size and duration of pile driving, are shown in Table 3.

Descriptions of the modeling methods used to determine the distances shown in Tables 2 and 3 are described in detail

in the Notice of proposed IHA (83 FR 16330; April 16, 2018) for the initial IHA. These methods have not changed from the initial IHA, and all values shown in Tables 2 and 3 have not changed from the initial IHA.

TABLE 2—DISTANCES TO ISOPLETHS CORRESPONDING TO THE LEVEL B HARASSMENT THRESHOLD

Pile driving activity	Distance to Level B harassment threshold (m)
36-inch steel pile (installation and removal) .....	63,100
30-inch steel pile (installation) ..	39,800

TABLE 3—DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Pile driving activity	Distance to Level A harassment threshold (m)				
	LF Cetacean	MF Cetacean	HF Cetacean	Phocid	Otariid
36-inch indicator pile install (1 pile/day) .....	10	10	25	10	10
36-inch indicator pile removal (1 pile/day) .....	10	10	10	10	10
36-inch steel pile (existing dolphin) removal (3 piles/day) ..	25	10	35	10	10
36-inch steel pile (relocated dolphin) install (3 piles/day) ...	25	10	35	10	10
30-inch steel pile (relocated dolphin) install (3 piles/day) ...	25	10	25	10	10

As the number of pile driving days that would occur in this year of activity is less than the number of pile driving days analyzed in the initial IHA, the number of takes estimated to occur in the 2019–2020 work season, and requested for this Renewal, has changed from the number of takes authorized in the initial IHA. Take numbers authorized in the initial IHA are shown in Table 7 in the Notice of issued IHA (83 FR 45897; September 11, 2018), available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-washington-state-department-transportation-ferry-terminal>.

The number of takes requested for this Renewal, for each marine mammal stock, are shown in Table 4. Auditory injury (*i.e.*, Level A harassment) is unlikely to occur for any species or stock, given the small injury zones. Since the largest Level A distance is only 35 m from the source for high-frequency cetaceans (harbor porpoise and Dall's porpoise, Table 3), NMFS expects that WSDOT can effectively

monitor such small zones to implement shutdown measures and avoid Level A takes. Therefore, no Level A take of marine mammal is anticipated nor proposed to be authorized for the pile driving activities at the Bremerton ferry terminal.

To inform take estimates in the initial IHA, marine mammal densities were taken from the U.S. Navy's Marine Species Density Database (MSDD; U.S. Navy 2015). Since then, the Navy has published an updated MSDD for the Phase III Northwest Training and Testing Study Area with updated densities for marine mammal species in the inland waters of Puget Sound (U.S. Navy 2019). In the 2019 MSDD, densities of harbor seals, northern elephant seals, gray whales, and humpback whales increased from those presented in the 2015 MSDD, while densities of harbor porpoises, Dall's porpoises, and transient killer whales decreased. The densities of Steller sea lion and minke whale remained the same in both iterations of the MSDD. While updated densities for marine

mammals were used here, the method of calculating estimated takes remains identical to that used in the initial IHA. For all marine mammals except California sea lions, takes were calculated by multiplying the ensonified area by the average animal density in the area (U.S. Navy 2019) and the number of days of pile driving (9 days), rounded up to the nearest integer. Take of California sea lions was calculated by multiplying the average number of California sea lions sighted in daily monitoring at the U.S. Navy's Bremerton Shipyard (69 animals) by the number of days of pile driving (9 days).

Using the take calculation method described above (area x density x days) resulted in estimated zero takes of some species, despite possible presence in the project area. In these cases, take was estimated by incorporating typical group size and/or potential for occurrence during the project work period. Specifically, take of northern elephant seals was calculated by assuming one seal may be present each day for a total of nine takes by Level B

harassment. Take of transient killer whales was calculated by assuming one group of six killer whales (mean group size (Shields *et al.*, 2018)) may enter the Level B harassment zone twice over the course of the project for a total of 12 takes by Level B harassment. Takes of gray whales, humpback whales, and minke whales was estimated by assuming one of each species may be present every other day during the nine days of pile driving, for a total of five takes by Level B harassment for each species. Dall's porpoises are considered rare in Puget Sound waters (U.S. Navy 2019) but a large group of 15 Dall's porpoises may enter the Level B harassment zone once during pile driving activities. Finally, take of common dolphins was calculated by assuming one group of seven dolphins (mean group size (CRC 2017)) may enter the Level B harassment zone once over the course of the project. No takes of Southern Resident killer whales were calculated, and due to mitigation measures proposed by WSDOT (described in detail below), no takes are

anticipated or requested for this Renewal.

Here, we describe in summary how the changes in density estimates affect the take estimates in this requested Renewal in relation to the take estimates in the initial IHA. For some species, the updated density estimates had no effect on estimated take. Even with increased densities, calculated takes of northern elephant seals, Southern Resident killer whales, transient killer whales, gray whales, humpback whales, minke whales, and common dolphins were zero animals taken. For these species, the proposed take was estimated as described above, and the updated densities had no effect on the number of takes. The estimated takes of two species were affected by the changes in density estimates, harbor seals and harbor porpoises.

The estimated density of harbor porpoises decreased from the 2015 MSDD (used to calculate takes in the initial IHA) to the 2019 MSDD. As a result, the calculated take estimate decreased, from 69 takes by Level B harassment at the Bremerton ferry

terminal in the initial IHA to 64 takes by Level B harassment proposed for take by Level B harassment here. This represents a seven percent decrease. Since the number of harbor porpoises estimated to be taken by Level B harassment here are fewer than that authorized in the initial IHA, this change has no effect on our findings.

The initial IHA authorized a total of 2,286 Level B takes of harbor seals, with an estimated 145 harbor seals taken at the Bremerton ferry terminal and 2,141 harbor seals taken at the Edmonds ferry terminal. Using the updated 2019 MSDD, the calculated takes of harbor seals at the Bremerton terminal increased to 465. While this increase is notable, the total estimated take is well below that authorized for both the Bremerton and Edmonds ferry terminals in the initial IHA. Additionally, the monitoring report from pile driving completed at the Edmonds terminal reports only 37 harbor seals taken by Level B harassment, indicating that the actual number of animals that occur are far below the number of takes authorized.

TABLE 4—TOTAL TAKES PROPOSED FOR RENEWAL

Species	Level B	Level A	Total
Harbor seal .....	465	0	<sup>a</sup> 465
Northern elephant seal .....	9	0	9
California sea lion .....	621	0	621
Steller sea lion .....	6	0	6
Southern Resident killer whale .....	0	0	0
Transient killer whale .....	12	0	12
Gray whale .....	5	0	5
Humpback whale .....	5	0	5
Minke whale .....	5	0	5
Harbor porpoise .....	64	0	<sup>b</sup> 64
Dall's porpoise .....	15	0	15
Common dolphin .....	7	0	7

<sup>a</sup> Take estimate increased from initial IHA due to increased density.

<sup>b</sup> Take estimate decreased from initial IHA due to decreased density.

### Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the Notice announcing the issuance of the initial IHA (83 FR 45897; September 11, 2018), and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are proposed for this renewal:

Pre-activity monitoring will take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring will continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at

the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (described below) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone, as described below. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the

activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 or 30 minutes (for pinnipeds/small cetaceans or large cetaceans, respectively) have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

To prevent Level A harassment of marine mammals, WSDOT must establish shutdown zones equivalent to the Level A harassment zones. If the Level A harassment zone is less than 10 m, a minimum 10 m shutdown zone must be enforced. The required

shutdown zones are presented in Table 5.

TABLE 5—SHUTDOWN DISTANCES FOR PILE DRIVING ACTIVITIES

Pile type, size & pile driving method	Shutdown distance (m)				
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid
36-inch indicator pile installation .....	10	10	25	10	10
36-inch indicator pile removal .....	10	10	10	10	10
36-inch steel dolphin pile removal .....	25	10	35	10	10
36-inch steel dolphin pile installation .....	25	10	35	10	10
30-inch steel dolphin pile installation .....	25	10	25	10	10

In addition to the Level A shutdown measures described above, WSDOT must implement shutdown measures if Southern Resident killer whales are sighted within the vicinity of the project and are approaching the Level B harassment zone during pile driving activities. If a killer whale approaches the Level B harassment zone and it is unknown if the animal is a Southern Resident or a transient killer whale, it must be assumed to be a Southern Resident killer whale and WSDOT must implement the shutdown measures described above. If a Southern Resident killer whale enters the Level B harassment zone undetected, pile driving must cease upon observation of the animal and must be suspended until the animal exits the Level B harassment zone.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zones, pile driving and removal activities must cease immediately using delay and shutdown procedures. Similarly, if an animal is observed approaching or within the Level A harassment zones, pile driving and removal activities must cease immediately. Activities must not resume until the animal has been confirmed to have left the area or 15 or 30 minutes (pinniped/small cetacean or large cetacean, respectively) has elapsed.

For all pile driving activities, a minimum of three Protected Species Observers (PSOs) will be required, two land-based and one vessel-based. One PSO must be stationed at the active pile driving rig or at the best vantage point practicable to monitor the shutdown zones for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

Monitoring of pile driving must be conducted by qualified PSOs (see below) who have no other assigned

tasks during monitoring periods.

WSDOT will adhere to the following conditions when selecting observers:

- Independent PSOs must be used (*i.e.*, not construction personnel);
- A lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience; and
- WSDOT must submit PSO CVs for approval by NMFS.

WSDOT must ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs must collect the following information during marine mammal monitoring:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed;

- Weather parameters and water conditions during each monitoring period (*e.g.*, wind speed, percent cover, visibility, sea state);

- The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting;

- Age and sex class, if possible, of all marine mammals observed;

- PSO locations during marine mammal monitoring;

- Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);

- Description of any marine mammal behavior patterns during observation, including direction of travel;

- Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate);

- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any; and

- Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

WSDOT must submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA, whichever comes earlier. This report must include the information described above. A final report must be prepared and submitted to NMFS within 30 days following resolution of comments from NMFS on the draft report. If NMFS has no comments on the draft report, the draft will be considered the final report.

In addition, NMFS would require WSDOT to notify NMFS' Office of Protected Resources and NMFS' West

Coast Region Stranding Coordinator within 48 hours of sighting an injured or dead marine mammal in the construction site. WSDOT must provide NMFS and the Stranding Network with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). In the event that WSDOT finds an injured or dead marine mammal that is not in the construction area, WSDOT must report the same information as listed above to NMFS as soon as operationally feasible.

### Public Comments

As noted previously, NMFS published a notice of a proposed IHA (83 FR 16330; April 16, 2018) and solicited public comments on both our proposal to issue the initial IHA for pile driving at the Bremerton and Edmonds ferry terminals and on the potential for a Renewal, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHA (83 FR 45897; September 11, 2018). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2018 IHA.

**Comment:** The Marine Mammal Commission (Commission) requested clarification of certain issues associated with NMFS's notice that one-year Renewals can be issued in certain limited circumstances and expressed concern that the process would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of Renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of section 101(a)(5)(D) of the MMPA.

**Response:** The notice of the proposed initial IHA expressly notified and invited comment from the public on the possibility that under certain, limited conditions the applicant could seek a Renewal IHA for an additional year. The notice described the conditions under which such a Renewal request could be considered and expressly sought public comment in the event such a Renewal were sought for this action. Further, since issuance of the initial IHA, NMFS has modified the Renewal process to provide notice through the **Federal**

**Register** and an additional 15-day public comment period at the time the Renewal IHA is requested. NMFS also will provide direct notice of the requested Renewal to those who commented on the initial IHA, to provide an opportunity to submit any additional comments.

We appreciate the Commission's suggestion that NMFS discuss the potential for IHA Renewals through a more general route, such as a rulemaking. However, utilizing the public comment process associated with IHAs is more efficient for the agency, while still providing for appropriate public input into NMFS' decision-making. Further, NMFS' recent modification to the Renewal process (*i.e.*, soliciting additional public comment at the time of a Renewal request) should alleviate the Commission's concern about the lack of additional public comment and need for a more general rulemaking.

For more information, NMFS has published a description of the Renewal process on our website (available at [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals)).

### Preliminary Determinations

WSDOT's proposed activity is identical to the activity analyzed in our previously issued Notices of proposed IHA and issued IHA (with the exception of the number of piles proposed for installation and removal, which is less than the number analyzed in those documents). We concluded that the initial IHA would have a negligible impact on all marine mammal stocks and species and that the taking would be small relative to population sizes. The marine mammal information, potential effects, and the mitigation and monitoring measures remain the same as those analyzed in the previously issued Notices of proposed IHA and issued IHA, therefore the extensive analysis, as well as the associated findings, included in the prior documents remain applicable.

The only differences between the initial IHA and this requested Renewal is that the number of piles proposed for installation and removal, and the numbers of marine mammal takes expected to occur incidental to the proposed activities (including consideration of changes in marine mammal density for several stocks), are lower than the numbers analyzed and authorized in the previously issued IHA. As both the number of piles and the number of takes expected to occur, and requested, for this Renewal, are lower than in the initial IHA, we have

concluded that the effects of the requested Renewal would be the same or less than those that were analyzed in the Notices of the initial proposed IHA and issued IHA.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of California sea lions decreasing and the estimated abundances of gray whales and humpback whales increasing, as well as the ongoing gray whale Unusual Mortality Event, none of which are expected to change our assessment of the effects of the takes from this activity. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) WSDOT activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

### Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division, whenever we propose to authorize take for endangered or threatened species. The effects of this proposed federal action were adequately analyzed in NMFS' Biological Opinion for the Bremerton and Edmonds Ferry Terminals Dolphin Replacement Project, dated March 22, 2018, which concluded that the take NMFS proposes to authorize through this IHA would not jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat.

### Requested Renewal and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue an IHA Renewal to WSDOT for conducting pile driving at the Bremerton ferry terminal during the August 1, 2019 through February 15, 2020 in-water work window, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. We request comment on our analyses, the proposed Renewal, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: July 5, 2019.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2019-14683 Filed 7-9-19; 8:45 am]

**BILLING CODE 3510-22-P**

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648-XP001**

#### Pacific Island Fisheries; American Samoa Bottomfish Fishery Disaster Relief

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of a draft environmental assessment; request for comments.

**SUMMARY:** NMFS announces the availability of a draft environmental assessment (EA) of the potential effects of two construction projects. The EA would support the release by NMFS of Congressionally-appropriated funds for disaster relief in the American Samoa (AS) bottomfish fishery. The AS Department of Marine and Wildlife Resources (DMWR) would use the funds to construct a boat ramp and ice house in Pago Pago Harbor.

**DATES:** NMFS must receive comments by July 25, 2019.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2019-0075, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0075>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

**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 <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:**

Phyllis Ha, Sustainable Fisheries, NMFS PIR, tel 808-725-5000.

**SUPPLEMENTARY INFORMATION:**

On September 29, 2009, a submarine earthquake in the Pacific generated a tsunami that caused widespread damage, loss of life, and injuries in AS and elsewhere. The waves damaged coastal areas of Tutuila and the other AS islands. After President Obama declared a major disaster in the Territory of American Samoa (*DR-1859*; September 29, 2009), the Governor of American Samoa sought fishery disaster assistance in accordance with processes provided in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Inter-jurisdictional Fisheries Act (IFA).

Damage assessment reports prepared by the DMWR, the Western Pacific Fishery Management Council (Council), and NMFS documented extensive damage to the harbor and floating docks in Pago Pago, damaged and destroyed alia (small fishing vessels), fishing gear, infrastructure, as well as lost fishing opportunities resulting in reduced food supply and income from the bottomfish fishery. The formerly productive and profitable bottomfish fishery was estimated to have lost 80% of its revenue after the tsunami. The Council reported that 17 vessels (50 percent of the fleet) were damaged or destroyed and lost income was estimated to be around \$200,000. The AS government

estimated the value of the fishery failure to be approximately \$5 million.

After considering results of damage assessment reports, the Secretary of Commerce determined that a commercial fishery failure occurred for the bottomfish fishery in AS due to a fisheries resource disaster. The Secretary noted that the tsunami caused significant loss of access to the fishery resource and revenues declines and the effects met with criteria in Magnuson-Stevens Act section 312(a) and IFA section 308(b).

In 2014, Congress appropriated disaster relief funding for NMFS to provide assistance to AS. DMWR proposes to use these funds to build a small community boat ramp at the southwestern-most terminus of Pago Pago Harbor, and a small ice house at the DMWR administrative work station in Fagatogo (at Pago Pago Harbor). The boat ramp would relieve boat traffic congestion in the area and result in improved launching and return of fishing vessels. The ice house would house and protect ice machines that produce ice used by bottomfish fishermen to maintain the quality of the fish they harvest.

NMFS has produced a draft EA to evaluate the environmental effects of building the boat ramp and ice house. The draft EA shows that the construction includes several provisions intended to protect water quality in the harbor and prevent large adverse effects on wildlife. NMFS is seeking public comments on the draft EA.

Dated: July 5, 2019.

**Jennifer M. Wallace,**

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

[FR Doc. 2019-14668 Filed 7-9-19; 8:45 am]

**BILLING CODE 3510-22-P**

### COMMODITY FUTURES TRADING COMMISSION

#### Request for Nominations for the Climate-Related Market Risk Subcommittee Under the Market Risk Advisory Committee

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC or Commission) is requesting nominations for membership on the Climate-Related Market Risk Subcommittee (Subcommittee) under the Market Risk Advisory Committee (MRAC). The MRAC is a discretionary advisory committee established by the



Commission in accordance with the Federal Advisory Committee Act.

**DATES:** The deadline for the submission of nominations is September 9, 2019.

**ADDRESSES:** Nominations should be emailed to *MRAC\_Submissions@cftc.gov* or sent by hand delivery or courier to Alicia L. Lewis, MRAC Designated Federal Officer and Special Counsel to Commissioner Rostin Behnam, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Please use the title “MRAC Climate-Related Market Risk Subcommittee” for any nominations you submit.

**FOR FURTHER INFORMATION CONTACT:** Alicia L. Lewis, MRAC Designated Federal Officer and Special Counsel to Commissioner Rostin Behnam at (202) 418-5862 or email: *alewis@cftc.gov*.

**SUPPLEMENTARY INFORMATION:** The Subcommittee was established to provide a report to the MRAC that will identify and examine climate change-related financial and market risks, including for derivatives markets. Within this charge, the Subcommittee may consider, but is not limited to, the following issues and topics:

- Identifying challenges or impediments to evaluating and managing climate-related financial and market risks;
- Identifying how market participants can improve integration of climate-related scenario analysis, stress testing, governance initiatives, and disclosures into financial and market risk assessments and reporting;
- Identifying policy initiatives and best practices for risk management and disclosure of financial and market risks related to climate change that support financial stability; and
- Identifying appropriate methods by which market participants’ data and analyses can enhance and contribute to the assessment of climate-related financial and market risks and their potential impacts on agricultural production, energy, food, insurance, real estate, and other financial stability indicators.

The Subcommittee will provide its report directly to the MRAC and will not provide reports and/or recommendations directly to the Commission. The Subcommittee has no authority to make decisions on behalf of the MRAC, and no determination of fact or policy will be made by the Subcommittee on behalf of the Commission.

Subcommittee members will generally serve as representatives and provide advice reflecting the views of

stakeholder organizations and entities throughout the derivatives and financial markets. The Subcommittee may also include regular government employees when doing so furthers its purpose. It is anticipated that the Subcommittee will hold at least three in-person or telephonic meetings per year. Subcommittee members serve at the pleasure of the Commission. Subcommittee members do not receive compensation or honoraria for their services, and they are not reimbursed for travel and per diem expenses.

The Subcommittee members will include individuals who are members of the MRAC and/or other individuals. For these other individuals who are not serving on the MRAC currently, the Commission seeks nominations of individuals from a wide range of perspectives, including from industry, academia, the government, and public interest. To advise the MRAC effectively, Subcommittee members must have a high-level of expertise and experience with: Financial and market risks from climate change, including efforts to assess, manage and mitigate such risks through risk management, governance, stress testing, disclosure, scenario analysis; evaluating the potential impact of such risks on the derivatives and financial markets, as well as on the economy and financial stability generally; and the Commodity Exchange Act and Commission regulations thereunder. To the extent practicable, the Commission will strive to select members reflecting wide ethnic, racial, gender, and age representation.

The Commission invites the submission of nominations for Subcommittee membership. Each nomination submission should include the proposed member’s name, title, organization affiliation and address, email address and telephone number, as well as information that supports the individual’s qualifications to serve on the Subcommittee. The submission should also include the name, email address and telephone number of the person nominating the proposed Subcommittee member. Self-nominations are acceptable.

Submission of a nomination is not a guarantee of selection as a member of the Subcommittee. As noted in the MRAC’s Membership Balance Plan, the Commission seeks to ensure that the membership of a subcommittee is balanced relative to the particular issues addressed by the subcommittee in question. The Commission will identify members for the Subcommittee based on Commissioners’ and Commission staff professional knowledge of ongoing

efforts to identify, manage and mitigate climate-related financial and market risks, consultation with knowledgeable persons outside the CFTC, and requests to be represented received from organizations. The office of the Commissioner primarily responsible for the MRAC and the Subcommittee plays a primary, but not exclusive, role in this process and makes recommendations regarding membership to the Commission. The Commission, by vote, authorizes members to serve on MRAC subcommittees.

(Authority: 5 U.S.C. App. II)

Dated: July 3, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2019-14638 Filed 7-9-19; 8:45 am]

**BILLING CODE 6351-01-P**

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## DEPARTMENT OF EDUCATION

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Special Education and Rehabilitative Services and Office of Elementary and Secondary Education, U.S. Department of Education.

**ACTION:** Notice of a modified system of records; and, rescindment of a system of records notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a modified system of records entitled the “Personnel Development Program Data Collection System (PDPDCS)” (18-16-04), formerly named the “Special Education—Individual Reporting on Regulatory Compliance Related to the Personnel Development Program’s Service Obligation and the Government Performance and Results Act of 1993 (GPRA),” and this rescindment of a system of records notice entitled “Indian Education—Individual Reporting on Regulatory Compliance Related to the Indian Education Professional Development program’s Service Obligation and the Government Performance and Results Act of 1993 (GPRA)” (18-14-05).

**DATES:** Submit your comments on this notice of a modified system of records and this rescindment of a system of records notice on or before August 9, 2019.

This modified system of records and rescinded system of records will become applicable upon publication in the **Federal Register** on July 10, 2019. New routine use (10) and modified routine uses (1), (2), (3), (5), and (9) listed under

the section entitled “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES” in the modified system of records will become applicable on August 9, 2019, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “help” tab.

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records and rescindment of a system of records notice, address them to: Personnel Development Program Data Collection System Owner, Research to Practice Division, Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 550 12th Street SW, Washington, DC 20202–2600. Telephone: (202) 245–7395.

*Privacy Note:* The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Personnel Development Program Data Collection System Manager, Research to Practice Division, Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 550 12th Street SW, Washington, DC 20202–2600. Telephone: (202) 245–7395.

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

**SUPPLEMENTARY INFORMATION:** The PDPDCS contains records on individuals who are recipients of funding (scholars<sup>1</sup>) from grants awarded to institutions of higher education (IHEs) and other eligible entities (grantees) by the Office of Special Education and Rehabilitative Services (OSERS), Office of Special Education Programs’ (OSEP) Personnel Development to Improve Services and Results for Children with Disabilities Program (Personnel Development Program), the Office of Elementary and Secondary Education (OESE), Office of Indian Education’s (OIE) Professional Development discretionary grant program, and the OSERS, Rehabilitation Services Administration’s (RSA) Rehabilitation Long-Term Training (RLTT) discretionary grant program.

The PDPDCS allows the Department to fulfill its responsibility for ensuring grantee and scholar compliance with program requirements. The system also affords registered Department officials read-only access to scholar records to monitor compliance and respond to inquiries.

Through the affected programs, IHEs and other eligible entities provide Department funds to individuals who agree to perform a service obligation. Scholars who do not satisfy their service obligation or other applicable program requirements must repay all or a part of the funding received in accordance with program regulations. The modified system of records announced in this notice is required to track scholars’ enrollment, employment, and fulfillment of the terms of their service obligations.

The PDPDCS system of records is being modified to include records on

<sup>1</sup> The Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA) refer to individuals receiving OSEP and RSA grant funds, respectively, as “scholars.” The Office of Indian Education (OIE) refers to individuals receiving OIE grant funds as “participants.” For purposes of this Notice of a Modified System of Records and this Rescindment of a System of Records Notice, the term “scholars” is used to describe individuals receiving grant funds from OSEP, RSA, or OIE.

scholars from grants awarded to IHEs and other eligible entities by OESE, OIE’s Professional Development, and OSERS, RSA’s RLTT discretionary grant programs. As described below, RSA will adopt the PDPDCS to collect data on its training programs. There is no existing system of records for the RSA to track the progress toward completion of a scholar’s service obligation.

The Department is modifying the section entitled “SYSTEM NAME AND NUMBER” from “Special Education—Individual Reporting on Regulatory Compliance Related to the Personnel Development Program’s Service Obligation and the Government Performance and Results Act of 1993 (GPRA)” (18–16–04) to “Personnel Development Program Data Collection System (PDPDCS)” (18–16–04).

The Department is modifying the section entitled “SECURITY CLASSIFICATION” to indicate that the system is unclassified.

The Department is modifying the section entitled “SYSTEM LOCATION(S)” to reflect the current names and addresses of the contractor and subcontractor who maintain the records in the system.

The Department is modifying the section entitled “SYSTEM MANAGER(S)” to update the title, business address, and contact information of the Department official in Research to Practice Division, OSEP, OSERS, who will serve as the system manager.

The Department is modifying the sections entitled “AUTHORITY FOR MAINTENANCE OF THE SYSTEM,” “PURPOSE(S) OF THE SYSTEM,” “CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM,” “CATEGORIES OF RECORDS IN THE SYSTEM,” “RECORD SOURCE CATEGORIES,” and “POLICIES AND PRACTICES FOR STORAGE OF RECORDS” to account for the OIE and RSA records being integrated into the PDPDCS system, in addition to the previously maintained OSEP records.

The section entitled “PURPOSE(S) OF THE SYSTEM” is further being updated to broaden the purposes to include additional purposes of serving as a resource for program improvement and grant monitoring and, informing program and budgetary planning.

Additionally, the Department is modifying the section entitled “CATEGORIES OF RECORDS IN THE SYSTEM” to specify that the record on the number of years a scholar needs to work to satisfy the service obligation must be “in eligible employment;” the Department may ask questions to IHEs, as well as scholars, about topics related

to program performance measures; program performance measures may include certification status; and, the Department's contractor will maintain periodic back-ups of records on a web-based data server that collects data on scholars from grantees, scholars, and their employers.

The Department is also modifying the section entitled "RECORD SOURCE CATEGORIES" to update the references to the contractor and subcontractor who implement the web-based data collection system and to clarify that record source categories also may include persons or entities who provide data to the Department under the routine uses set forth in the notice. Additionally, the Department is modifying this section to remove language requiring IHEs and other eligible entities to provide information on scholars who they determine will not fulfill their service obligations because it is the Department's ultimate responsibility to make this determination and this system of records will generate sufficient information for the Department to do so. Finally, the Department is modifying this section to update the name and location of the Department's accounts receivable group to "Accounts Receivables and Bank Management Group" and the "Office of Finance and Operations," respectively.

The Department is also modifying the section entitled "POLICIES AND PRACTICES FOR STORAGE OF RECORDS" to update references to the Department's contractor and subcontractor; to indicate that a campus and building security system protects hard copy records; and, to explain that the Department's subcontractor maintains the electronic records on its secure server.

The Department is modifying routine use (1) entitled "Program Purposes" to account for the OIE and RSA records being integrated into the PDPDCS system; and, to expand routine use (1)(b) to allow for disclosures to grantees for monitoring, enforcement, or technical assistance related to scholar employment.

The Department is modifying routine use (2) entitled "Disclosure in the Course of Responding to Breach of Data" to permit the Department to disclose records from this system of records in response to a suspected or confirmed breach of the system of records; and, to explain that such disclosures are limited to circumstances where the Department determines that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including

its information systems, programs, and operations), the Federal Government, or national security.

The Department is modifying routine use (3) entitled "Contract Disclosure" to remove language that referenced imposing safeguard requirements on the contractor "before entering into" the contract and that were required under subsection (m) of the Privacy Act. The modified language clarifies that the Department will require, as part of applicable Department contracts, contractors to whom disclosures are made under this routine use to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

The Department is removing routine use (4) entitled "Disclosure for Use by Other Law Enforcement Agencies" because the system of records is not used in a law enforcement capacity.

The Department is modifying newly renumbered routine use (5) entitled "Litigation and Alternative Dispute Resolution (ADR) Disclosure" to insert the word "person" in place of the word "individual," to avoid any public confusion that may have been caused by the Department's prior use of the word "individual" given that this term is defined in the Privacy Act and to clarify that references to "litigation" cover both judicial or administrative litigation.

The Department modified newly renumbered routine use (9) entitled "Research Disclosure" to remove language that referenced Privacy Act safeguards and to clarify that researchers to whom disclosures are made will be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

Pursuant to the requirements in Office of Management and Budget Memorandum M-17-12 entitled "Preparing for and Responding to a Breach of Personally Identifiable Information," the Department added routine use (10) entitled "Disclosure in Assisting Another Agency in Responding to a Breach of Data" in order to permit the Department to disclose records from this system of records in the course of assisting another Federal agency or entity in responding to a breach of data.

The Department is modifying the section entitled "ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS" to specify which Department personnel have access to the system to monitor system improvements and upgrades; to specify a limited number of contractor and subcontractor personnel who have administrative rights, including read

and write access, to the system; and, to explain that the system is maintained in accordance with applicable National Institute of Standards and Technology (NIST) standards.

The Department is modifying the sections entitled "RECORD ACCESS PROCEDURES," "CONTESTING RECORD PROCEDURES," and "NOTIFICATION PROCEDURES" to define and discuss the "necessary particulars" needed to access, contest, or be notified of a record.

Finally, the Department is adding a section entitled "HISTORY" to comply with the requirements in Office of Management and Budget Circular No. A-108.

In addition, the "Indian Education—Individual Reporting on Regulatory Compliance Related to the Indian Education Professional Development program's Service Obligation and the Government Performance and Results Act of 1993 (GPRA)" (18-14-05) system of records was first published in the **Federal Register** on January 25, 2011 (76 FR 4334-4338); and, contains records on individuals who are recipients of financial assistance from grants awarded by OESE, OIE's Professional Development program. The Department is rescinding this system of records, with plans for the system's functions and records to be integrated into the PDPDCS.

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

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

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

Dated: July 5, 2019.

**Johnny W. Collett,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

**Frank T. Brogan,**

*Assistant Secretary for Office of Elementary and Secondary Education.*

For the reasons discussed in the preamble, the Assistant Secretary for Special Education and Rehabilitative Services and the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education (Department), publishes a notice of a modified and rescinded system of records to read as follows:

#### **RESCINDED SYSTEM NAME AND NUMBER**

Indian Education—Individual Reporting on Regulatory Compliance Related to the Indian Education Professional Development program's Service Obligation and the Government Performance and Results Act of 1993 (GPRA) (18–14–05).

#### **HISTORY:**

The Indian Education—Individual Reporting on Regulatory Compliance Related to the Indian Education Professional Development program's Service Obligation and the Government Performance and Results Act of 1993 (GPRA) system of records notice was published in the **Federal Register** on January 25, 2011 (76 FR 4334–4338).

#### **MODIFIED SYSTEM NAME AND NUMBER:**

Personnel Development Program Data Collection System (PDPDCS) (18–16–04).

#### **SECURITY CLASSIFICATION:**

Unclassified.

#### **SYSTEM LOCATION(S):**

(1) Research to Practice Division, Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 550 12th Street SW, Washington, DC 20202–2600

(2) The Department's contractor, AnLar, maintains records at Westat Inc., 1600 Research Boulevard, Rockville, MD 20850. The contractor also maintains a back-up on a failover server at a redundant data center site in an adjacent location at 1600 Research Boulevard, Rockville, MD 20850.

(3) Computer Security International, 299 Herndon Parkway, VA 20170 is the location of Westat's subcontractor, where nightly back-ups of the server data are stored.

#### **SYSTEM MANAGER(S):**

System Manager, Research to Practice Division, Office of Special Education

Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 550 12th Street SW, Washington, DC 20202–2600.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system of records is authorized for each program office by the following legal authorities:

For the Office of Special Education Programs (OSEP), this system of records is authorized by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et seq.*, and specifically—

(a) For funding distributed from grants made in Fiscal Year (FY) 2006 and after, 34 CFR 304.23 through 304.30, which implement section 662(h) of IDEA for those fiscal years;

(b) For funding distributed from FY 2005 grants, the notice published in the **Federal Register** on March 25, 2005 (70 FR 15306), which implements section 662(h) of IDEA for that fiscal year; and

(c) For funding distributed from grants made for FY 2004 and earlier, 34 CFR 304.23 through 304.30 as those regulations existed at that time, which implemented section 673(h) of the version of IDEA that was in effect prior to December 3, 2004.

This system of records is also authorized by section 4 of the Government Performance and Results Act of 1993 (GPRA), Public Law 103–62.

For the Office of Indian Education (OIE), this system of records is authorized by section 6122 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and the related regulations in 34 CFR part 263, subpart A.

For the Rehabilitation Services Administration (RSA), this system of records is authorized by the Rehabilitation Act of 1973, as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA), which requires program performance measurement and authorizes service obligation, as well as related regulations in 34 CFR parts 385 and 386, *et seq.*

#### **PURPOSE(S) OF THE SYSTEM:**

The information in this system is used for the following purposes: Managing all aspects of the Federal service obligation requirements for those scholars who receive Federal funds through respective OSEP, RSA, and OIE grant programs including debt referrals to the Department's Accounts Receivable and Bank Management Group (ARBMG); providing accountability for resources expended under the OSEP, OIE, and RSA training and personnel development programs in response to the Government Performance and Results Act (GPRA); serving as a

resource for program improvement and grant monitoring; and informing program and budgetary planning.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system contains records on individuals who are recipients of Department funds from grants awarded to institutions of higher education (IHEs) and other eligible entities by OSEP's Personnel Development Program, OIE's Professional Development discretionary grant program, and RSA's Rehabilitation Long-Term Training (RLTT) discretionary grant program.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of records about scholars who receive funding from OSEP, OIE, and RSA training grants. Information in this system includes contact information for the grantee; the grant identification number; each scholar's name, Social Security number (SSN), address, telephone number, email address, and alternate contact information; name and contact information of a person through whom the scholar can be contacted; the number of years the scholar needs to work in eligible employment to satisfy the service obligation; the total amount of funding received; the time period during which the scholar must satisfy the service obligation; eligible employment to fulfill the service obligation; contact information for employers; and, as applicable, all other obligations of the scholar under the regulations. Employers will be asked to verify the employment information provided by the scholar. In addition, IHEs and scholars may be asked questions about topics related to program performance measures (*e.g.*, specific areas of training, certification status, reasons for leaving the program before completion, gender, ethnic origin, and education history). The contractor maintains periodic back-ups on a web-based data server that collects data on scholars from grantees, scholars, and their employers.

This system of records does not cover records maintained in the Department's system of records notice entitled "Education's Central Automated Processing System (EDCAPS)" (18–04–04) as part of the Department's receivables management function.

#### **RECORD SOURCE CATEGORIES:**

For OSEP grants awarded prior to FY 2005 and OIE grants awarded prior to FY 2009, collection of information from IHEs and other eligible entities is limited to identifying information about

scholars, their service obligation, and the amount of funding received.

The information for OSEP grants awarded for FY 2005 and after, OIE grants awarded for FY 2009 and after, and RSA grants will be collected from grantees, scholars, and scholars' employers primarily through a web-based data collection system implemented by AnLar, a contractor of the Department, and Westat, a subcontractor of the Department.

Through this system, information related to tracking scholars' enrollment, employment, and fulfillment of the terms of the service obligation and to evaluating progress on the performance measures for the Personnel Development Program will be collected from grantees, scholars, and the scholars' employers. When OSEP, OIE, or RSA determines that a scholar will not fulfill the service obligation and must instead repay some or all of the scholarship funds disbursed to the scholar, OSEP, OIE, or RSA, respectively, will forward applicable information to the Department's Accounts Receivables and Bank Management Group in the Office of Finance and Operations.

Additionally, the Department may collect records from other persons or entities from which data is obtained under the routine uses set forth below.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis, or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended, under a computer matching agreement.

(1) *Program Purposes.* The Department may disclose records from this system of records:

(a) To the scholars' employers to verify the eligible employment of scholars who were supported by grant funding and who are fulfilling their service obligations.

(b) To the grantees for monitoring, enforcement, or technical assistance related to the scholars' employment.

(2) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records to appropriate agencies, entities, and persons when (a) the Department

suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(3) *Contract Disclosure.* The Department may disclose records to employees of an entity with whom the Department contracts when disclosure is necessary for an employee of the entity to perform a function pursuant to the Department's contract with the entity. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) Introduction. In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity if the U.S. Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to DOJ. If the Department determines that disclosure of certain records to DOJ is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that it is relevant and necessary to the judicial or administrative litigation or ADR to disclose certain records to an adjudicative body before which the Department is authorized to appear or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(6) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(7) *Disclosure to DOJ.* The Department may disclose records to DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the program covered by this system.

(8) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff when necessary to respond to an inquiry from the member or the member's staff made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(9) *Research Disclosure.* The Department may disclose records under routine use to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or

purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(10) *Disclosure in Assisting Another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach; or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

#### **DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The Department may disclose to a consumer reporting agency information regarding a claim by the Department that the head of the Department has determined to be valid and overdue. Such information is limited to—(1) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined in 31 U.S.C. 3701(a)(3).

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Westat, the Department's subcontractor through the AnLar contract, maintains hard copy records of information about OSEP, OIE and RSA scholars in locked file cabinets that are located within locked offices protected by a campus and building security system; and, maintains electronic records with information about OSEP, OIE, and RSA scholars on its secure server.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records in this system are indexed by a unique number assigned by the PDPDCS to each individual.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records will be maintained and disposed of in accordance with the records retention and disposition authority approved by the National Archives and Records Administration (NARA). Until NARA approves a retention and disposition schedule for these records, the Department will not destroy or delete any records.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Access to the records is limited to authorized personnel only. All physical access to the Department's site, and to the sites of the Department's contractor and subcontractor, where this system of records is maintained, is controlled and monitored by security personnel.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. Only Contracting Officer Representatives (CORs) assigned to the PDPDCS contract by the Department have "read only" access to the PDPDCS to monitor the improvements and upgrades to the system. A limited number of contractor and subcontractor personnel have administrative rights, including read and write access, to the system.

The contractor and subcontractor established secure procedures at their sites to ensure confidentiality of data. Their systems are required to ensure that information identifying individuals is in files physically separated from other research data. The contractor and subcontractor will maintain security of the complete set of all master data files and documentation. Access to individually identifying data is strictly controlled. At each site all hard copy data is kept in locked file cabinets during nonworking hours, and work on hard copy data will take place in a single room, except for data entry. Physical security of electronic data is also maintained. Security features that protect electronic project data include: Password-protected accounts that authorize users to access only specific network directories and network software on the contractor's and subcontractor's systems; and user rights

and directory and file attributes that limit those who can access particular directories and files and determine how they can edit them.

All security for the system is maintained in accordance with Moderate data sensitivity controls as defined in National Institute of Standards and Technology Special Publication 800-53 Revision 4, "Security and Privacy Controls for Federal Information Systems and Organizations."

#### **RECORD ACCESS PROCEDURES:**

If you wish to gain access to your record in the system of records, contact the system manager at the address listed above. Requests should contain necessary particulars, such as your full name, address, telephone number, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

#### **CONTESTING RECORD PROCEDURES:**

If you wish to contest the content of a record regarding you in the system of records, contact the system manager at the address listed above. Requests should contain necessary particulars, such as your full name, address, telephone number, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of the regulations in 34 CFR 5b.7.

#### **NOTIFICATION PROCEDURES:**

If you wish to determine whether a record regarding you exists in the system of records, contact the system manager at the address listed above. Requests should contain necessary particulars, such as your full name, address, telephone number, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

#### **HISTORY:**

The System of Records entitled "The Special Education—Individual Reporting on Regulatory Compliance Related to the Personnel Development Program's Service Obligation and the Government Performance and Results

Act of 1993 (GPRA)” (18–16–04) has only previously been published in the **Federal Register** on October 24, 2008 (73 FR 63453–63457).

[FR Doc. 2019–14690 Filed 7–9–19; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0074]

### Agency Information Collection Activities; Comment Request; Foreign Schools Eligibility Criteria Apply To Participate in Title IV HEA Programs

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before September 9, 2019.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0074. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [www.regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed,

revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Foreign Schools Eligibility Criteria Apply to Participate in Title IV HEA Programs.

*OMB Control Number:* 1845–0105.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or Households; Private Sector; State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 26,713.

*Total Estimated Number of Annual Burden Hours:* 7,230.

*Abstract:* The information in 34 CFR Sections 600.54, 600.55, 600.56, and 600.57 is used by the Department during the initial review for eligibility certification, recertification and annual evaluations. These regulations help to ensure that all foreign institutions participating in the Title IV, HEA programs are meeting the minimum participation standards.

Dated: July 3, 2019.

**Kate Mullan,**

*PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.*

[FR Doc. 2019–14637 Filed 7–9–19; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

[Docket ID ED–2018–OESE–0088]

### Privacy Act of 1974; System of Records—Migrant Student Information Exchange

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a modified system of records entitled “Migrant Student Information Exchange (MSIX)” (18–14–04) to modify this system of records notice, which was last published in the **Federal Register** on December 5, 2007.

**DATES:** Submit your comments on this modified system of records notice on or before August 9, 2019.

This modified system of records notice will become applicable upon publication in the **Federal Register** on July 10, 2019. Modified routine uses (1), (2), (3), (5), and (6) and new routine use (8) listed under “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES” will become applicable on August 9, 2019, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “help” tab.

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records, address them to: Lisa C. Gillette, Director, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department



of Education, 400 Maryland Avenue SW, Washington, DC 20202–0001.

**Privacy Note:** The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:** On request, we will supply an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Lisa C. Gillette, Director, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, 3E317, Washington, DC 20202–6135. Telephone: (202) 260–1164.

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

**SUPPLEMENTARY INFORMATION:** The MSIX system of records helps meet the needs of migratory children by improving the timeliness of the availability of current educational and health information on migratory children to school and program staff where migratory children enroll after moving. MSIX uses the Minimum Data Elements (MDEs) to provide a standard format for information that States must collect and maintain. MSIX allows State educational agencies (SEAs) to upload the required MDEs from their own existing State student record systems into a single national data repository where information on each migratory child is maintained, organized, and compiled. As a web-based platform, MSIX allows authorized users to access a migratory child's MSIX record via a web browser. Section 1308(b)(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 6398(b)(2)) requires the Secretary of Education to ensure the linkage of migratory student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students.

As described more fully below, this notice will update the following sections: Security Classification; System Location; Authority for Maintenance of the System; Purpose(s) of the System; Categories of Records in the System; Record Source Categories; Policies and Practices for Storage of Records; Policies and Practices for Retrieval of Records; Policies and Practices for Retention and Disposal of Records; Administrative, Technical, and Physical Safeguards; Record Access Procedures; and Notification Procedures. This modified system of records notice will update routine uses (1), (2), (3), and (6), and, pursuant to the requirements in Office of Management and Budget (OMB) Memorandum 17–12, it will also update routine use (5) and add new routine use (8). Pursuant to the requirements of OMB Circular No. A–108, a new section entitled “History” also has been added to the notice.

**Introduction:** The Department previously published the MSIX system of records notice in the **Federal Register** on December 5, 2007 (72 FR 68572–76). This notice will update the following sections: Security Classification; System Location; Authority for Maintenance of the System; Purpose(s) of the System; Categories of Records in the System; Record Source Categories; Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses; Policies and Practices for Storage of Records; Policies and Practices for Retrieval of Records; Policies and Practices for Retention and Disposal of Records; Administrative, Technical, and Physical Safeguards; Record Access Procedures; and Notification Procedures.

Pursuant to OMB Circular No. A–108, the section entitled “SECURITY CLASSIFICATION” is updated from “none” to “unclassified.”

The Department is updating the section entitled “SYSTEM LOCATION” to list the names and addresses of the current Department contractor and subcontractor that maintain MSIX records.

The Department is updating the section entitled “AUTHORITY FOR MAINTENANCE OF THE SYSTEM” to update the reference to the current legal authority.

The Department is updating the section entitled “PURPOSE(S) OF THE SYSTEM” to reflect the current, rather than anticipated, use and benefits of the system. While the purpose of reducing unnecessary immunizations is still a goal of the Migrant Education Program (MEP), MSIX does not track or record incidences of unnecessary immunizations.

The Department is updating the section entitled “CATEGORIES OF RECORDS IN THE SYSTEM” to update the reference to the Paperwork Reduction Act (PRA) clearance request in the **Federal Register** which lists the minimum data elements included in MSIX.

The Department is updating the section entitled “RECORD SOURCE CATEGORIES” to add Migrant Education Program (MEP) local operating agencies (LOAs), in addition to local educational agencies (LEAs). LOAs were added to the record source categories to be inclusive of service delivery organizations that are operating in the MEP participating States. SEAs submit data to MSIX using data sourced from LEAs and/or LOAs, depending on the service delivery model used by the SEA. The Department also is adding parents, guardians, and migratory children to the section of the notice on record source categories to more closely adhere to OMB guidance on the Privacy Act and to reflect that LEAs, LOAs, and SEAs obtain some records directly from parents and migratory children.

This modified system of records notice will also update routine uses (1), (2), (3), (5), and (6) and add new routine use (8).

The Department is modifying routine use (1), which was formerly entitled “MEP Services, School Enrollment, Grade or Course Placement, Accrual of High School Credits, Student Record Match Resolution,” to include “data correction by parents, guardians, and migratory children” as a reason for disclosure to authorized representatives of SEAs, LEAs, or other MEP LOAs.

The Department is modifying routine use (2) entitled “Contract Disclosure” and routine use (3) entitled “Research Disclosure” to remove language that respectively referenced safeguard requirements under subsection (m) of the Privacy Act and Privacy Act safeguards. The Department revised the language in routine use (2) to permit the Department to disclose records from this system of records to employees of Department contractors, whether or not the contractors are covered by subsection (m) of the Privacy Act, so long as the contractors are performing a Departmental function that requires disclosing records to them and they agree to establish and maintain safeguards that will protect the security and confidentiality of the disclosed records. The Department also revised the language in routine uses (2) and (3) because the prior language referring to required safeguards under the Privacy Act and Privacy Act safeguards was unclear about what safeguards were



required and therefore to clarify that contractors and researchers to whom disclosures are made under these routine uses will be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records. The Department also revised routine use (2) to remove language that had referred to requiring these safeguards to be maintained before the contract was entered into and instead to indicate that the agreement on such safeguards will be reached as part of any such contract.

Pursuant to the requirements in OMB M-17-12, the Department is modifying routine use (5) entitled "Disclosure in the Course of Responding to a Breach of Data" and adding routine use (8) entitled "Disclosure in Assisting another Agency in Responding to a Breach of Data" in order to comply with the requirements in OMB M-17-12. Pursuant to this new routine use, the Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

The Department is modifying routine use (6) entitled "Litigation or Alternative Dispute Resolution (ADR) Disclosure" to replace the word "individual," which is a defined word under the Privacy Act, with the word "person" to avoid public confusion.

The Department is updating the section entitled "POLICIES AND PRACTICES FOR STORAGE OF RECORDS" to remove references to hardware stored in locked file cabinets and describe electronic records storage.

The Department is also updating the section entitled "POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS" to explain that MSIX users retrieve records by an individual's name, in addition to the unique identifier assigned to each individual.

The Department is updating the section entitled "POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS" to reflect the most recent Department records schedule, and applicable disposition instruction, which governed the retention and disposition of the records; and, to explain that said records schedule disposition instruction is

being superseded, pending approval by the National Archives and Records Administration (NARA), by a new records schedule submitted by the Department to NARA.

The Department is updating the section entitled "ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS" to reflect changes in technical and physical safeguards offered by the cloud service provider.

The Department is also updating the sections entitled "RECORD ACCESS PROCEDURES" and "NOTIFICATION PROCEDURES" to specify the necessary particulars that the system manager must be provided in connection with a records access or notification request in order to distinguish between the records of individuals with the same names.

Pursuant to the requirements of OMB Circular No. A-108, the Department is also adding a new section to the notice that is entitled "HISTORY."

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

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

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

Dated: July 5, 2019.

**Frank T. Brogan,**

*Assistant Secretary for Elementary and Secondary Education.*

For the reasons discussed in the preamble, the Assistant Secretary of the Office of Elementary and Secondary Education of the U.S. Department of Education (Department) publishes a notice of a modified system of records to read as follows:

#### **SYSTEM NAME AND NUMBER**

Migrant Student Information Exchange (MSIX) (18-14-04).

#### **SECURITY CLASSIFICATION:**

Unclassified.

#### **SYSTEM LOCATION:**

(1) U.S. Department of Education, Office of Migrant Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW, Washington, DC 20202-6135.

(2a) Deloitte Consulting LLC, 1919 North Lynn Street, Arlington, VA 22209-1743 (contractor) (Software development/programming and operations/maintenance).

(2b) Amazon Web Services (AWS) US-EAST/US-WEST 12900 Worldgate Drive, Herndon, VA 20170-6039 (subcontractor).

#### **SYSTEM MANAGER(S):**

Director, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E317, Washington, DC 20202-0001.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

MSIX is authorized under section 1308(b)(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 6398(b)(2).

#### **PURPOSE(S) OF THE SYSTEM:**

The purpose of MSIX is to enhance the continuity of educational and health services for migratory children by providing a mechanism for all States to exchange educational and health-related information on migratory children who move from State to State due to their migratory lifestyle. MSIX helps to improve the timeliness of school enrollments, the appropriateness of grade and course placements, and participation in the Migrant Education Program (MEP) for migratory children. Further, MSIX facilitates the accrual of course credits for migratory children in secondary school by providing accurate academic information on the students' course history and academic progress.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system contains records on all children whom States have determined to be eligible to participate in the MEP, authorized in Title I, Part C of the ESEA.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records in the system include the migratory child's: Name, date of birth, personal identification numbers assigned by the States and the Department, parent's or parents' name or names, school enrollment data, school contact data, assessment data, and other educational and health data necessary for accurate

and timely school enrollment, grade and course placement, and accrual of course credits. The final request for public comment on the minimum data elements (MDEs) to be included in MSIX was published, pursuant to the Paperwork Reduction Act of 1995 clearance process, in the **Federal Register** on May 25, 2016 (81 FR 33246).

#### RECORD SOURCE CATEGORIES:

The system contains records that are obtained from parents, guardians, migratory children, State educational agencies (SEAs), local educational agencies (LEAs), and local operating agencies (LOAs).

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records, under the routine uses listed in this system of records, without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *MEP Services, School Enrollment, Grade or Course Placement, Accrual of High School Credits, Student Record Match Resolution, and Data Correction Disclosure.* The Department may disclose a record in this system of records to authorized representatives of SEAs, LEAs, or other MEP LOAs to facilitate one or more of the following for a student: (a) Participation in the MEP, (b) enrollment in school, (c) grade or course placement, (d) credit accrual, (e) unique student match resolution, and (f) data correction by parents, guardians, and migratory children.

(2) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees who have received the appropriate level security clearance from the Department. As part of such a contract, the Department will require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(3) *Research Disclosure.* The Department may disclose records from this system to a researcher if an appropriate official of the Department determines that the individual or

organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher will be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(4) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may disclose records to the U.S. Department of Justice (DOJ) or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary to determine whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and, (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts in responding to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(6) *Litigation or Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs b, c, and d of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any employee of the Department in his or her individual capacity where DOJ has agreed to or has been requested to provide or arrange for representation of the employee.

(iv) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ.* If the Department determines that disclosure of certain records to DOJ, or attorneys engaged by DOJ, is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to a party, counsel, representative, or witness.

(7) *Congressional Member Disclosure.* The Department may disclose information from a record of an individual to a member of Congress and his or her staff in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(8) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

The cloud service provider, Amazon Web Services (AWS), through a subcontract with the Department, stores computerized student records, including backups, on virtual servers. Physical security of electronic data is maintained in compliance with the Federal Information Security Modernization Act of 2014 (FISMA) and National Institute of Standards and Technology (NIST) standards.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records in this system are retrieved by name and by the unique identifier assigned to each individual.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

All records were previously retained and disposed of in accordance with Department Records Schedule 066: Program Management Files (N1-441-10-1) (ED 066), Item (a)(3). ED 066, Item (a)(3), is being superseded, pending approval by the National Archives and Records Administration (NARA), by a new records schedule submitted by the Department to NARA entitled, "Migrant Student Information Exchange (MSIX) Electronic Information System Records." The Department will not destroy the aforementioned records until such time as said new, NARA-approved schedule is in effect, as applicable.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

(1) *Introduction.* Security personnel control and monitor all physical access to the site of the Department's subcontractor, where this system of records is maintained. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This computer system limits data access to Department and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system by granting user names and passwords, and assigning user roles.

(2) *Physical Security of Electronic Data.* The MSIX infrastructure is housed in a cloud service provider with provisional authorization from the Federal Risk and Authorization Management Program (FedRAMP) Joint Authorization Board (JAB) under the Moderate control baseline. All controls managed by the cloud service provider, including physical security of electronic data, are reviewed by a third party assessment organization (3PAO) in accordance with FedRAMP guidance.

(3) *User Access to Electronic Data.* MSIX leverages role-based accounts and security controls to limit access to the application, its servers, and its infrastructure to authorized users in accordance with the Federal Information Security Modernization Act (FISMA) of 2014 and the Department Office of Chief Information Officer (OCIO) directives, policies, standards and procedures. All MSIX users must follow a registration process that involves identity validation and verification prior to gaining access to MSIX. MSIX utilizes unique user identifiers (user IDs) and authenticators (strong passwords). Directory information for all authorized users is stored in the system. Directory information maintained in MSIX includes username, full name, work contact information, and login credentials needed to maintain user accounts. The MSIX application is only available to authorized users via a Uniform Resource Locator (URL) that runs under the Hypertext Transfer Protocol over Secure Socket Layer (HTTPS).

(4) *Additional Security Measures.* The MSIX infrastructure also leverages firewalls and intrusion detection systems to limit internal access and identify unauthorized access to the system. MSIX logs, monitors, and controls network communications and systems actions. System components are logically separated from internal organizational networks and connect to external networks through managed interfaces. Further, the MSIX operations include conducting vulnerability scans, monitoring the U.S. Computer Emergency Response Team (CERT) bulletins, and applying routine operating system and vendor patches as appropriate.

**RECORD ACCESS PROCEDURES:**

If you wish to gain access to your record in the system of records, you must contact the system manager at the address listed under SYSTEM MANAGER(S). You must provide necessary particulars such as your name, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

**CONTESTING RECORD PROCEDURES:**

If you wish to contest or change the content of a record regarding you in the system of records, contact the system manager at the address listed under

SYSTEM MANAGER(S). Your request must meet the requirements of regulations in 34 CFR 5b.7.

**NOTIFICATION PROCEDURES:**

If you wish to determine whether a record exists regarding you in the system of records, you must contact the system manager at the address listed under SYSTEM MANAGER(S). You must provide necessary particulars such as your name, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

The system of records was originally published in the **Federal Register** on December 5, 2007 (72 FR 68572-68576). [FR Doc. 2019-14686 Filed 7-9-19; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER19-2316-000]

**Renewable Energy Asset Management Group, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced Renewable Energy Asset Management Group, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 22, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: July 2, 2019.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2019-14648 Filed 7-9-19; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC19-109-000.

*Applicants:* Paulding Wind Farm IV LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act, et al. of Paulding Wind Farm IV LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5223.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* EC19-110-000.

*Applicants:* Zephyr Wind, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act, et al. of Zephyr Wind, LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5225.

*Comments Due:* 5 p.m. ET 7/23/19.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG19-145-000.

*Applicants:* Wilton Wind Energy II, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Wilton Wind Energy II, LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5184.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* EG19-146-000.

*Applicants:* Roadrunner Solar Project, LLC.

*Description:* Self-Certification of EWG Status of Roadrunner Solar Project, LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5228.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* EG19-147-000.

*Applicants:* High Lonesome Wind Power, LLC.

*Description:* Self-Certification of EWG Status of High Lonesome Wind Power, LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5230.

*Comments Due:* 5 p.m. ET 7/23/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER06-1128-002.

*Applicants:* Mankato Energy Center, LLC.

*Description:* Notification of non-material change in status of Mankato Energy Center, LLC.

*Filed Date:* 5/24/19.

*Accession Number:* 20190524-5273.

*Comments Due:* 5 p.m. ET 7/17/19.

*Docket Numbers:* ER10-2042-031; ER10-1862-025; ER10-1865-011; ER10-1873-011; ER10-1875-011; ER10-1876-011; ER10-1878-011; ER10-1883-011; ER10-1884-011; ER10-1885-011; ER10-1888-011; ER10-1893-025; ER10-1938-026; ER10-1947-011; ER10-2985-029; ER10-3049-030; ER10-3051-030; ER11-4369-010; ER12-1987-009; ER12-2261-010; ER12-2645-004; ER13-1407-008; ER16-2218-010; ER19-1127-001; ER19-1934-001; ER19-1941-001; ER19-1942-001; ER19-696-001.

*Applicants:* Calpine Energy Services, L.P., Calpine Construction Finance Company, L.P., Calpine Energy Solutions, LLC, Calpine Gilroy Cogen, L.P., Calpine King City Cogen, LLC, Calpine PowerAmerica—CA, LLC, CCFC Sutter Energy, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion

Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, Creed Energy Center, LLC, Delta Energy Center, LLC, Geysers Power Company, LLC, Gilroy Energy Center, LLC, Goose Haven Energy Center, LLC, Los Esteros Critical Energy Facility LLC, Los Medanos Energy Center, LLC, Metcalf Energy Center, LLC, North American Power and Gas, LLC, North American Power Business, LLC, O.L.S. Energy-Agnews, Inc., Otay Mesa Energy Center, LLC, Pastoria Energy Facility L.L.C., Power Contract Financing, L.L.C., Russell City Energy Company, LLC, South Point Energy Center, LLC.

*Description:* Updated Market Power Analysis of the Calpine Southwest MBR Sellers.

*Filed Date:* 7/1/19.

*Accession Number:* 20190702-5248.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER19-1932-002.

*Applicants:* Duke Energy Progress, LLC.

*Description:* Tariff Amendment: Amendment to DEP-PJM Amended JOA Concurrence to be effective 7/22/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5138.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2342-000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-231RC 8ME (Norton Solar) Interconnection Agreement to be effective 6/20/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5171.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2343-000.

*Applicants:* 2018 ESA Project Company, LLC.

*Description:* Baseline eTariff Filing: MBR Application and Tariff to be effective 9/1/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5172.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2344-000.

*Applicants:* Cheyenne Light, Fuel and Power Company.

*Description:* § 205(d) Rate Filing: Subentity Reserve Sharing Agreement Concurrence (CLFP) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5196.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2345-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA, SA No. 5418; Queue No. AD2-049 to be effective 6/9/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5198.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19–2346–000.

*Applicants:* Black Hills Colorado Electric, LLC.

*Description:* § 205(d) Rate Filing: Subentity Reserve Sharing Agreement Concurrence (BHCE) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5200.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19–2347–000.

*Applicants:* California Independent System Operator Corporation.

*Description:* § 205(d) Rate Filing: TBD Local Market Power Mitigation Enhancements to be effective 10/14/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5204.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19–2348–000.

*Applicants:* Black Hills Colorado Electric, LLC.

*Description:* § 205(d) Rate Filing: Tariff Revisions for Subentity Reserve Sharing Agreement (BHCE) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5206.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19–2349–000.

*Applicants:* Cheyenne Light, Fuel and Power Company.

*Description:* § 205(d) Rate Filing: Tariff Revisions for Subentity Reserve Sharing Agreement (CLFP) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5208.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19–2350–000.

*Applicants:* Black Hills Power, Inc.

*Description:* § 205(d) Rate Filing: Tariff Revisions for Subentity Reserve Sharing Agreement (BHP) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5210.

*Comments Due:* 5 p.m. ET 7/23/19.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES19–33–000.

*Applicants:* Northern Indiana Public Service Company.

*Description:* Supplement to June 11, 2019 Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Northern Indiana Public Service Company LLC.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5213.

*Comments Due:* 5 p.m. ET 7/9/19.

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: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019–14676 Filed 7–9–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL19–83–000]

#### City of Lubbock, Acting by and Through Its Municipally Owned Electric Utility Lubbock Power & Light v. Public Service Company of Colorado Southwestern Public Service Company; Notice of Complaint

Take notice that on July 2, 2019, pursuant to sections 206 and 306 of the Federal Power Act (FPA), 16 U.S.C. 824e, 825e, and Rules 206 and 212, of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and 385.212, City of Lubbock (Complainant), acting by and through its municipally owned electric utility, Lubbock Power & Light (LP&L), filed a formal complaint against Public Service Company of Colorado and Southwestern Public Service Company (SPS) (collectively Respondents) alleging that SPS's Wholesale Distribution Service rate as applied to LP&L is unjust, unreasonable and unduly discriminatory, all as more fully explained in the Complaint.

LP&L certifies that copies of the complaint were served on the contacts for Public Service Company of Colorado and SPS as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on July 22, 2019.

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019–14672 Filed 7–9–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. OR19–29–000]

#### SFPP, LP; Notice of Petition for Declaratory Order

Take notice that on June 27, 2019, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2018), SFPP, LP filed a petition for Declaratory Order seeking approval of the overall tariff rate structure, as well as terms of service including prorationing, and open season procedures, for a proposed expansion service on SFPP's East line, in order to serve the Mexican market with Mexican grade gasoline and diesel,

all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern time on July 26, 2019.

Dated: July 2, 2019.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2019-14644 Filed 7-9-19; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. P-4472-028; Project No. P-15000-000]

#### Union Falls Hydropower L.P.; Erie Boulevard Hydropower L.P.; Notice of Application for Amendment and Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Amendment and Transfer of License. Licensees for the Saranac Project No. 4472, Union Falls Hydropower L.P. (Union Falls) and Erie Boulevard Hydropower L.P. (Erie Boulevard), request that the Commission amend the existing Saranac Project, which consists of two developments, the Franklin Falls Development and the Union Falls Development. The amendment would divide the two developments into separately-licensed projects and simultaneously approve a license transfer so that there are no longer co-licensees but rather Union Falls would become the sole licensee for the Union Falls Project, and Erie Boulevard would become the sole licensee for the Franklin Falls Project. If the amendment application is approved, the license for the Union Falls Development, would continue to be referred to as the Saranac Project No. 4472 and the license for the Franklin Falls Development would become a new project called the Franklin Falls Project No. 15000.

b. *Project Nos.:* 4472-028 and 15000-000.

c. *Date filed:* June 17, 2019.

d. *Applicants:* Union Falls Hydropower L.P. and Erie Boulevard Hydropower L.P.

e. *Name of Project:* Saranac Project No. 4472.

f. *Location:* The project consists of two developments, the Franklin Falls Development and the Union Falls Development. The 2.265- megawatt (MW) upstream Franklin Falls Development is located about 45 river miles (RM) from the confluence of the Saranac River with Lake Champlain. The 2.6-MW Union Falls Development is located about seven RM downstream of the Franklin Falls Development at RM 38. Both developments are located on the Saranac River in the Towns of Franklin, Blackbrook, and St. Armand, in Franklin, Clinton, and Essex Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicants Contact:*

For the Franklin Falls Development: Mr. Thomas Uncher, Erie Boulevard Hydropower L.P., Vice President of Operations, Brookfield Renewable, 399 Big Bay Road, Queensbury, NY 12804, (518) 743-2018.

For the Union Falls Development: Mr. Lewis Loon, Union Falls Hydropower L.P., General Manager, Operations and Maintenance-USA/QC 423 Brunswick Avenue, Gardner, ME 04345, (207) 203-3027.

i. *FERC Contact:* Kim Nguyen, (202) 502-6105 or [kim.nguyen@ferc.gov](mailto:kim.nguyen@ferc.gov).

j. *Deadline for filing comments, motions to intervene, and protests:* August 2, 2019 (30 days).

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-4472-028 and P-15000-000.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/efiling.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the addresses in item (h) above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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 [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

m. *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, and .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.

n. *Filing and Service of 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. Any filing made by an intervenor 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 385.2010.

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14677 Filed 7-9-19; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Numbers:* RP19-1337-000.  
*Applicants:* Texas Eastern Transmission, LP.  
*Description:* Submits tariff filing per 154.204: Negotiated Rates—MC Global 7-1-2019 Releases to be effective 7/1/2019 under RP19-1337.  
*Filed Date:* 6/27/19.  
*Accession Number:* 20190627-5043.  
*Comments Due:* 5 p.m. ET 7/12/19.  
*Docket Numbers:* RP19-1338-000.  
*Applicants:* Rockies Express Pipeline LLC.  
*Description:* Submits tariff filing per 154.204: Neg Rate 2019-06-27 CP Castleton and Twin Eagle (E2W) to be effective 07/1/2019.  
*Filed Date:* 6/27/19.  
*Accession Number:* 20190627-5096.

*Comments Due:* 5 p.m. ET 7/12/19.  
*Docket Numbers:* RP19-1368-000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 070219 Negotiated Rates—Spotlight Energy, LLC R-77250-6 to be effective 9/1/2019.  
*Filed Date:* 7/2/19.  
*Accession Number:* 20190702-5070.  
*Comments Due:* 5 p.m. ET 7/15/19.  
*Docket Numbers:* RP19-1369-000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 070219 Negotiated Rates—Tenaska Marketing Ventures R-2835-20 to be effective 9/1/2019.  
*Filed Date:* 7/2/19.  
*Accession Number:* 20190702-5071.  
*Comments Due:* 5 p.m. ET 7/15/19.  
*Docket Numbers:* RP19-1372-000.  
*Applicants:* Dominion Energy Cove Point LNG, LP.  
*Description:* Compliance filing DECP—2019 Penalty Revenue Distribution to be effective N/A.  
*Filed Date:* 7/2/19.  
*Accession Number:* 20190702-5096.  
*Comments Due:* 5 p.m. ET 7/15/19.  
*Docket Numbers:* RP19-1373-000.  
*Applicants:* Dominion Energy Transmission, Inc.  
*Description:* Compliance filing DETI—2019 Overrun and Penalty Revenue Distribution to be effective N/A.  
*Filed Date:* 7/2/19.  
*Accession Number:* 20190702-5112.  
*Comments Due:* 5 p.m. ET 7/15/19.  
*Docket Numbers:* RP19-1374-000.  
*Applicants:* Northern Natural Gas Company.  
*Description:* § 4(d) Rate Filing: 20170702 Negotiated Rate to be effective 7/3/2019.  
*Filed Date:* 7/2/19.  
*Accession Number:* 20190702-5202.  
*Comments Due:* 5 p.m. ET 7/15/19.

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: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14671 Filed 7-9-19; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. EL18-182-000, ER13-2266-004, ER18-1509-000, ER18-1509-001, ER18-2364-000, ER19-1428-000, ER18-1639-000, ER18-1639-001, ER18-1639-002, ER18-1639-003]

#### ISO New England Inc., Constellation Mystic Power, LLC; Supplemental Notice of Staff-Led Public Meeting

As announced in the Notice of Staff-Led Public Meeting issued on May 21, 2019, Federal Energy Regulatory Commission (Commission) staff will convene a staff-led public meeting on Monday, July 15, 2019, from 10:00 a.m. to 5:00 p.m. (ET). The public meeting will be held in the Commission Meeting Room at Commission headquarters, 888 First Street NE, Washington, DC 20426. Commissioners may attend and participate.

On April 22, 2019, ISO New England Inc. (ISO-NE), New England States Committee on Electricity (NESCOE), and New England Power Pool (NEPOOL) Participants Committee jointly requested a public meeting to share with Commission staff, without violating the Commission's regulations prohibiting *ex parte* communications,<sup>1</sup> information about efforts to develop proposed tariff revisions in response to a Commission directive<sup>2</sup> to reflect improvements to ISO-NE's market design to better address regional fuel security concerns. This notice of public meeting is in response to that request.

This staff-led public meeting will consist of three presentations by representatives from ISO-NE, NEPOOL, and NESCOE with time for questions and answers at the end of each presentation. Questions will be permitted from only Commission staff and Commissioners. The Commission will not solicit post-meeting comments. Parties who wish to comment on ISO-NE's proposal may do so when ISO-NE files its proposal.

Attached to this supplemental notice is an agenda for this public meeting,

<sup>1</sup> Commission Rules of Practice and Procedure, Rule 2201, 18 CFR 385.2201 (2018).

<sup>2</sup> See *ISO New England Inc.*, 164 FERC 61,003, at P 2 (2018).



including the list of speakers for each presentation.

All interested persons may attend the public meeting. Registration is not required. However, in-person attendees are encouraged to pre-register on-line at: <https://www.ferc.gov/whats-new/registration/07-15-19-form.asp>. In-person attendees should allow time to pass through building security procedures before the 10:00 a.m. start time of the public meeting.

The public meeting will be webcast. A link to the webcast of this event will be available in the Commission Calendar of Events at [www.ferc.gov](http://www.ferc.gov). The Capitol Connection provides technical support for webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit <http://www.CapitolConnection.org> or call (703) 993-3100.

The public meeting will not be transcribed. PowerPoint slides or printed documents used in the public meeting will be entered into the record in Docket No. EL18-182-000.

Commission public meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free 1-866-208-3372 (voice) or 202-208-8659 (TTY), or send a fax to 202-208-2106 with the required accommodations.

For more information about this public meeting, please contact Frank Swigonski by phone at (202) 502-8089 or by email at [frank.swigonski@ferc.gov](mailto:frank.swigonski@ferc.gov). For information related to logistics, please contact Sarah McKinley at (202) 502-8368 or by email at [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14707 Filed 7-9-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC19-111-000.

*Applicants:* DTE Electric Company, Heritage Stoney Corners Wind Farm I, LLC.

*Description:* Application for Authorization Under Section 203 of the

Federal Power Act, et al. of DTE Electric Company, et al.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5103.

*Comments Due:* 5 p.m. ET 7/24/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER15-1883-005; ER10-1852-027; ER10-1890-011; ER10-1951-013; ER10-1962-011; ER10-1989-011; ER11-2160-011; ER11-2192-013; ER11-3635-011; ER11-4462-034; ER11-4677-012; ER11-4678-012; ER12-2444-011; ER12-631-013; ER12-676-010; ER13-1991-010; ER13-1992-010; ER13-2112-007; ER15-1016-005; ER15-1375-005; ER15-1418-005; ER15-2243-003; ER15-2477-005; ER16-2443-002; ER16-632-003; ER16-90-005; ER16-91-005; ER17-196-002; ER17-2340-002; ER17-582-003; ER17-583-003; ER17-822-003; ER17-823-003; ER17-838-009; ER18-1978-002; ER18-241-002; ER18-772-002; ER18-807-002; ER19-1392-002.

*Applicants:* Adelanto Solar, LLC, Adelanto Solar II, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Casa Mesa Wind, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Florida Power & Light Company, FPL Energy Green Power Wind, LLC, FPL Energy Montezuma Wind, LLC, Genesis Solar, LLC, Golden Hills Interconnection, LLC, Golden Hills North Wind, LLC, Golden Hills Wind, LLC, Hatch Solar Energy Center I, LLC, High Lonesome Mesa Wind, LLC, High Winds, LLC, Luz Solar Partners Ltd., III, Luz Solar Partners Ltd., IV, Luz Solar Partners Ltd., V, McCoy Solar, LLC, New Mexico Wind, LLC, NextEra Blythe Solar Energy Center, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Marketing, LLC, NEPM II, LLC, NextEra Energy Services Massachusetts, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, Pima Energy Storage System, LLC, Pinal Central Energy Center, LLC, Red Mesa Wind, LLC, Shafter Solar, LLC, Silver State Solar Power South, LLC, Sky River LLC, Vasco Winds, LLC, Westside Solar, LLC, Whitney Point Solar, LLC, Windpower Partners 1993, LLC.

*Description:* Triennial Market Power Update for the Southwest Region of NextEra Companies.

*Filed Date:* 7/1/19

*Accession Number:* 20190701-5421.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER19-1427-001.

*Applicants:* Alabama Power Company.

*Description:* Compliance filing: Southern Companies' ROE Settlement

Compliance Filing to be effective 1/1/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5135.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-1803-001.

*Applicants:* North Rosamond Solar, LLC.

*Description:* Tariff Amendment: Amendment Filing to May 8, 2019 MBR Filing to be effective 5/9/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5011.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2351-000.

*Applicants:* American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: ATSI submits two ECSAs, Service Agreement Nos. 5322 and 5323 to be effective 9/6/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5045.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2352-000.

*Applicants:* Massachusetts Electric Company.

*Description:* § 205(d) Rate Filing: Filing of Small Generator Interconnection Agmt with Gas Recovery Systems, LLC to be effective 7/1/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5058.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2353-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2019-07-03 SA 3327 ATC-WPSC PCA (Packaging) to be effective 9/2/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5064.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2354-000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: Letter Agreement with Silverstrand Grid, LLC to be effective 7/5/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5095.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2355-000.

*Applicants:* Southwestern Public Service Company.

*Description:* § 205(d) Rate Filing: SPS-GSEC-NPEC IA Pringle NDP-712-SPS 0.0.0 to be effective 7/4/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703-5096.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19-2356-000.

*Applicants:* PSEG Energy Resources & Trade LLC.

*Description:* Tariff Cancellation: Cancellation of Keystone and



Conemaugh 1 & 2 to be effective 12/31/9998.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703–5098.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19–2357–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: Quitman II Solar LGIA Filing to be effective 6/21/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703–5099.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19–2358–000.

*Applicants:* DTE Electric Company, Heritage Stoney Corners Wind Farm I, LLC.

*Description:* Expedited Request for Authorization to Engage in Affiliate Transactions, et al. of DTE Electric Company, et al.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703–5101.

*Comments Due:* 5 p.m. ET 7/24/19.

*Docket Numbers:* ER19–2359–000.

*Applicants:* National Grid Generation LLC.

*Description:* § 205(d) Rate Filing: Annual Reset of Pension and OPEB Expenses to be effective 1/1/2019.

*Filed Date:* 7/3/19.

*Accession Number:* 20190703–5114.

*Comments Due:* 5 p.m. ET 7/24/19.

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: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019–14670 Filed 7–9–19; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2265–016; ER12–21–022; ER10–2261–008; ER11–2062–024; ER11–4307–025; ER12–261–024; ER10–2264–008; ER10–1581–022; ER10–2354–010; ER11–4308–025; ER13–2107–012; ER13–2020–012; ER13–2050–012; ER10–2359–009; ER11–3418–004.

*Applicants:* NRG Power Marketing LLC, Agua Caliente Solar, LLC, Cabrillo Power II LLC, Energy Plus Holdings LLC, Green Mountain Energy Company, Independence Energy Group LLC, Long Beach Generation LLC, Long Beach Peak LLC, Midway-Sunset Cogeneration Company, Reliant Energy Northeast LLC, Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners VIII, LLC, Sunrise Power Company, LLC, XOOM Energy, LLC.

*Description:* Updated Market Power Analysis of the NRG Southwest MBR Sellers.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5363.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER10–2290–007.

*Applicants:* Avista Corporation.

*Description:* Triennial Market Power Update for the Northwest Region of Avista Corporation.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701–5387.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER10–2474–019; ER10–2475–019; ER10–3246–013; ER12–21–021; ER13–1266–022; ER15–2211–019.

*Applicants:* Nevada Power Company, Sierra Pacific Power Company, PacifiCorp, CalEnergy, LLC, MidAmerican Energy Company.

*Description:* Updated Market Power Analysis for the Northwest Region of the BHE Northwest Entities.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5333.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER10–2575–009.

*Applicants:* Watson Cogeneration Company.

*Description:* Updated Market Power Analysis of Watson Cogeneration Company.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5353.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER10–2575–010.

*Applicants:* Watson Cogeneration Company.

*Description:* Notification of Change in Status of Watson Cogeneration Company.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5354.

*Comments Due:* 5 p.m. ET 7/19/19.

*Docket Numbers:* ER10–2862–007; ER11–4625–007.

*Applicants:* Harbor Cogeneration Company, LLC.

*Description:* Triennial Market Power Analysis and Notice of Change of Status of Harbor Cogeneration Company, LLC, et al.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5350.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER10–3050–004; ER10–3053–004.

*Applicants:* Cabazon Wind Partners, LLC, Whitewater Hill Wind Partners, LLC.

*Description:* Updated Market Power Analysis for the Southwest Region of Cabazon Wind Partners, LLC, et al.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5344.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER11–1858–008.

*Applicants:* NorthWestern Corporation.

*Description:* Triennial Market Power Analysis for the Northwest Region of NorthWestern Corporation.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5341.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER13–1865–003.

*Applicants:* Tesoro Refining & Marketing Company LLC.

*Description:* Updated Market Power Analysis of Tesoro Refining & Marketing Company LLC.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5348.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER13–1865–004.

*Applicants:* Tesoro Refining & Marketing Company LLC.

*Description:* Notification of Change in Status of Tesoro Refining & Marketing Company LLC.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5349.

*Comments Due:* 5 p.m. ET 7/19/19.

*Docket Numbers:* ER16–1341–003.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc. submits tariff filing per 35.19a(b): Refund Report Historical Amounts Billed under Attachment Z2 to be effective N/A.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5345.

*Comments Due:* 5 p.m. ET 7/19/19.

*Docket Numbers:* ER19-1073-001; ER11-3942-019; ER13-1139-018; ER13-1346-010; ER14-2630-011; ER19-1074-001; ER19-1075-001; ER19-1076-001; ER19-529-001.

*Applicants:* Alta Wind VIII, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Renewable Trading and Marketing LP, Mesa Wind Power Corporation, Windstar Energy LLC, Imperial Valley Solar 1, LLC, Regulus Solar, LLC.

*Description:* Updated Market Power Analysis for the Southwest Region of the Brookfield Companies and the TerraForm Companies.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5339.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER19-1575-001; ER10-1992-020; ER10-3251-013; ER13-1586-014; ER14-2382-013; ER14-2871-013; ER15-110-012; ER15-463-012; ER15-621-012; ER15-622-012; ER16-1129-006; ER16-1130-006; ER16-1131-006; ER16-1132-006; ER16-182-008; ER16-72-008; ER16-902-004; ER17-1574-003; ER17-1785-003; ER17-47-005; ER17-48-005; ER18-2013-002; ER18-2240-001; ER18-2241-001; ER18-47-004; ER19-1658-001; ER19-1660-001; ER19-1662-001; ER19-1663-001; ER19-1664-001; ER19-1665-001; ER19-1666-001; ER19-1667-001; ER19-426-001; ER19-427-001.

*Applicants:* Alta Oak Realty, LLC, Dutch Wind, LLC, Cameron Ridge, LLC, Cameron Ridge II, LLC, Coachella Wind, LLC, DifWind Farms Limited I, DifWind Farms Limited II, DifWind Farms Limited V, DifWind Farms LTD VI, EUI Affiliate LLC, Garnet Wind, LLC, Luz Solar Partners IX, Ltd., Luz Solar Partners VIII, Ltd., Mojave 3/4/5 LLC, MOJAVE 16/17/18 LLC, Oak Creek Wind Power, LLC, ON Wind Energy LLC, Pacific Crest Power, LLC, PHWD Affiliate, LLC, Refresh Wind, LLC, Refresh Wind 2, LLC, Ridgetop Energy, LLC, San Gorgonio Westwinds II—Windustries, LLC, San Gorgonio Westwinds II, LLC, Terra-Gen 251 Wind, LLC, Terra-Gen Dixie Valley, LLC, Terra-Gen Energy Services, LLC, Terra-Gen Mojave Windfarms, LLC, Terra-Gen VG Wind, LLC, TGP Energy Management, LLC, Victory Garden Phase IV, LLC, Voyager Wind I, LLC, Voyager Wind II, LLC, VPI Enterprises, LLC, Yavi Energy, LLC.

*Description:* Updated Market Power Analysis for the Southwest Region of Alta Oak Realty, LLC, et. al.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5338.

*Comments Due:* 5 p.m. ET 8/27/19.

*Docket Numbers:* ER19-2326-000.

*Applicants:* NSTAR Electric Company.

*Description:* Initial rate filing; SEMASS Partnership—Design, Engineering and Construction Agreement to be effective 7/1/2019.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5330.

*Comments Due:* 5 p.m. ET 7/22/19.

*Docket Numbers:* ER19-2327-000.

*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.

*Description:* § 205(d) Rate Filing; Notice of Eff Date—Monthly “Balance of Planning Period” and Chng to FTR Rights to be effective 9/17/2019.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5341.

*Comments Due:* 5 p.m. ET 7/22/19.

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: July 2, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019-14642 Filed 7-9-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 10821-005]

#### **Pacific Gas & Electric Company; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments**

Take notice that the following application has been filed with the

Commission and is available for public inspection.

a. *Type of Application:* Subsequent License—Transmission Line Only.

b. *Project No.:* P-10821-005.

c. *Date Filed:* June 27, 2019.

d. *Applicant:* Pacific Gas & Electric Company (PG&E).

e. *Name of Project:* Camp Far West Transmission Line Project.

f. *Location:* The existing transmission line project, with the proposed modification, would be located in Placer and Yuba Counties, California. The project would occupy a total of 52.3 acres and include tribal land (Auburn Off-Reservation Land Trust) managed by the U.S. Department of the Interior, Bureau of Indian Affairs and federal land (Beale Air Force Base) managed by the U.S. Department of Defense.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Robert Donovan, Senior Transmission Planner, Pacific Gas & Electric Company, 245 Market Street, Room 1053B, Mail Code N10A, San Francisco, California 94105.

i. *FERC Contact:* Quinn Emmering, (202) 502-6382, [quinn.emmering@ferc.gov](mailto:quinn.emmering@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 l 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. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission’s regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* August 26, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online

Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-10821-005.

m. The application is not ready for environmental analysis at this time.

n. The existing Camp Far West Transmission Line Project (P-10821) is a transmission line-only project and does not generate power. The project serves as the primary transmission line for South Sutter Water District's Camp Far West Hydroelectric Project No. 2997. The currently licensed project includes a 1.9-mile-long, three-phase, 60-kilovolt (kV) transmission line extending from the powerhouse of the Camp Far West Hydroelectric Project (P-2997) in Placer County to an interconnection with PG&E's Smartville-Lincoln (formerly Smartville-Pleasant Grove) 60-kV transmission line. PG&E now proposes to connect the project's 1.9-mile-long transmission line to an existing 9-mile-long, northbound segment of the Smartville-Lincoln transmission line that connects to the Smartville-Nicholas No. 1 transmission line at Beale Air Force Base. Because the 9-mile-long northbound segment of the Smartville-Lincoln transmission line would only carrying electrons transmitted by the project, PG&E proposes to incorporate the 9-mile-segment into any subsequent license issued for the project.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

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, contact FERC Online Support.

q. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance or Deficiency Letter—August 2019

Request Additional Information (if necessary)—August 2019  
Issue Acceptance Letter—November 2019  
Issue Scoping Document 1 for comments—December 2019  
Request Additional Information (if necessary)—February 2020  
Issue Scoping Document 2—March 2020  
Issue notice of ready for environmental analysis—March 2020  
Commission issues EA, draft EA, or draft EIS—October 2020  
Comments on EA, draft EA or draft EIS—November 2020  
Commission issues final EA of final EIS—February 2021

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 2, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14646 Filed 7-9-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Numbers:* RP10-837-000.

*Applicants:* Dominion Energy Transmission, Inc.

*Description:* Submits tariff filing per: DETI-Operational Gas Sales Report effective N/A under RP10-837.

*Filed Date:* 06/28/2019.

*Accession Number:* 20190628-5136.

*Comment Date:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP10-900-000.

*Applicants:* Dominion Energy Transmission, Inc.

*Description:* Submits tariff filing per: DETI-Operational Gas Sales Report—2019 to be effective N/A under RP10-837.

*Filed Date:* 06/28/2019.

*Accession Number:* 20190628-5137.

*Comment Date:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1341-000.

*Applicants:* Big Sandy Pipeline, LLC.  
*Description:* § 4(d) Rate Filing: Big Sandy EPC 2019 to be effective 8/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5091.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1342-000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* Compliance filing TETLP OFO July 2019 Penalty Disbursement Report to be effective N/A.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5093.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1343-000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Update (Conoco July 19) to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5133.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1344-000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Update (APS July 2019) to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5135.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1345-000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing: Negotiated Rate—Gulfport to Eco-Energy 8958321 to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5139.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1346-000.

*Applicants:* Delphi Energy Corp., Outlier Resources Ltd.

*Description:* Joint Petition for Temporary Waiver of Capacity Release Regulations and Policies, et al. of Delphi Energy Corp., et al. under RP19-1346.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5144.

*Comments Due:* 5 p.m. ET 7/8/19.

*Docket Numbers:* RP19-1347-000.

*Applicants:* Transcontinental Gas Pipe Line Company,

*Description:* § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Jul 2019 to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5204.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1348-000.

*Applicants:* NEXUS Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Columbia Gas 860005 July 1 releases to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5220.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19-1349-000.

*Applicants:* Young Gas Storage Company, Ltd.

*Description:* Compliance filing Update to Initial Base Settlement Rates and Update to ADWQ Curve Compliance to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5222.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19–1350–000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing: TETLP EPC AUG 2019 FILING to be effective 8/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5248.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19–1351–000.

*Applicants:* Northern Natural Gas Company.

*Description:* § 4(d) Rate Filing: 20190628 Negotiated Rate to be effective 7/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5260.

*Comments Due:* 5 p.m. ET 7/10/19.

*Docket Numbers:* RP19–1352–000.

*Applicants:* Tennessee Gas Pipeline Company, L.L.C.

*Description:* § 4(d) Rate Filing: Volume No. 2- Castleton Commodities Merchant Trading L.P. SP348168 to be effective 5/1/2019.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628–5264.

*Comments Due:* 5 p.m. ET 7/10/19.

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: July 2, 2019.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2019–14641 Filed 7–9–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD19–16–000]

### Commission Information Collection Activities (FERC–922); Comment Request

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) staff is soliciting public comment on the reinstatement and revision of the FERC–922, Performance Metrics for ISOs, RTOs, and Regions Outside ISOs and RTOs.

**DATES:** Comments on the collection of information are due September 9, 2019.

**ADDRESSES:** You may submit comments (identified by Docket No. AD19–16–000) by either of the following methods:

- *eFiling at Commission's Website:*

<http://www.ferc.gov/docs-filing/efiling.asp>.

- *Mail/Hand Delivery/Courier:*

Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

#### FOR FURTHER INFORMATION CONTACT:

Darren Sheets may be reached at [Darren.Sheets@FERC.gov](mailto:Darren.Sheets@FERC.gov) by email or telephone at (202) 502–8742.

#### SUPPLEMENTARY INFORMATION:

*Title:* FERC–922, Performance Metrics for ISOs, RTOs, and Regions Outside ISOs and RTOs.

*OMB Control No:* 1902–0262.<sup>1</sup>

<sup>1</sup> The Commission previously had Office of Management and Budget (OMB) approval for the information collection FERC–922 under OMB Control No. 1902–0262. On August 7, 2018, Commission staff requested that OMB discontinue this information collection. OMB approval for the information collection was discontinued on August 31, 2018. Commission staff plans to request authority from OMB to reinstate the information

*Type of Request:* Reinstatement of the FERC–922 information collection, with revisions.

*Abstract:* In September 2008, the United States Government Accountability Office (GAO) issued a report recommending that the Commission, among other actions, work with Regional Transmission Organizations (RTOs), Independent System Operators (ISOs), stakeholders, and other experts to develop standardized metrics to track the performance of RTO/ISO operations and markets and publicly report on those metrics.<sup>2</sup> In accordance with the 2008 GAO Report, Commission staff developed a set of standardized metrics (the Common Metrics), sought and received OMB approval to collect information on those metrics from the RTOs/ISOs, and later non-RTOs/ISOs, and ultimately issued five public reports (Common Metrics Reports).<sup>3</sup>

In December 2017, the GAO issued a report on the RTOs/ISOs with centralized capacity markets.<sup>4</sup> Among other recommendations, the GAO found that the Commission should take steps to improve the quality of the data collected for its Common Metrics Report, such as implementing improved data quality checks and, where feasible, ensuring RTOs/ISOs are reporting consistent metrics over time by standardizing definitions; and that the Commission should develop and document an approach to regularly

collection FERC–922, with certain revisions, as described in more detail herein. See 44 U.S.C. 3507 (2012).

<sup>2</sup> U.S. Gov't Accountability Off., GAO–08–987, *Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations' Benefits and Performance* (2008) (2008 GAO Report).

<sup>3</sup> In 2010 and 2011, Commission staff issued reports authored by the RTOs/ISOs. In 2012, Commission staff issued a report concerning the addition of non-RTO/ISO regions to the common metrics effort. In 2014 and 2016, Commission staff issued reports using aggregated data on the RTO/ISO and non-RTO/ISO regions. For copies of the previous reports, see Federal Energy Regulatory Commission, RTO/ISO Performance Metrics (last updated Aug. 3, 2017), available at <http://www.ferc.gov/industries/electric/indus-act/rto/rto-iso-performance.asp> (providing links to ISO/RTO Performance Metrics, Docket No. AD10–5–000 (Oct. 21, 2010); Report to Congress on Performance Metrics for Independent System Operators and Regional Transmission Organizations, Docket No. AD10–5–000 (Apr. 2011); Performance Metrics in Regions Outside ISOs and RTOs, Docket No. AD12–8–000 (Oct. 15, 2012); Common Metrics, Docket No. AD14–15–000 (Aug. 26, 2014); and Common Metrics Report, Docket No. AD14–15–000 (Aug. 2016, revised Aug. 2017)).

<sup>4</sup> U.S. Gov't Accountability Off., GAO–18–131, *Electricity Markets: Four Regions Use Capacity Markets to Help Ensure Adequate Resources, but FERC Has Not Fully Assessed Their Performance*, (2017), available at <https://www.gao.gov/assets/690/689293.pdf> (2017 GAO Report).

identify, assess, and respond to risks that capacity markets face.

In response to the 2017 GAO Report, Commission staff has proposed changes to the Common Metrics information collection. First, Commission staff proposes to improve the data collection process by creating a standardized information collection Input Spreadsheet and an updated, more detailed User Guide, which will provide guidance on completing the information collection, including information about who should respond, the timeline for responses, the metrics being collected, including important definitions and a description of the types of metrics and their structure in the information collection, and how to properly use the reporting form. Also, Commission staff proposes to update the list of Common Metrics to focus on centrally-organized energy markets and capacity markets, which involves adding capacity market metrics. The update also involves the elimination of previously collected metrics on reliability, RTO/ISO billing controls and customer satisfaction, interconnection and transmission processes, and system lambda. Commission staff proposes eliminating these metrics because they provide limited information, are reported publicly elsewhere, or do not significantly help Commission staff or the public draw any conclusions regarding the benefits of an RTO/ISO. The revised data collection, after additions and deletions, consists of 29 Common Metrics.

In addition to eliminating certain metrics and adding new ones, the Common Metrics are now organized into three groups: Group 1 metrics are designed to be collected from all respondents (*i.e.*, all the RTOs/ISOs and non-RTO/ISO utilities). There are seven Group 1 metrics: Reserve Margins, Average Heat Rates, Fuel Diversity, Capacity Factor by Technology Type, Energy Emergency Alerts (EEA Level 1 or Higher), Performance by Technology Type during EEA Level 1 or Higher, and Resource Availability (Equivalent

Forced Outage Rate Demand (EFORD)). Group 2 metrics pertain to organized energy markets, and thus are designed to be collected only from respondents with such energy markets (*i.e.*, all the RTOs/ISOs). There are 12 Group 2 metrics: Number and Capacity of Reliability Must-Run Units, Reliability Must-Run Contract Usage, Demand Response Capability, Unit Hours Mitigated, Wholesale Power Costs by Charge Type, Price Cost Markup, Fuel Adjusted Wholesale Energy Price, Energy Market Price Convergence, Congestion Management, Administrative Cost, New Entrant Net Revenues, and Order No. 825 Shortage Intervals and Reserve Price Impacts.<sup>5</sup> Finally, Group 3, the new metrics, pertain to organized capacity markets, and thus are designed to be collected only from respondents with such capacity markets (*i.e.*, all RTOs/ISOs with capacity markets). There are 10 Group 3 metrics: Net Cost of New Entry (Net CONE) Value, Resource Deliverability, New Capacity (Entry), Capacity Retirement (Exit), Forecasted Demand, Capacity Market Procurement and Prices, Capacity Obligations and Performance Assessment Events, Capacity Eligible for Bonus Payments for Over-Performance, Capacity Facing Penalty Payments for Under-Performance, Total Capacity Bonus Payments and Penalties. A table showing the revised Common Metrics organized by the three groups can be found at the back of this Notice. Also, the updated User Guide for the information collection, and the standardized information collection reporting form are attached to this Notice. These attachments will not be published in the **Federal Register**, but will be available as part of this notice in the Commission's eLibrary system.

Commission staff has had informal contact with stakeholders about the

proposed revisions to the set of Common Metrics, including the proposed revisions to improve the quality of data collected and to enhance the Common Metrics Report with capacity market metrics. Specifically, Commission staff has contacted representatives of the ISO/RTO Council, the Edison Electric Institute, American Wind Energy Association, American Public Power Association, and the Energy Information Administration.

Commission staff has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

*Estimate of Annual Burden:*<sup>6</sup> Commission staff expects that respondents will submit information on the Common Metrics every two years. Commission staff will request a three-year approval from OMB, so the voluntary information collection would happen in Years 1 and 3.<sup>7</sup>

The following table sets forth the estimated annual burden and cost<sup>8</sup> for this information collection:

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<sup>6</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, see 5 CFR 1320.3 (2018).

<sup>7</sup> The OMB approval is for a maximum of three years.

<sup>8</sup> See generally Bureau of Labor Statistics, Occupational Employment and Wages, May 2017 (last modified Mar. 30, 2018), available at: [www.bls.gov/oes/current/oes151121.htm](http://www.bls.gov/oes/current/oes151121.htm); Lawyers (23-1011) <http://www.bls.gov/oes/current/oes231011.htm>; Electrical Engineers (17-2071) <http://www.bls.gov/oes/current/oes172071.htm>; Economists (19-3011) <http://www.bls.gov/oes/current/oes193011.htm>; Chief Executives (11-1011) <http://www.bls.gov/oes/current/oes111011.htm>. See Bureau of Labor Statistics, *Employer Costs for Employee Compensation*, News Release USDL-18-1941 (Dec. 14, 2018), available at <http://www.bls.gov/news.release/eccec.nr0.htm>. Those hourly wages (plus benefits) are: \$107.61 for the Metrics Data Collection and Write Performance Analysis categories, and \$122.81 for the Management Review component which is solely based on the Chief Executive wage rates.

<sup>5</sup> *Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 825, 155 FERC 61,276 (2016).

Information Collection Component	Number of Respondents	Number of Responses in Years 1 & 3	Annual Frequency of Filings	Total Number of Annual Responses	Estimated Burden Hours per Response	Estimated Cost per Response	Estimated Total	Estimated Total
							Annual Burden Hours	Annual Cost
	(1)	(2)	(3)	(4)=(2)*(3)	(5)	(6)	(7)=(5)*(4)	(8)=(4)*(6)
<b>1: All Respondents</b>	<b>11</b>	<b>16</b>	<b>0.67</b>	<b>10.72</b>				
Metrics Data Collection					271	\$ 7,039	2,905	\$ 75,462
Write Performance Analysis					70	\$ 1,818	750	\$ 19,492
Management Review					60	\$ 1,779	643	\$ 19,067
<b>2: Respondents with Energy Markets</b>	<b>6</b>	<b>6</b>	<b>0.67</b>	<b>4.02</b>				
Metrics Data Collection					271	\$ 12,067	1,089	\$ 48,511
Write Performance Analysis					70	\$ 3,117	281	\$ 12,531
Management Review					60	\$ 3,049	241	\$ 12,257
<b>3: Respondents with Capacity Markets</b>	<b>4</b>	<b>4</b>	<b>0.67</b>	<b>2.68</b>				
Metrics Data Collection					271	\$ 10,056	726	\$ 26,951
Write Performance Analysis					70	\$ 2,598	188	\$ 6,961
Management Review					60	\$ 2,541	161	\$ 6,809
<b>Potential New Respondents</b>	<b>1</b>	<b>1</b>	<b>0.67</b>	<b>0.67</b>				
Metrics Data Collection					288.6	\$ 7,496	193	\$ 5,022
Write Performance Analysis					74.5	\$ 1,936	50	\$ 1,297
Management Review					63.9	\$ 1,894	43	\$ 1,269
<b>Total</b>							<b>7,272</b>	<b>\$ 235,628</b>

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*Explanation of the Table:* The Number of Respondents (1) in the first column varies by Group, as all respondents do not provide information on each of the 29 Common Metrics. Commission staff has estimated the number of respondents for the first three Groups based on the assumption that the six jurisdictional RTOs/ISOs and the five non-RTO/ISO utilities (11 total respondents) that previously responded to the FERC-922 information collection will provide responses to this revised FERC-922 information collection. Therefore, the estimated number of respondents in Group 1 is 11, because all respondents report on the Group 1 metrics. The estimated number of respondents for Group 2 is six, because only the jurisdictional RTOs/ISOs with energy markets respond to the Group 2 metrics. Likewise, the estimated number of respondents in Group 3 is four, because only the jurisdictional RTOs/ISOs with capacity markets respond to the Group 3 metrics. Finally, the table includes a burden estimate for potential new respondents. As all the jurisdictional RTOs/ISOs previously responded to FERC-922, any potential new respondent would be a utility in a non-RTO/ISO region, and thus would only be submitting responses to the Group 1 metrics, but for the first time. Commission staff conservatively estimates that, at most, one new non-

RTO/ISO utility will respond to this revised FERC-922 information collection.

The second column, Number of Responses in Years 1 & 3 (2) is characterized by the number of Balancing Authority Areas (BAAs) each respondent would be reporting on, as the respondent would provide a response to each metric for each of its BAAs. Each RTO/ISO is a single BAA and therefore will only provide responses to each metric for one BAA, but utilities in the non-RTO/ISO regions that previously responded have reported metrics for more than one BAA (for instance, Duke Energy has multiple BAAs outside of RTOs/ISOs and filed metrics for each BAA in the previous information collection). Therefore, the estimated number of responses for Group 1 (all RTOs/ISOs and non-RTO/ISO utilities) is the number of BAAs in the RTOs/ISOs, *i.e.*, six, plus the number of non-RTO/ISO BAAs *i.e.*, 10, which equals 16 total responses. The estimated number of responses for Group 2 (all RTOs/ISOs with energy markets) is the same as the number of respondents, *i.e.*, six, as only the RTOs/ISOs respond and they each only have one BAA. The estimated number of responses for Group 3 (all RTOs/ISOs with capacity markets) is the same as the number of respondents, *i.e.*, four, as only the four RTOs/ISOs with capacity

markets respond and they each only have one BAA. Finally, there is only estimated to be one non-RTO/ISO utility as a potential new respondent, who would only be responding to the Group 1 metrics that apply to all respondents.

The Annual Frequency of Filings (3) is 0.67 for all groups. This fraction reflects that there will be two information collections or one each during Years 1 and 3 of the three-year OMB authorization period, so  $\frac{2}{3}$  or 0.67 is the adjustment to reflect a yearly value for the burden.

The Total Number of Annual Responses (4) is the product of the second column, Number of Responses in Years 1 and 3 (2), multiplied by the third, the Annual Frequency of Filings (3). Thus for the first group, this value is  $16 \times 0.67$  or 10.72.

The Estimated Burden Hours per Response (5) reflects the total number of estimated burden hours, separated into the three reporting categories (collect, write, review) for all four groups of respondents. The total estimated burden hours for the first three groups of respondents are the same as the previous FERC-922 information collection burden estimates, 401 hours. An increased estimate of the burden hours, 427 hours, is for Potential New Respondents, in recognition of the fact that the burden on a new respondent is likely higher. The number of hours in

each reporting category has been adjusted in this collection, as compared to the previous FERC-922 collection burden estimate, to reflect less emphasis on the writing category, as Commission staff has developed a structured data collection tool which will decrease the amount of written text that respondents will provide in the information collection.<sup>9</sup>

The Estimated Cost per Response (6) is the product of the three variables: The Estimated Burden Hours per Response (5) for a category, multiplied by the labor rate (for wages plus benefits) for each category (which is not shown in the table), multiplied by the proportion of total hours attributable to this Group, to report on a category, *e.g.*, the number of metrics in that Group divided by the total number of metrics (also not shown in table). An example in the first row is that for Group 1, Metrics Data Collection category, the \$7,039 is the product of 271 hours in column (5) multiplied by the weighted average labor rate for that category (\$107.61) multiplied by 0.242 (the ratio of metrics in the first Group, seven, to the total number of metrics, 29 or  $7 \div 29$ ). This fraction is not displayed in the table.<sup>10</sup>

The Estimated Total Annual Burden Hours (7) is the product of the Total Number of Annual Responses (4) times the Estimated Burden Hours per Response (5). For the first row of the first group this value is 2,905 hours =  $10.72 \times 271$  hours.

Finally, the Estimated Total Annual Cost (8) reflects the total burden to the industry and is calculated by multiplying the Total Number of Annual Responses (4) times the Estimated Cost per Response (6) for each category for all groups and produces an estimated total cost in the last row of the table. The wage rates utilized in this burden estimate have been updated to recent Bureau of Labor Statistics estimates for the same categories as used in the prior burden estimates for the FERC-922 information collection (*i.e.*, Computer Systems Analysts, Lawyers, Electrical Engineers, Economists, and the category Chief Executive). Wage estimates use the 90th percentile wage from the recent Bureau of Labor Employees Benefit Survey, adjusted

upward for the private industry benefits of 30.3 percent, and are a weighted average of those categories.

**Comments:** Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology. Further, Commission staff requests comments on whether the proposed metrics (attached) will effectively track the performance of the RTO/ISO energy and capacity markets and the administrative and market functions that are common to the RTOs/ISOs and the individual utilities in non-RTO/ISO regions.

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14669 Filed 7-9-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

**Docket Numbers:** EC19-108-000.

**Applicants:** Valentine Solar, LLC, Glaciers Edge Wind Project, LLC.

**Description:** Application for Authorization Under Section 203 of the Federal Power Act, *et al.* of Valentine Solar, LLC, *et al.*

**Filed Date:** 7/1/19.

**Accession Number:** 20190701-5401.

**Comments Due:** 5 p.m. ET 7/22/19.

Take notice that the Commission received the following electric rate filings:

**Docket Numbers:** ER10-2290-007.

**Applicants:** Avista Corporation.

**Description:** Triennial Market Power Update for the Northwest Region of Avista Corporation.

**Filed Date:** 7/1/19.

**Accession Number:** 20190701-5387.

**Comments Due:** 5 p.m. ET 8/30/19.

**Docket Numbers:** ER10-2475-019; ER10-2474-019; ER10-3246-013;

ER12-21-021; ER13-1266-022; ER15-2211-019.

**Applicants:** Nevada Power Company, Sierra Pacific Power Company, PacifiCorp, Agua Caliente Solar, LLC, CalEnergy, LLC, MidAmerican Energy Service LLC.

**Description:** Updated Market Power Analysis for the Northwest Region of the BHE Northwest Entities.

**Filed Date:** 6/28/19.

**Accession Number:** 20190628-5333.

**Comments Due:** 5 p.m. ET 8/27/19.

**Docket Numbers:** ER10-2739-025;

ER10-1892-012; ER13-1430-006;

ER13-1561-006; ER16-1652-013;

ER17-1490-001; ER19-170-001.

**Applicants:** LS Power Marketing, LLC, Arlington Valley Solar Energy II, LLC, Centinela Solar Energy, LLC, Columbia Energy LLC, Gateway Energy Storage, LLC, LifeEnergy, LLC, Vista Energy Storage, LLC.

**Description:** Updated Market Power Analysis for the Southwest Region of LS Power Marketing, LLC, *et al.*

**Filed Date:** 7/1/19.

**Accession Number:** 20190701-5414.

**Comments Due:** 5 p.m. ET 8/30/19.

**Docket Numbers:** ER10-2822-014;

ER10-3158-008; ER10-3161-008;

ER10-3162-008; ER12-308-008; ER16-

1238-002; ER16-1250-006; ER17-1242-001; ER17-1392-002.

**Applicants:** Atlantic Renewable Projects II LLC, Avangrid Arizona Renewables, LLC, Avangrid Renewables, LLC, El Cabo Wind LLC, Dillon Wind LLC, Manzana Wind LLC, Mountain View Power Partners III, LLC, Shiloh I Wind Project, LLC, Tule Wind LLC.

**Description:** Updated Market Power Analysis of the Avangrid Southwest MBR Sellers.

**Filed Date:** 7/1/19.

**Accession Number:** 20190701-5415.

**Comments Due:** 5 p.m. ET 8/30/19.

**Docket Numbers:** ER15-1596-008;

ER10-2590-006; ER10-2593-006;

ER10-2616-015; ER11-4400-012;

ER15-1599-008; ER15-1958-007;

ER19-102-001.

**Applicants:** Dynegy Commercial Asset Management, LLC, Dynegy Energy Services (East), LLC, Dynegy Marketing and Trade, LLC, Dynegy Moss Landing, LLC, Dynegy Oakland, LLC, Dynegy Power Marketing, LLC, Dynegy Resources Management, LLC, Luminant Energy Company LLC.

**Description:** Updated Triennial Market Power Analysis for the Southwest Region by the Vistra Southwest MBR Sellers.

**Filed Date:** 7/1/19.

**Accession Number:** 20190701-5416.

**Comments Due:** 5 p.m. ET 8/30/19.

<sup>9</sup> The estimated hours per response has increased for: (a) Metrics Data Collection component to 271 hours (from 229 hours), and (b) Management Review component to 60 hours (from 33 hours). The estimated hours per response for Write Performance Analysis has decreased to 70 hours (from 139 hours).

<sup>10</sup> The fraction for Group 1 and the Potential New Respondents is 0.242 (the seven metrics in the first Group divided by the total number of metrics, 29); for Group 2 the fraction is 0.414 (12 divided by 29); for Group 3 the fraction is 0.345 (10 divided by 29).



*Docket Numbers:* ER16-748-003.  
*Applicants:* Sentinel Energy Center, LLC.

*Description:* Market Power Update of Sentinel Energy Center, LLC.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5406.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER17-2059-004; ER10-3097-009.

*Applicants:* Puget Sound Energy, Inc., Bruce Power Inc.

*Description:* Updated Market Power Analysis in the Northwest Region for Puget Sound Energy, Inc., *et al.*

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5395.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER18-2033-001.

*Applicants:* Saavi Energy Solutions, LLC.

*Description:* Updated Market Power Analysis for Southwest Region of Saavi Energy Solutions, LLC.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5407.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER19-1415-001; ER11-2508-024; ER19-2140-001; ER19-2141-001; ER19-2142-001; ER19-2143-001; ER19-2144-001; ER19-2145-001; ER19-2146-001; ER19-2147-001; ER19-2148-001.

*Applicants:* GenOn California South, LP, GenOn Energy Management, LLC, Brunot Island Power, LLC, Gilbert Power, LLC, Heritage Power Marketing, LLC, Mountain Power, LLC, New Castle Power, LLC, Portland Power, LLC, Sayreville Power, LLC, Shawville Power, LLC, Warren Generation, LLC.

*Description:* Updated Market Power Analysis for the Southwest Region of the GenOn Holdings, Inc. subsidiaries.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5412.

*Comments Due:* 5 p.m. ET 8/30/19.

*Docket Numbers:* ER19-1704-001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Tariff Amendment: 2019-06-28 SA 2010 Ameren-SIPC Substitute WDS Agreement to be effective 12/31/9998.

*Filed Date:* 6/28/19.

*Accession Number:* 20190628-5241.

*Comments Due:* 5 p.m. ET 7/19/19.

*Docket Numbers:* ER19-1932-002.

*Applicants:* Duke Energy Progress, LLC.

*Description:* Tariff Amendment: Amendment to DEP-PJM Amended JOA Concurrence to be effective 7/22/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5138.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2050-001.

*Applicants:* GridLiance Heartland LLC, Midcontinent Independent System Operator, Inc.

*Description:* Tariff Amendment: 2019-07-02 Errata to GridLiance Heartland Revisions to Incorporate Formula to be effective 9/1/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5141.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2328-000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-Pedernales Electric Cooperative Interconnection Agr. 1st Amend/ Restated to be effective 3/13/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5000.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2329-000.

*Applicants:* Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: 2019-07-02 SA 2880 Att A-Project Specifications No. 4 WVPA-EnerStar-West Union to be effective 6/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5044.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2330-000.

*Applicants:* Arizona Public Service Company.

*Description:* Notice of Cancellation of Rate Schedule No. 218 of Arizona Public Service Company.

*Filed Date:* 7/1/19.

*Accession Number:* 20190701-5386.

*Comments Due:* 5 p.m. ET 7/22/19.

*Docket Numbers:* ER19-2331-000.

*Applicants:* Entergy Nuclear Generation Company.

*Description:* Tariff Cancellation: Entergy Nuclear Generation Company to be effective 6/10/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5097.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2332-000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: Letter Agreement with EC&R Solar Development, LLC, Painter BESS to be effective 7/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5100.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2333-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSCo Reserve Energy Tariff\_Eff. 9.3.19 to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5101.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2334-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: OATT-PSCO Transition From RMRG to NWPP to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5102.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2335-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSC-TSGT-BkCoU-CSU-BAA-SubentitiyRSA-538-0.0.0 to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5103.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2336-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSC-WAPA-WACM-Subentitiy-RsrvShrngSvcAgrmt-547-0.0.0 to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5104.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2337-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSC-MEAN-NITS-246-0.0.0-Filing to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5105.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2338-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, SA No. 5416; Queue No. AC2-067/AC2-068 to be effective 6/4/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5144.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2339-000.

*Applicants:* PacifiCorp.

*Description:* § 205(d) Rate Filing: Cedar Springs Wind LGIA to be effective 9/1/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5145.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2340-000.

*Applicants:* Black Hills Power, Inc.

*Description:* § 205(d) Rate Filing: Subentitiy Reserve Sharing Agreement (BHP) to be effective 9/3/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702-5166.

*Comments Due:* 5 p.m. ET 7/23/19.

*Docket Numbers:* ER19-2341-000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-Las Majadas Wind Farm



Interconnection Agreement First Amend & Restated to be effective 6/14/2019.

*Filed Date:* 7/2/19.

*Accession Number:* 20190702–5168.

*Comments Due:* 5 p.m. ET 7/23/19.

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: July 2, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–14643 Filed 7–9–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC19–20–000]

#### Commission Information Collection Activities (FERC Form Nos. 6 and 6–Q); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies) and submitting the information collections to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. On April 15, 2019, the Commission published a Notice in the

**Federal Register** in Docket No. IC19–20–000 requesting public comments. The Commission received two public comments and will indicate that in its submittals to OMB.

**DATES:** Comments on the collections of information are due August 9, 2019.

**ADDRESSES:** Comments filed with OMB, identified by OMB Control Nos.: 1902–0022 (FERC Form No. 6) and 1902–0206 (FERC Form No. 6–Q), should be sent via email to the Office of Information and Regulatory Affairs: [oira\\_submission@omb.gov](mailto:oira_submission@omb.gov). Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–20–000, by either of the following methods:

- *eFiling at Commission's Website:*

<http://www.ferc.gov/docs-filing/efiling.asp>.

- *Mail/Hand Delivery/Courier:*

Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

**Instructions:** All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Brown by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502–8663, and fax at (202) 273–0873.

#### SUPPLEMENTARY INFORMATION:

**Titles:** FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies).

**OMB Control Nos.:** 1902–0022 (FERC Form No. 6) and 1902–0206 (FERC Form No. 6–Q).

**Type of Respondent:** Oil pipeline.

**Type of Request:** Three-year extension of FERC Form Nos. 6 and 6–Q information collections with no changes to the current reporting and recordkeeping requirements.<sup>1</sup>

<sup>1</sup> FERC Form Nos. 6 and 6–Q are part of the “Forms Refresh” effort, which is a separate activity and not addressed here. See *Revisions to the Filing Process for Commission Forms*, 166 FERC ¶ 61,027 (2019) (started in Docket No. AD15–11 and ongoing in Docket No. RM19–12). (OMB issued its decisions on the proposed changes in the Forms Refresh

**Abstract:** Under the Interstate Commerce Act (ICA),<sup>2</sup> the Commission is authorized and empowered to make investigations and to collect and record data to the extent the Commission may consider to be necessary or useful for the purpose of carrying out the provisions of the ICA. The Commission must ensure just and reasonable rates for transportation of crude oil and petroleum products by pipelines in interstate commerce.

#### FERC Form No. 6, Annual Report of Oil Pipeline Companies

In 1977, the Department of Energy Organization Act transferred to the Commission from the Interstate Commerce Commission (ICC) the responsibility to regulate oil pipeline companies. In accordance with the transfer of authority, the Commission was delegated the responsibility to require oil pipelines to file annual reports of information necessary for the Commission to exercise its statutory responsibilities.<sup>3</sup> The transfer included the ICC Form P, the predecessor to FERC Form No. 6.<sup>4</sup>

To reduce burden on industry, FERC Form No. 6 has three tiers of reporting requirements:

1. Each oil pipeline carrier whose annual jurisdictional operating revenues has been \$500,000 or more for each of the three previous calendar years must file FERC Form No. 6 (18 CFR 357.2 (a)). Oil pipeline companies subject to the provisions of section 20 of the ICA must submit FERC Form No. 6–Q. 18 CFR 357.4(b)). Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed.

2. Oil pipeline carriers exempt from filing FERC Form No. 6 whose annual

Notice of Proposed Rulemaking in Docket No. RM19–12 on March 14, 2019.) In addition, this submittal does not reflect Docket No. RM15–19 (*Petition for a Rulemaking of the Liquids Shippers Group, et al.*, (2015)) and Docket No. RM17–1 (*Revisions to Indexing Policies and Page 700 of FERC Form No. 6* (2016)).

<sup>2</sup> 49 U.S.C. part 1, Section 20, 54 Stat. 916.

<sup>3</sup> Section 402(b) of the Department of Energy Organization Act (DOE Act), 42 U.S.C. 7172 provides that; “[t]here are hereby transferred to, and vested in, the Commission all functions and authority of the Interstate Commerce Commission or any officer or component of such Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or established the valuation of any such pipeline.”

<sup>4</sup> The ICC developed the Form P to collect information on an annual basis to enable it to carry out its regulation of oil pipeline companies under the Interstate Commerce Act. A comprehensive review of the reporting requirements for oil pipeline companies was performed on September 21, 1982, when the Commission issued Order No. 260 revising the former ICC Form P, “Annual Report of Carriers by Pipeline” and redesignating it as FERC Form No. 6, “Annual Report of Oil Pipeline Companies”.

jurisdictional operating revenues have been more than \$350,000 but less than \$500,000 for each of the three previous calendar years must prepare and file page 301, "Operating Revenue Accounts (Account 600), and page 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6. When submitting pages 301 and 700, each exempt oil pipeline carrier must include page 1 of FERC Form No. 6, the Identification and Attestation schedules (18 CFR 357.2(a)(2)).

3. Oil pipeline carriers exempt from filing FERC Form No. 6 and pages 301 and whose annual jurisdictional operating revenues were \$350,000 or less for each of the three previous calendar years must prepare and file page 700, "Annual Cost of Service Based Analysis Schedule," of FERC Form No. 6. When submitting page 700, each exempt oil pipeline carrier must include page 1 of FERC Form No. 6, the Identification and Attestation schedule (18 CFR 357.2(a)(3)).

The Commission uses the data in FERC Form Nos. 6 and 6-Q to perform audits and reviews on the financial condition of oil pipelines; assess energy markets; conduct oil pipeline rate proceedings and economic analysis; conduct research for use in administrative litigation; and administer the requirements of the ICA. Data from FERC Form No. 6 facilitates the calculation of the actual rate of return on equity for oil pipelines. The actual rate of return on equity is particularly useful information when evaluating a pipeline's rates.

The Commission also uses data on Page 301 of FERC Form No. 6 to compute annual charges which are then assessed against oil pipeline companies to recover the Commission's annual costs as mandated by Order No. 472. The annual charges are required by Section 3401 of the Omnibus Budget Reconciliation Act of 1986.

Furthermore, the majority of state regulatory commissions use FERC Form Nos. 6 and 6-Q and the Commission's Uniform System of Accounts (USoFA) to satisfy their reporting requirements for those companies under their jurisdiction. In addition, the public uses the data in FERC Form Nos. 6 and 6-Q to assist in monitoring rates, the financial condition of the oil pipeline industry, and in assessing energy markets.

#### **FERC Form No. 6-Q, Quarterly Report of Oil Pipeline Companies**

Oil pipeline companies subject to the provisions of section 20 of the ICA must submit FERC Form No. 6-Q. 18 CFR 357.4(b)). The Commission uses the

information collected in FERC Form No. 6-Q to carry out its responsibilities in implementing the statutory provisions of the ICA to include the authority to prescribe rules and regulations concerning accounts, records, and memoranda, as necessary or appropriate. Financial accounting and reporting provides necessary information concerning a company's past performance and its future prospects. Without reliable financial statements prepared in accordance with the Commission's USoFA and related regulations, it would be difficult for the Commission to accurately determine the costs that relate to a particular time period, service, or line of business.

The Commission uses data from FERC Form No. 6-Q to assist in: (1) Implementation of its financial audits and programs; (2) continuous review of the financial condition of regulated companies; (3) assessment of energy markets; (4) rate proceedings and economic analyses; and (5) research for use in litigation.

Financial information reported on the quarterly FERC Form No. 6-Q provides the Commission, as well as customers, investors and others, an important tool to help identify emerging trends and issues affecting jurisdictional entities within the energy industry. It also provides timely disclosures of the impacts that new accounting standards, or changes in existing standards, have on jurisdictional entities, as well as the economic effects of significant transactions, events, and circumstances. The reporting of this information by jurisdictional entities assists the Commission in its analysis of profitability, efficiency, risk, and in its overall monitoring.

*Comments:* Two commenters, the Bureau of Economic Analysis (BEA)<sup>5</sup> and the Liquids Shippers Group (LSG)<sup>6</sup> filed comments in response to the 60-day notice. There were no comments filed in opposition to the collection.

*BEA's Comments:* BEA's comments broadly support the collection and outline the manner in which BEA utilizes FERC Form Nos. 6 and 6-Q data. BEA states that the forms are used to estimate the U.S. Census Bureau's construction value put-in-place (VPIP) for oil pipeline utilities, which, according to BEA, serves as a major source data input to the national income

and product account (NIPA) for structures investment estimates. BEA notes that the NIPA estimates for electric, gas, and pipeline structures rely on the VPIP source data and that estimates of utility industry structures investment for the BEA fixed assets accounts relies on the VPIP-based NIPA structure estimates.

BEA further notes that FERC Form No. 6 data is used indirectly to derive annual pipeline transportation output in the industry accounts program. BEA explains that data obtained by the industry account from the Association of Oil Pipelines "Shifts in Petroleum Transportation" report is based, in part, on this survey. BEA concludes that FERC Form No. 6 information is considered an indispensable data source to the NIPA estimates and industry accounts estimates because it is used indirectly through the VPIP program and the trade association.

Finally, BEA requests that the Commission keep BEA informed of any modifications to FERC Form Nos. 6 and 6-Q, and notes, in particular, that BEA is particularly interested in any modifications proposed during the forms approval process that would substantially affect BEA's use of the data.

*Commission Response:* As discussed above, the public utilizes the data in FERC Form Nos. 6 and 6-Q to assist in monitoring rates, the financial condition of the oil pipeline industry, and in assessing energy markets. BEA's comments in support of the collection of the Form Nos. 6 and 6-Q data provide tangible examples of this utilization and reflect the public benefit of reporting FERC Form Nos. 6 and 6-Q information.

With respect to BEA's interest in any modifications to FERC Form Nos. 6 and 6-Q, we emphasize that we are not changing the information to be collected in this proceeding.

*The LSG's Comments:* The LSG supports the continuation of the FERC Form Nos. 6 and 6-Q information collections. The LSG states that the data helps the Commission and shippers to evaluate the reasonableness of pipeline rates. In addition, the LSG recommends that the Commission modify the FERC Form No. 6 in order to enhance the quality, utility and clarity of the information collection. The LSG explains that in April 2015, the LSG, the Airlines for America and the National Propane Gas Association filed a joint Petition for Rulemaking in Docket No. RM15-19-000. The petition asked the Commission to issue a proposed rule to modify FERC Form No. 6 in two respects: (1) Require certain pipelines to file disaggregated Page 700 data; and (2)

<sup>5</sup> BEA's comments are posted in FERC eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15227493> and <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15227494>.

<sup>6</sup> The LSG's comments are posted in FERC eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=15274579>.

require all pipelines to file or make Page 700 workpapers available to shippers and interested parties upon request, not just to FERC staff. The LSG also explains that it participated in the Commission's July 2015 technical conference on the Petition for Rulemaking.

The LSG states that it welcomed the Commission's decision to issue an Advanced Notice of Proposed Rulemaking (ANOPR) in October 2016 in Docket No. RM17-1.<sup>7</sup> According to the LSG, the Commission stated that it was considering issuing a NOPR to propose certain changes to the FERC Form No. 6, Page 700 reporting requirement in order to further enhance financial reporting transparency. The LSG notes that in its comments to the ANOPR, it encouraged the Commission to propose rule changes to require a subset of pipelines to file disaggregated Page 700 data in the form of the supplemental Page 700s that it explains was contemplated by the Commission in the ANOPR. The LSG states that it supported the Commission's proposal to require a pipeline to file disaggregated Page 700 data if it has both crude oil and petroleum product systems. The LSG further states that it supported the Commission's proposal to require a pipeline to file supplemental Page 700s

for: (1) "non-contiguous (geographically separate) pipeline systems;" and (2) "major pipeline systems" with certain suggested modifications to those criteria. According to the LSG, the aggregated data reported on Page 700 does not currently provide a shipper with the information it needs to determine whether certain pipelines are over-recovering on a specific pipeline or segment.

The LSG states that in its comments to the ANOPR, it encouraged the Commission to propose to revise Page 700 to require all pipelines to disaggregate Page 700 revenue, barrel and barrel-mile data associated with cost-based rates, non-cost based rates and other jurisdictional revenues such as penalties. In addition, the LSG states that it recommended that the Commission also propose to require all pipelines to include information regarding pipeline loss allowance revenues in the "other jurisdictional revenues" category because, according to the LSG, it is unclear whether those revenues are being recorded by pipelines on Page 700 in a uniform and consistent manner.

The LSG explains that in its comments to the ANOPR, it also reiterated the call for the Commission to require all pipelines to make their Page

700 workpapers available to a shipper or interested person upon request, not just to the Commission and FERC staff. The LSG suggested that there is no logical basis for, and no public interest served by, the requirement that pipelines provide their workpapers only to the Commission and Commission staff. According to the LSG, shippers should have the tools they need to bear the burden of evaluating the reasonableness of rates and bringing challenges to the pipeline's rates.

For the reasons stated in its comments to the ANOPR, the LSG recommends that the Commission issue a Notice of Proposed Rulemaking (NOPR) in which the Commission proposes the suggested modifications to the FERC Form No. 6.

**Commission Response:** The Commission and the public utilize the data in FERC Form Nos. 6 and 6-Q to assist in monitoring rates, the financial condition of the oil pipeline industry, and in assessing energy markets. The LSG's comments in support of the continued collection of FERC Form Nos. 6 and 6-Q data reflect the public benefit of reporting this information.

LSG's FERC Form No. 6 modification suggestions are currently before the Commission in Docket No. RM15-19-000 for consideration in that proceeding.

#### ESTIMATES OF ANNUAL BURDEN<sup>8</sup> AND COST<sup>9</sup> FOR FERC FORM NOS. 6 AND 6-Q

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours and cost (\$) per response	Total annual burden hours and total annual cost (\$)	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC Form No. 6 .....	244	1	244	161 hrs.; \$12,719 .....	39,284 hrs.; \$3,103,436.	\$12,719
FERC Form No. 6-Q ...	244	3	732	150 hrs.; \$11,850 .....	109,800 hrs.; \$8,674,200.	35,550

**Comments:** Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections

of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-14674 Filed 7-9-19; 8:45 am]

**BILLING CODE 6717-01-P**

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

[Docket No. AC19-171-000]

##### Spire Storage West LLC; Notice of Filing

Take notice that on June 28, 2019, Spire Storage West LLC (Spire Storage) filed a request as Successor to Clear Creek Storage Company, L.L.C. (Clear Creek) for waiver or clarification of any

<sup>7</sup> Revisions to Index Policies and Page 700 of FERC Form No. 6, 157 FERC 61,047 (2016).

<sup>8</sup> Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation

of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

<sup>9</sup> Commission staff estimates that the industry's average cost (for wages and benefits) for completing and filing FERC Form Nos. 6 and 6-Q are

comparable to the Commission's average cost. Therefore, we are using the FERC 2018 average salary plus benefits (for one FERC full-time equivalent, or FTE) of \$164,820/year (or \$79.00/hour).

continuing obligation to file FERC Form Nos. 3–Q and 2–A covering Clear Creek’s activities in the months of January and February 2019 immediately before its combination into Spire Storage.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission’s Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Comments:** 5:00 p.m. Eastern Time on August 2, 2019.

Dated: July 3, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019–14675 Filed 7–9–19; 8:45 am]

**BILLING CODE 6717–01–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 August 5, 2019.

*A. Federal Reserve Bank of Boston* (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to [BOS.SRC.Applications.Comments@bos.frb.org](mailto:BOS.SRC.Applications.Comments@bos.frb.org):

1. *Middlesex Federal MHC, Somerville, Massachusetts*; to become a mutual holding company by acquiring Middlesex Federal Savings, F.A., also of Somerville, Massachusetts.

Board of Governors of the Federal Reserve System, July 5, 2019.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–14682 Filed 7–9–19; 8:45 am]

**BILLING CODE 6210–01–P**

## GENERAL SERVICES ADMINISTRATION

[Notice QDC–2019–01; Docket No. 2019–0002; Sequence No. 18]

### Unique Entity ID Standard for Awards Management

**AGENCY:** Office of Systems Management, Integrated Award Environment, General Services Administration (GSA).

**ACTION:** Notice; announcement of public meeting.

**SUMMARY:** Notice of this new Unique Entity ID for Federal awards

management includes the final technical specification for the identifier standard. IAE is hosting a meeting to provide information on the new Unique Entity ID standard. The meeting is open to current and potential federal awardees (contracts, grants, loan recipients, etc.) and the public.

**DATES:** The Unique Entity ID standard is considered final on July 10, 2019.

**Meeting date:** The meeting will be held on Thursday, July 25, 2019, starting at 1 p.m. Eastern Standard Time (EST), and ending no later than 2 p.m., EST.

**ADDRESSES:** The meeting will be held virtually. Interested individuals must register to attend as instructed below under **SUPPLEMENTARY INFORMATION**. Once registered, participants will receive the meeting information. Further information on the unique entity ID may be found online on the following website: [gsa.gov/entityid](http://gsa.gov/entityid).

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Goode, Program Manager, IAE Outreach and Stakeholder Engagement Division. More information can be found at [gsa.gov/entityid](http://gsa.gov/entityid). Questions related to government implementation can be directed to [entityvalidation@gsa.gov](mailto:entityvalidation@gsa.gov). All media questions should be directed to the GSA Media Affairs at [press@gsa.gov](mailto:press@gsa.gov).

## SUPPLEMENTARY INFORMATION:

### Background

Currently, the System for Award Management (*SAM.gov*) utilizes the Dun & Bradstreet (D&B) Data Universal Numbering System (DUNS)® nine-digit number as the unique identifier for entities throughout the federal awarding lifecycle, in *SAM.gov*, in other Integrated Award Environment (IAE) systems, on required forms, and in downstream government systems.

In 2016, the government revised both the Federal Acquisition Regulation (FAR) and Title 2 of the Code of Federal Regulations (2CFR) to remove any proprietary references to D&B and the DUNS® number as the unique entity identifier. This allowed the government to decouple the required unique identifier from the supporting entity validation services.

As such, the U.S. government is moving to a new unique entity identifier for federal awards management, including, but not limited to, contracts, grants, and cooperative agreements, which will ultimately become the primary key to identify entities throughout the federal awarding lifecycle, in *SAM.gov*, other IAE systems, on required forms, and in downstream government systems. The

DUNS® will be phased out as the entity identifier for entity record within SAM.

Through December 2020, IAE systems will be transitioning from the DUNS® to a SAM-generated Unique Entity ID (UEI). The standard for the new UEI was developed by an interagency working group. This new entity identifier will be the authoritative identifier once the transition is complete.

More information can be found at [gsa.gov/entityid](https://gsa.gov/entityid). Questions related to government implementation can be directed to [entityvalidation@gsa.gov](mailto:entityvalidation@gsa.gov). All media questions should be directed to the GSA Media Affairs at [press@gsa.gov](mailto:press@gsa.gov).

#### Public Meeting

The public meeting will be conducted virtually where information on the awards management Unique Entity ID standard will be presented.

#### Procedures for Attendance

To register for the meeting please email [entityvalidation@gsa.gov](mailto:entityvalidation@gsa.gov) and the meeting information will be sent to you.

**Judith Zawatsky,**

*Assistant Commissioner, Office of Systems Management, General Services Administration.*

[FR Doc. 2019-14665 Filed 7-9-19; 8:45 am]

**BILLING CODE 6820-WY-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[CDC-2017-0028; Docket Number NIOSH-290]

#### Technical Report: The NIOSH Occupational Exposure Banding Process for Chemical Risk Management

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of availability.

**SUMMARY:** NIOSH announces the availability of *Technical Report: The NIOSH Occupational Exposure Banding Process for Chemical Risk Management*.

**DATES:** The final document was published on July 3, 2019 on the CDC website.

**ADDRESSES:** The document may be obtained at the following link: <https://www.cdc.gov/niosh/docs/2019-132/>.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Lentz ([TLentz@cdc.gov](mailto:TLentz@cdc.gov)),

National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Ave, MS C-32, Cincinnati, OH 45226, phone (513) 533-8260 (not a toll free number).

**SUPPLEMENTARY INFORMATION:** On March 15, 2017, NIOSH published a request for public review in the **Federal Register** [82 FR 13809] of the draft version of the document *Draft Current Intelligence Bulletin: The Occupational Exposure Banding Process: Guidance for the Evaluation of Chemical Hazards*. NIOSH received comments from a range of respondents including academia, government agencies, industry, and other interested parties. All comments received were reviewed and addressed where appropriate. On the basis of comments received, NIOSH provided clarification in the final document to indicate that the guidance for occupational exposure banding describes a voluntary, consistent, and documented process with a decision logic to characterize chemical hazards so that timely, well-informed risk management decisions can be made for chemical substances that lack occupational exposure limits. Additional comments pertaining to usability, clarity of the guidance, and validation were addressed throughout the document and in specifying future research needs. NIOSH Responses to Peer Review and Public Comments documents can be found in the Supporting Documents section on [www.regulations.gov](http://www.regulations.gov) for this docket.

**John J. Howard,**

*Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.*

[FR Doc. 2019-14635 Filed 7-9-19; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Docket No. CDC-2019-0029; NIOSH-327]

#### Mesothelioma Registry Feasibility; Request for Information; Extension of Comment Period

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Extension of comment period.

**SUMMARY:** On April 8, 2019, the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), opened a docket to obtain information

on the feasibility of a registry designed to track mesothelioma cases in the United States, as well as recommendations on enrollment, data collection, confidentiality, and registry maintenance. The purpose of such a registry would be to collect information that could be used to develop and improve standards of care and to identify gaps in mesothelioma prevention and treatment. Comments were to be received by July 8, 2019. NIOSH is extending the comment period to close on August 7, 2019, to allow stakeholders and other interested parties sufficient time to respond.

**DATES:** The comment period for the document published on April 8, 2019 (84 FR 13928), is extended. Comments must be received by August 7, 2019.

**ADDRESSES:** Comments may be submitted electronically, through the Federal eRulemaking Portal: <http://www.regulations.gov>, or by sending a hard copy to the NIOSH Docket Office, Robert A. Taft Laboratories, MS-C34, 1090 Tusculum Avenue, Cincinnati, OH 45226. All written submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC-2019-0029; NIOSH-327) for this action. All relevant comments, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C-48, Cincinnati, OH 45226; telephone (855) 818-1629 (this is a toll-free number); email [NIOSHregs@cdc.gov](mailto:NIOSHregs@cdc.gov).

**SUPPLEMENTARY INFORMATION:** NIOSH published a request for information in the **Federal Register** on April 8, 2019 (84 FR 13928), regarding the feasibility of a national mesothelioma registry. On June 28, 2019, NIOSH received a request to allow additional time for public comments. This notice announces the extension of the comment period until August 7, 2019.

**John J. Howard,**

*Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.*

[FR Doc. 2019-14639 Filed 7-5-19; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Disease Control and Prevention****[30Day–19–19BG]****Agency Forms Undergoing Paperwork Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Web-based approaches to reach black or African American and Hispanic/Latino MSM for HIV Testing and Prevention Services” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on December 6, 2018 to obtain comments from the public and affected agencies. CDC received one substantive comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and

instruments, call (404) 639–7570 or send an email to [omb@cdc.gov](mailto:omb@cdc.gov). Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Web-based approaches to reach black or African American and Hispanic/Latino MSM for HIV Testing and Prevention Services—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

The goal of this study is to evaluate the effectiveness of mailing out rapid HIV home-testing kits and additional testing promotion components to increase HIV testing among black/African-American or Hispanic/Latino MSM. The findings from this research will assist local and state health departments, and community based organizations in making decisions on how to improve HIV testing and linkage to HIV prevention services for black/African American and Hispanic/Latino men who have sex with men.

The research study is a randomized control trial and all survey data will be collected over the internet. There will not be any in-person surveys. We will advertise the study on internet websites frequented by black and Hispanic MSM. People will click on a banner ad and will be taken to a study website that provides a brief overview of the study. Those who are interested in participating will complete a brief survey to determine their eligibility. Men who are eligible will complete registration information and then download a study phone app onto their smartphone. The app will allow them to complete a baseline survey. After completing the baseline survey, they will be randomized into one of three conditions.

All participants will be sent up to four rapid HIV test kits for their use and to give to their friends (hereafter referred to as “guests”) and they will report their results to the study. Participants will use the study app to complete study activities. All participants and guests will have access to web-based HIV

counseling upon request. Participants who report a positive HIV test result will be offered web-based HIV counseling if they have not previously requested counseling. Men assigned to the control arm will only have access to the study app and web-based counseling. Men assigned to one intervention arm will also be able to access another smartphone app (HealthMindr) that will allow them to engage in additional study activities. Men assigned to the second intervention arm will have access to a web-based forum (HealthEmpowerment) covering HIV prevention and not the HealthMindr app. At four months after enrollment, all participants will complete an online survey and will be offered additional HIV testing materials to complete. Guests who receive a study HIV self-test kit will be able to report the result online.

The subpopulation are individuals who: (1) Identify as African-American/black or Hispanic/Latino; (2) report their HIV status as negative or report being unaware of their HIV status; (3) are not currently using PrEP or participating in other HIV testing prevention studies; (4) have had anal intercourse with another man in the past 12 months; (5) reside in one of the study states and not planning to move out of the state in the next 4 months; (6) Are 18 years or older; (7) born male; and (8) identify as male. We will evaluate the comparative effectiveness of the HIV home-testing kits and additional testing promotion components with respect to linkage of participants to appropriate services (HIV treatment, PrEP, STI testing, additional prevention and social services). These analyses will determine whether any such differences are significant within and across study arms, and by race/ethnicity.

Depending on the study arm to which participants are assigned filling out data collection forms, engaging with testing promotion components, and completing and submitting at-home HIV testing this will require between two hours 25 minutes and three hours and 45 minutes of a participant’s time over the course of the entire study period. Guests who receive an HIV self-test from a study participant will take up to 37 minutes to complete the testing activities.

The total annual burden hours are 1,517. There are no other costs to respondents other than time.

## ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent per year	Average burden per response (in hrs)
Potential participant .....	Eligibility Consent .....	3,333	3	2/60
Potential participant .....	Eligibility Screener .....	3,333	20	2/60
Potential participant .....	Study Consent .....	1,333	2	4/60
Potential participant .....	Registration contact information .....	1,267	7	2/60
Enrolled participant .....	Baseline Survey .....	1,200	107	20/60
Enrolled participant .....	Initial HIV Test Result Survey .....	1,000	43	5/60
Enrolled participant .....	Follow-up Survey .....	1,000	187	30/60
Enrolled participant .....	Final HIV Test Result Survey .....	1,000	18	5/60
Enrolled participant .....	Product ordering .....	400	12	3/60
Guest .....	Guest Consent .....	667	1	2/60
Guest .....	Guest HIV Test Result Survey .....	667	24	5/60

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.*

[FR Doc. 2019-14681 Filed 7-9-19; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-19-1129; Docket No. CDC-2019-0058]

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection titled, Improving Fetal Alcohol Spectrum Disorders (FASD) Prevention and Practice through Practice and Implementation Centers and National Partnerships (PICs). The purpose of FASD PICs is to collect training evaluation data from healthcare practitioners and staff in health systems where FASD-related practice and systems changes are implemented, and from grantees of Practice and Implementation Centers and national partner organizations related to prevention, identification, and

treatment of fetal alcohol spectrum disorders (FASDs).

**DATES:** CDC must receive written comments on or before September 9, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2019-0058 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to [Regulations.gov](https://www.regulations.gov).

*Please note: Submit all comments through the Federal eRulemaking portal ([regulations.gov](https://www.regulations.gov)) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of

previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

5. Assess information collection costs

### Proposed Project

Improving Fetal Alcohol Spectrum Disorders (FASD) Prevention and Practice through Practice and Implementation Centers and National Partnerships" project (OMB Control No. 0920-1129, Exp. 8/31/2019)—Revision — National Center for Birth Defects and Developmental Disability (NCBDDD), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

Prenatal exposure to alcohol is a leading preventable cause of birth defects and developmental disabilities. The term 'fetal alcohol spectrum

disorders' describes the full continuum of effects that can occur in an individual exposed to alcohol in utero. These effects include physical, mental, behavioral, and learning disabilities. All of these have lifelong implications.

Since 2002, CDC funded FASD Regional Training Centers (RTCs) to provide education and training to healthcare professionals and students about FASD prevention, identification, and treatment. In July 2013, CDC convened an expert review panel to evaluate the effectiveness of the RTC program overall and to make recommendations about the program.

The panel highlighted several accomplishments of the RTCs and proposed several changes for future programming: (1) The panel identified a need for more comprehensive coverage nationally with discipline-specific trainings, increased use of technology, greater collaboration with medical societies, and stronger linkages with national partner organizations to increase the reach of training opportunities, and (2) The panel suggested that the training centers focus on demonstrable practice change and sustainability and place a stronger emphasis on primary prevention of FASDs. In addition, it was recommended that future initiatives have stronger evaluation components.

Based on the recommendations of the expert review panel, CDC is placing

increased focus on prevention, demonstrating practice change, achieving national coverage, and strengthening partnerships between FASD Practice and Implementation Centers, or PICs (the newly redesigned RTCs), and medical societies and national partner organizations. The National Organization on Fetal Alcohol Syndrome (NOFAS) also participates in this project as a resource to the PICS and national partners. The PICs and national partners are asked to closely collaborate in discipline-specific workgroups (DSWs) and identify strategies that will increase the reach of the program on a national level. While a major focus of the grantees' work will be national, regional approaches will be used to develop new content and test feasibility and acceptability of materials, especially among healthcare providers and medical societies. In addition, CDC is placing a stronger emphasis on evaluation, with both individual DSW/NOFAS evaluations and a cross-site evaluation.

CDC requests OMB approval to collect program evaluation information from (1) healthcare practitioners from disciplines targeted by each DSW, including training participants, (2) health system staff, and (3) cooperative agreement grantees over a three-year period.

Healthcare practitioners will complete surveys to provide information on

whether project trainings impacted their knowledge and practice behavior regarding FASD identification, prevention, and treatment. The information will be used to improve future trainings and assess whether knowledge and practice changes occurred. Some participants will also complete qualitative key informant interviews to gain additional information on practice change. Health system employees will be interviewed or complete surveys as part of projects to assess healthcare systems change, including high impact evaluation studies and DSW systems change projects. The high impact evaluation studies will be primarily qualitative assessments of two to three specific grantee efforts that seem likely to result in achievement of program objectives. The DSW systems change projects will employ online surveys to assess systems change in selected health systems across the U.S.

Grantees will complete program evaluation forms to track perceptions of DSW collaboration and perceptions of key successes and challenges encountered by the DSW. It is estimated that 29,573 respondents will participate in the evaluation each year, for a total estimated burden of 3790 hours annually. There are no costs to respondents other than their time.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Project Grantee Staff .....	DSW Report .....	90	2	10/60	30
Project Grantee Staff .....	High Impact Study: Discipline Specific Workgroup Discussion Guide for Project Staff.	10	2	60/60	20
Health Care System Staff .....	High Impact Study: Key Informant Interview—Health Care System Staff.	10	2	60/60	20
FASD Core Training Participants .....	FASD Core Training Survey—Pre-Test.	4013	1	9/60	602
FASD Core Training Participants .....	FASD Core Training Survey—Post-Test.	4013	1	5/60	335
FASD Core Training Participants .....	FASD Core Training Survey—6 Month Follow-Up.	4013	1	6/60	402
Nurses .....	Pre-Training Survey for Nursing .....	667	1	9/60	101
Nurses .....	Post-Training Survey for Nursing .....	550	1	9/60	83
Nurses .....	Six Month Follow-Up Training Survey for Nursing.	440	1	9/60	66
Nurses .....	Nursing DSW Polling Questions .....	417	1	5/60	35
Nurses .....	Key Informant Interviews with Champions.	14	2	45/60	21
Nurses .....	Brief Questionnaire for Nursing Organization Memberships.	2,934	1	10/60	489
Nurses .....	Friends & Members of the Network Survey.	34	2	10/60	12
Healthcare Organization Representatives.	Healthcare Organization Utilization Survey.	234	1	30/60	117



## ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Obstetrician-Gynecologists and students in allied health professions.	OBGYN SBI Knowledge & Agency ..	600	1	2/60	20
Obstetrician-Gynecologists .....	OBGYN BI-MI Proficiency Rating Scale—Provider Skills Training Baseline.	600	1	3/60	30
Students in allied health professions	OBGYN BI-MI Proficiency Rating Scale—Standardized Patient Version.	600	1	3/60	30
Obstetrician-Gynecologists .....	OBGYN BI-MI Proficiency Rating Scale—Provider Follow Up (3m & 6m).	600	2	3/60	60
Obstetrician-Gynecologists and students in allied health professions.	OBGYN Telecom Training Satisfaction Survey.	480	1	5/60	40
Obstetrician-Gynecologists and students in allied health professions.	OBGYN Avatar Training Satisfaction Survey.	120	1	5/60	10
Obstetrician-Gynecologists .....	OBGYN FASD—SBI Training Event Evaluation.	124	1	2/60	5
Residency Directors, Training Coordinators, Clinical Directors, Obstetrician-Gynecologists.	OBGYN Qualitative Key Informant Interview—Pre-Training.	34	1	25/60	15
Residency Directors, Training Coordinators, Clinical Directors, Obstetrician-Gynecologists.	OBGYN Qualitative Key Informant Interview—Post-Training.	34	1	25/60	15
Certified Medical Assistants and students.	Medical Assistant—Pre-Test Survey	334	1	10/60	56
Students in allied health professions	Medical Assistant—Pre-Test Survey (Academic).	67	1	10/60	12
Certified Medical Assistants and students.	Medical Assistant—Post-Test Survey.	334	1	10/60	56
Students in allied health professions	Medical Assistant—Post-Test Survey (Academic).	67	1	10/60	12
Certified Medical Assistants and students.	Medical Assistant Follow Up Survey	200	1	10/60	34
Students in allied health professions	Medical Assistant Follow Up Survey (Academic).	17	1	10/60	3
Certified Medical Assistants and students.	Medical Assistants Change in Practice Survey.	250	1	15/60	63
Pediatricians .....	Survey of Pediatricians—Baseline and Follow Up.	534	2	10/60	178
Pediatricians .....	AAP Post-Training Evaluation Survey.	120	1	7/60	14
Pediatricians .....	AAP Pre-Training Evaluation Survey	120	1	7/60	14
Pediatricians .....	AAP Three Month Follow Up Evaluation Survey.	120	1	2/60	4
Pediatricians .....	AAP Six Month Follow Up Evaluation Survey.	120	1	5/60	10
Pediatricians .....	FASD Toolkit User Survey .....	50	1	15/60	13
Pediatricians .....	FASD Toolkit Evaluation Focus Group/Guided Interview.	10	1	30/60	5
Pediatricians .....	Pediatric FASD Regional Education and Awareness Liaisons Work Plan.	10	1	20/60	4
Pediatricians .....	Pediatric FASD Regional Liaison/Champion Training Session Evaluation.	10	1	4/60	1
Family Medicine Physicians .....	Family Medicine Evaluation Questions Addendum for Practice or Individual Provider.	62	1	8/60	9
Family medicine physicians, social workers, social work students.	Social Work and Family Physicians Pre-training Survey.	1167	1	8/60	156
Family medicine physicians, social workers, social work students.	Social Work and Family Physicians Post-training Survey.	1167	1	5/60	98
Family medicine physicians, social workers, social work students.	Social Work and Family Physicians 6-Month Follow Up Survey.	1167	1	8/60	156
NOFAS webinar attendees .....	NOFAS Webinar Survey .....	601	1	2/60	20
NOFAS webinar attendees .....	NOFAS Three Month Follow-Up Webinar Questionnaire.	601	1	2/60	20
NOFAS training participants .....	NOFAS Pre-Test Survey .....	551	1	3/60	28
NOFAS training participants .....	NOFAS Post-Test Survey .....	551	1	3/60	28

## ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Systems change project participants	Clinical Process Improvement Survey.	246	2	10/60	82
Systems change project participants	TCU Organizational Readiness Survey.	246	2	10/60	82
Systems change project participants	Organizational Readiness to Change Assessment.	220	2	10/60	74
<b>TOTAL</b> .....	.....	<b>29,573</b>	.....	.....	<b>3,790</b>

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.*

[FR Doc. 2019–14684 Filed 7–9–19; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day–19–19ABV]

#### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Information Collection on Soil-transmitted Helminth Infections in Alabama and Mississippi” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on April 2, 2019 to obtain comments from the public and affected agencies. CDC did not receive any comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to [omb@cdc.gov](mailto:omb@cdc.gov). Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

#### Proposed Project

Information Collection on Soil-transmitted Helminth Infections in Alabama and Mississippi—New—Center for Global Health (CGH), Centers for Disease Control and Prevention (CDC).

#### Background and Brief Description

Soil-transmitted helminths (STH) are intestinal worms transmitted through contaminated soil. They include roundworms (*Ascaris lumbricoides*), whipworms (*Trichuris trichiura*), hookworms (*Ancylostoma duodenale* and *Necator americanus*) and the worm *Strongyloides stercoralis*. These infections were widespread across the American South through the early 20th century, yet despite the historically high burden of STH infections in these endemic areas of the United States, few resources have been devoted to surveillance, prevention, and treatment of STH infections in recent years and

they are missed by routine information collection systems. As a result, the current prevalence of STH infections in previously endemic areas is unknown, but socioeconomic and environmental conditions favorable to ongoing transmission persist in areas of the south, including Alabama and Mississippi. Collecting this data, along with biological specimens to document infection, is critical to determine the prevalence of STH infections, their distribution, and risk factors associated with infection. This data will be used to inform the development and implementation of effective and sustainable prevention and control measures in affected areas.

The core data elements were developed with input from community advocates, and local, state, and federal public health and environmental health partners in both Alabama and Mississippi. The questionnaires have been designed for self-completion by respondents. The data that are collected will be pooled and analyzed by university partners and CDC, to generate hypotheses about potential risk factors for infection.

CDC requests OMB approval to collect critical information, not available otherwise, on the prevalence and distribution of disease and on risk factors, knowledge, attitudes and/or practices related to STH infections among residents in at-risk areas in Alabama and Mississippi. This information is critical for planning and implementation of disease prevention and control strategies targeting STH infections in the southeastern United States.

This data collection is not expected to entail substantial burden for respondents. The estimated total annualized burden associated with this data collection is 220 hours (approximately 958 individuals interviewed × 10 minutes/response). There will be no costs to respondents other than their time.

## ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Child or parent/guardian in Alabama .....	Questionnaire—Alabama .....	600	1	10/60
Parent/guardian in Mississippi .....	Questionnaire—Mississippi .....	358	1	10/60
Child or parent/guardian in Mississippi .....	Anthropometric data—Mississippi .....	358	1	10/60

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office,  
Office of Scientific Integrity, Office of Science,  
Centers for Disease Control and Prevention.*

[FR Doc. 2019–14679 Filed 7–9–19; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day–19–19BBV]

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request “Online training for law enforcement to reduce risks associated with shift work and long work hours” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on December 10, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to [omb@cdc.gov](mailto:omb@cdc.gov). Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

### Proposed Project

Online training for law enforcement to reduce risks associated with shift work and long work hours—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

Law enforcement officers work in stressful and dangerous conditions to enforce law and order, prevent crime, and protect persons and property. Police often work during the evening, at night, and sometimes irregular and long hours. Shift work and long work hours are linked to many health and safety risks due to disturbances to sleep, circadian rhythms, and personal relationships. These work schedules and inadequate sleep are likely critical contributors to the many health problems seen in police: Shorter life spans, high occupational injury rates, and burden of chronic illnesses. One important strategy to reduce these risks is training programs to inform employers and law enforcement officers about the risks and strategies to reduce the risks. This is a new Information Collection Request for one year of data collection. The National Institute for Occupational Safety and Health is authorized to carry out this data collection through Occupational Safety and Health Act of 1970.

The purpose of this project is to develop a training program to relay the risks linked to shift work and long work hours and give workplace strategies for employers and personal strategies for the officers to reduce the risks. Once finalized, the training will be available on the NIOSH website. The training will be pilot tested with 30 recent graduates of a police academy in their first field experience and 30 experienced officers. Study staff will recruit 60 law enforcement officers during a 30-minute phone call. All will work full time on fixed night shifts. The pilot test will use a pretest/posttest design to examine sleep (both duration and quality), worktime sleepiness, and knowledge retained. Pre-test measures will be collected two weeks before the training. Post-test measures will be collected the week of the training, one week after the training and at weeks 11 and 12 of the study. Additional post-test measures will include feedback about the training and if specific behaviors changed.

Before starting the pretest, the respondent will sign an informed consent form. The pilot pre-test will start with the respondent filling out a 10 minute online survey that includes four short surveys: (1) Demographic information and work experience; (2) the Epworth Sleepiness Scale; (3) the Pittsburgh Sleep Quality Index; and (4) a knowledge test. The respondent will be fitted with a wrist actigraph, which will record activity and estimate the times of sleep. The respondents will keep an online sleep activity diary and wear the actigraph continuously during weeks one to four of the study. The online sleep activity diary takes approximately two minutes a day to complete. The sleep diary and actigraph are being used together to obtain a more accurate timing of respondent's sleep and activity.

During the third week of the study, the respondent will take the 2.5 hour online training program. Immediately after completing the training, the respondent will take the post-test knowledge test and will provide feedback about the training including barriers to using the training information and what influential people

in their life would want them to do with the training information. At the end of week four, the respondent will return the actigraph. No data collection will occur during weeks five to 10 of the study.

The second post-test period will be weeks 11 and 12 of the study to gather longer-term outcomes. At the beginning of week 11, the respondents will be fitted with an actigraph. The respondent will wear the actigraph and complete the sleep activity diary for the next 14 days. At the end of week 12 of the study, respondent will complete the

Epworth Sleepiness Scale, Pittsburgh Sleep Quality Index, and Changes in Behaviors questionnaires. The combined response time is five minutes. The respondent will return the actigraph and study ends.

The burden table lists three 10-minute meetings during the post-test period when they will return the actigraph at the end of week four, be fitted with an actigraph at the beginning of week 11 and return it at the end of week 12. The respondents will complete the sleep activity diary for 42 days, which will take two minutes each day.

Study staff will use the findings from the pilot test to make improvements to the training program. The research team will reinforce or expand training content that showed less than desired results on the pilot test. Potential impacts of this project include improvements in management practices such as the design of work schedules and improvements in officers' personal behaviors for coping with the demands of shift work and long work hours. The total estimated annualized burden hours is 334. There are no costs to respondents other than their time.

#### ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Law enforcement officers .....	phone call for recruitment informed consent	60	1	30/60
Law enforcement officers .....	Initial meeting .....	60	1	15/60
Law enforcement officers .....	Knowledge survey .....	60	5	5/60
Law enforcement officers .....	Epworth Sleepiness Scale .....	60	2	1/60
Law enforcement officers .....	Pittsburgh Sleep Quality Index .....	60	2	2/60
Law enforcement officers .....	Demographics and work experience .....	60	1	2/60
Law enforcement officers .....	Sleep Activity Diary .....	60	84	2/60
Law enforcement officers .....	Online training .....	60	1	150/60
Law enforcement officers .....	Feedback about Training, Barriers, and Influential People.	60	1	5/60
Law enforcement officers .....	Changes in Behaviors after Training .....	60	1	2/60
Law enforcement officers .....	Actigraph fitting and return .....	60	3	10/60

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019-14680 Filed 7-9-19; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10328]

#### Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Correction of notice.

**SUMMARY:** This document corrects the information provided for [Document Identifier: CMS-10328] titled "Medicare Self-Referral Disclosure Protocol."

**FOR FURTHER INFORMATION CONTACT:** William N. Parham, III, (410) 786-4669.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the June 26, 2019, issue of the **Federal Register** (84 FR 30123), we

published a Paperwork Reduction Act notice requesting a 60-day public comment period for the information collection request identified under CMS-10328, OMB control number 0938-1106, and titled "Medicare Self-Referral Disclosure Protocol."

##### II. Explanation of Error

In the June 26, 2019, notice, the information provided in the second column of the notice on page 30125, was published with incorrect information in the "Number of Respondents," the "Total Annual Responses," and the "Total Hours" sections. This notice corrects the language found in the "Number of Respondents," the "Total Annual Responses," and the "Total Hours" sections under the third column in the middle of the column on page 30125 of the June 26, 2019. All of the other information contained in the June 26, 2019, notice is correct. The related public comment period remains in effect and ends August 26, 2019.

##### III. Correction of Error

In FR Doc. 2019-13608 of June 26, 2019 (84 FR 30123), page 30125, the language in the middle of the second column that begins with "[Number of

Respondents" and ends with "Total Annual Hours: 194,250.]" is corrected to read as follows:

[Number of Respondents: 100; Total Annual Responses: 100; Total Annual Hours: 5,000.]

Dated: July 3, 2019.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019-14650 Filed 7-9-19; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-855S and CMS-10527]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to

comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by September 9, 2019.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number \_\_\_\_\_, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:**

## Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-855S Medicare Enrollment Application—Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Suppliers  
CMS-10527 Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

## Information Collection

### 1. Type of Information Collection

*Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Enrollment Application—Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Suppliers; *Use:* The CMS-855S is submitted by an applicant to the National Supplier Clearinghouse Medicare Administrative Contractor (NSC MAC) to initially apply for a Medicare billing number, and thereafter to add a new business location, revalidate Medicare enrollment, reactivate Medicare enrollment, to report a change to current Medicare enrollment information, changing the tax identification number, and to voluntarily terminate the supplier's Medicare enrollment, as applicable. It is used by new applicants as well as suppliers already enrolled in Medicare but need to submit the form for a reason other than initial enrollment into the Medicare program. *Form Number:* CMS-855S (OMB control number: 0938-1056); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other

for-profits and Not-for-profit institutions; *Number of Respondents:* 135,351; *Total Annual Responses:* 44,757; *Total Annual Hours:* 265,471. (For policy questions regarding this collection contact Kim McPhillips at 410-786-5374.)

### 2. Type of Information Collection

*Request:* Extension of a currently approved collection; *Title of information Collection:* Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices; *Use:* Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, qualified health plans (QHPs) and other components of title I of the Affordable Care Act. Under section 2703 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, and former section 2712 and section 2741 of the PHS Act, enacted by the Health Insurance Portability and Accountability Act of 1996, health insurance issuers in the group and individual markets must guarantee the renewability of coverage unless an exception applies.

The final rule "Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, including Standards Related to Exchanges" (79 FR 52994), provides that an Exchange may choose to conduct the annual redetermination process for a plan year (1) in accordance with the existing procedures described in 45 CFR 155.335; (2) in accordance with procedures described in guidance issued by the Secretary for the coverage year; or (3) using an alternative proposed by the Exchange and approved by the Secretary.

The final rule also amends the requirements for product renewal and re-enrollment (or non-renewal) notices to be sent by QHP issuers in the Exchanges and specifies content for these notices. The guidance document "Updated Federal Standard Renewal and Product Discontinuation Notices" (published on July 19, 2018) provides standard notices for product discontinuation and renewal to be sent by issuers of individual market QHPs and issuers in the individual market.

Issuers in the small group market may use the draft federal standard small group notices released in the June 26, 2014 bulletin "Draft Standard Notices When Discontinuing or Renewing a Product in the Small Group or Individual Market", or any forms of the notice otherwise permitted by applicable laws and regulations. States that are enforcing the guaranteed renewability provisions of the Affordable Care Act may develop their own standard notices for product discontinuances, renewals, or both, provided the state-developed notices are at least as protective as the federal standard notices. *Form Number:* CMS-10527 (OMB control number 0938-1254); *Frequency:* Annually; *Affected Public:* Private Sector, State Governments; *Number of Respondents:* 1,805; *Total Annual Responses:* 7,420; *Total Annual Hours:* 90,331. For policy questions regarding this collection contact Usree Bandyopadhyay at 410-786-6650.

Dated: July 5, 2019.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019-14693 Filed 7-9-19; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10003]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information

collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by August 9, 2019.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-5806 OR, Email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of the following:

1. Access CMS' website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:** William Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection:* Revision with change of a currently approved collection; *Title of Information Collection:* Notice of Denial of Medical Coverage (or Payment) (NDMCP); *Use:* Section 1852(g)(1)(B) of the Social Security Act (the Act) requires Medicare health plans to provide enrollees with a written notice in understandable language of the reasons for the denial and a description of the applicable appeals processes. Medicare health plans, including Medicare Advantage plans, cost plans, and Health Care Prepayment Plans (HCPPs), are required to issue the Notice of Denial of Medical Coverage (or Payment) (NDMCP) when a request for either a medical service or payment is denied, in whole or in part. Additionally, the notices inform Medicare enrollees of their right to file an appeal, outlining the steps and timeframes for filing. All Medicare health plans are required to use these standardized notices. In 2013, Medicaid appeal rights were integrated into form CMS-10003 for beneficiaries who are eligible for Medicare and full Medicaid benefits under a State Medicaid plan. These appeal rights are provided in instances where a Medicare health plan enrollee receives full benefits under a State Medical Assistance (Medicaid) program being managed by the plan and the plan denies a service or item that is also subject to Medicaid appeal rights.

Changes to the collection from the 60-day package to the 30-day package include:

- Removal of language related to State Fair Hearings to comply with the change in Medicaid managed care rules at 42 CFR 438.402(c)(1)(i), effective 2017, that all Medicaid managed care denials must now first have a plan-level review before a State Fair Hearing can be requested.

- Updates to comply with the Medicare Advantage final rule, published May 23, 2019, **Federal Register**, 84 FR 23832, effective January 1, 2020, regarding the change in timeframes for Medicare Advantage appeals related to Part B drugs.

- Removing the option to delete sections related to expedited payment requests (if applicable); plans are to leave all language regarding fast appeals. Text has been added to the notice informing enrollees they do not have a right to request an expedited appeal if they are asking to be paid back for an item or service already received (42 CFR 422.570(a)).

- The addition of language in the instructions that "applicable integrated plans" should follow notification requirements under final rule published

April 16, 2019, **Federal Register**, 84 FR 15680, and amended May 23, 2019, **Federal Register**, 84 FR 23832, effective January 1, 2021.

- The addition of instructions for MA-PDs to enter text in the free text field “why did we deny your request?” when they have determined that the requested drug being denied is covered under Part D.

*Form Number:* CMS-10003 (OMB control number: 0938-0829); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 694; *Total Annual Responses:* 9,373,200; *Total Annual Hours:* 1,561,575. (For policy questions regarding this collection contact Staci Paige at 410-786-1943.)

Dated: July 5, 2019.  
**William N. Parham, III,**  
*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*  
 [FR Doc. 2019-14719 Filed 7-9-19; 8:45 am]  
**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2019-N-2338]

#### Apotex, Inc.; Withdrawal of Approval of 31 Abbreviated New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is

withdrawing the approval of 31 abbreviated new drug applications (ANDAs) held by Apotex, Inc. (Apotex). Apotex, through its U.S. agent, has requested withdrawal of these applications and has waived its opportunity for a hearing.

**DATES:** Approval is withdrawn as of July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kristiana Brugger, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6262, Silver Spring, MD 20993, 301-796-3600.

**SUPPLEMENTARY INFORMATION:** FDA approved the following ANDAs on the dates indicated in the table, for the conditions of use found in the reference listed drug for each application:

ANDA	Date of approval	Name of drug product
040774 .....	October 3, 2007 .....	Hydrochlorothiazide Tablets USP, 25 milligrams (mg) and 50 mg.
065507 .....	July 13, 2011 .....	Azithromycin Tablets, 250 mg.
065508 .....	July 13, 2011 .....	Azithromycin Tablets, 600 mg.
065509 .....	July 13, 2011 .....	Azithromycin Tablets, 500 mg.
078389 .....	May 16, 2008 .....	Hydrochlorothiazide Capsules, 12.5 mg.
078841 .....	June 2, 2011 .....	Donepezil Hydrochloride Tablets, 5 mg and 10 mg.
090150 .....	October 6, 2010 .....	Losartan Potassium and Hydrochlorothiazide Tablets, 50 mg/12.5 mg, 100 mg/12.5mg, and 100 mg/25 mg.
090419 .....	April 22, 2009 .....	Mycophenolate Mofetil Capsules, 250 mg.
090463 .....	August 30, 2010 .....	Perindopril Erbumine Tablets, 2 mg, 4 mg, and 8 mg.
090499 .....	April 22, 2009 .....	Mycophenolate Mofetil Tablets, 500 mg.
090790 .....	October 6, 2010 .....	Losartan Potassium Tablets USP, 25 mg, 50 mg, and 100 mg.
091260 .....	August 25, 2011 .....	Cevimeline Hydrochloride Capsules, 30 mg.
091373 .....	April 22, 2011 .....	Naratriptan Tablets USP, 1 mg and 2.5 mg.
091379 .....	November 6, 2012 .....	Sildenafil Citrate Tablets, 20 mg.
200164 .....	September 25, 2012 .....	Tolterodine Tartrate Tablets, 1 mg and 2 mg.
200832 .....	October 15, 2012 .....	Irbesartan Tablets USP, 75 mg, 150 mg, and 300 mg.
200878 .....	April 20, 2012 .....	Verapamil Hydrochloride Extended-Release Tablets USP, 120 mg, 180 mg, and 240 mg.
201294 .....	August 3, 2012 .....	Montelukast Sodium Tablets, 10 mg.
201503 .....	March 8, 2013 .....	Cabergoline Tablets, 0.5 mg.
201505 .....	October 15, 2012 .....	Irbesartan and Hydrochlorothiazide Tablets USP, 150 mg/12.5 mg, and 300 mg/12.5 mg.
201508 .....	August 3, 2012 .....	Montelukast Sodium Chewable Tablets, 4 mg and 5 mg.
201950 .....	September 12, 2013 .....	Rasagiline Mesylate Tablets, 0.5 mg and 1 mg.
202078 .....	May 14, 2013 .....	Zolmitriptan Tablets, 2.5 mg and 5 mg.
202079 .....	January 10, 2014 .....	Candesartan Cilexetil Tablets, 4 mg, 8 mg, 16 mg, and 32 mg.
202244 .....	December 31, 2012 .....	Rizatriptan Benzoate Tablets, 5 mg and 10 mg.
202476 .....	May 14, 2013 .....	Zolmitriptan Orally Disintegrating Tablets, 2.5 mg and 5 mg.
202477 .....	July 1, 2013 .....	Rizatriptan Benzoate Orally Disintegrating Tablets, 5 mg and 10 mg.
202884 .....	December 4, 2012 .....	Candesartan Cilexetil and Hydrochlorothiazide Tablets, 16 mg/12.5 mg, 32 mg/12.5 mg, and 32 mg/25 mg.
203021 .....	May 22, 2012 .....	Nevirapine Tablets USP, 200 mg.
203026 .....	March 21, 2013 .....	Valsartan and Hydrochlorothiazide Tablets USP, 80 mg/12.5 mg, 160 mg/12.5 mg, 160 mg/25 mg, 320 mg/12.5 mg, and 320 mg/25 mg.
205258 .....	April 3, 2014 .....	Nevirapine Extended-Release Tablets, 400 mg.

However, after these drugs were approved, FDA became aware of concerns involving material manufactured at two Apotex facilities, at least one of which was named in each of these applications. The facilities involved were Apotex Private Research

Ltd. (Federal Employer Identification (FEI) number: 3006076314) and Apotex Pharmachem India Private Ltd. (FEI: 3005466325). The application numbers for the impacted ANDAs are listed above. In January 2018, Apotex requested withdrawal of the above

ANDAs and waived its opportunity for a hearing. FDA interprets this withdrawal request as a request under § 314.150(d) (21 CFR 314.150(d)).

Therefore, for the reasons discussed above, and pursuant to Apotex's request, FDA is withdrawing approval

of the ANDAs in the table above, and all amendments and supplements thereto, under § 314.150(d). In each case, approval of the entire application is withdrawn, including any approved strengths inadvertently missing from the table. Distribution of the products listed in the table above in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)).

Dated: July 3, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-14660 Filed 7-9-19; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2014-D-1747]

#### Risk Evaluation and Mitigation Strategies: Modifications and Revisions; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled “Risk Evaluation and Mitigation Strategies: Modifications and Revisions.” This guidance provides information on how FDA will define and process submissions for modifications and revisions of risk evaluation and mitigation strategies (REMS), as well as information on what types of changes to approved REMS will be considered modifications or revisions of the REMS. The guidance also provides instructions to application holders related to procedures for submission of REMS modifications and revisions to FDA as well as different timeframes for FDA’s review of and action on such changes. The definitions of REMS modifications and revisions apply to all types of REMS. This guidance updates the guidance of the same name, issued April 7, 2015, including finalizing the portion that sets forth the submission procedures for REMS revisions.

**DATES:** The announcement of the guidance is published in the **Federal Register** on July 10, 2019.

**ADDRESSES:** You may submit either electronic or written comments on

Agency guidances at any time as follows:

#### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2014-D-1747 for “Risk Evaluation and Mitigation Strategies: Modifications and Revisions.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the

information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

#### FOR FURTHER INFORMATION CONTACT:

Vaishali Jarral, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6480, Silver Spring, MD 20993-0002, 301-796-4248; or Stephen Ripley, Center for



Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is announcing the availability of a guidance for industry entitled "Risk Evaluation and Mitigation Strategies: Modifications and Revisions." This guidance provides information on what types of changes to approved REMS will be considered modifications of the REMS and what types of changes will be considered revisions. (See section 505-1(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355-1(h)).) This guidance also provides information on how REMS modifications and revisions should be submitted to FDA and how FDA intends to review and act on these submissions.

If FDA determines that a REMS is necessary to ensure that the benefits of a drug outweigh its risks, FDA is authorized to require a REMS for such drugs under section 505-1 of the FD&C Act.<sup>1</sup> Section 505-1(g) and (h) of the FD&C Act include provisions for the assessment and modification of an approved REMS. Section 505-1(h) of the FD&C Act requires FDA to review and act on proposed *minor modifications*, as defined in guidance, within 60 days.<sup>2</sup> It also requires FDA to establish, through guidance, that "certain modifications" can be implemented following notification to FDA. (See section 505-1(h)(2)(A)(iv) of the FD&C Act.) In addition, FDA is required to review and act on REMS modifications to conform the REMS to approved safety labeling changes, or to a safety labeling change that FDA has directed the application holder to make pursuant to section 505(o)(4) of the FD&C Act within 60 days. (See section 505-1(h)(2)(A)(iii) of the FD&C Act.) Finally, section 505-1(g)(4)(A) of the FD&C Act specifies that proposed REMS modifications no longer require submission of a REMS assessment; instead, proposed

modifications must include an adequate rationale for the proposed changes.

This guidance updates the guidance of the same name, issued April 7, 2015 (80 FR 18629), and finalizes the portion that sets forth the submission procedures for REMS revisions. FDA carefully considered all comments received, including comments on the submission procedures portion, and revised the guidance as appropriate.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on "Risk Evaluation and Mitigation Strategies: Modifications and Revisions." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

##### II. Paperwork Reduction Act of 1995

This final guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). REMS modifications are submitted to FDA as supplements to approved new drug applications (NDAs) under 21 CFR 314.70 and for abbreviated new drug applications (ANDAs) under 21 CFR 314.97, and for approved biologics license applications (BLAs) under 21 CFR 601.12. Burden hours for NDAs and ANDAs are approved by OMB under control number 0910-0001, and for BLAs under control number 0910-0338. REMS revisions are submitted to FDA as application correspondence and are also approved by OMB under control numbers 0910-0001 and 0910-0338.

##### III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.regulations.gov>.

Dated: July 3, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-14663 Filed 7-9-19; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the 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 materials, 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:* Biomedical Informatics, Library and Data Sciences Review Committee.

*Date:* November 14-15, 2019.

*Time:* November 14, 2019, 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Hyatt, 1 Metro Center, Bethesda, MD 20814.

*Time:* November 15, 2019, 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Contact Person:* Zoe E. Huang, MD, Chief Scientific Review Officer, Scientific Review Office, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892-7968, 301-594-4937, [huangz@mail.nih.gov](mailto:huangz@mail.nih.gov). (Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: July 3, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-14645 Filed 7-9-19; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood 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

<sup>1</sup> Section 505-1 of the FD&C Act applies to applications for prescription drugs submitted under subsection 505(b) (*i.e.*, new drug applications) or (j) (*i.e.*, abbreviated new drug applications) of the FD&C Act (21 U.S.C. 355(b) or (j), respectively) and applications under section 351 of the Public Health Service Act (*i.e.*, biologics license applications).

<sup>2</sup> See section 505-1(h)(2)(A)(ii) of the FD&C Act. Section 1132(c) of the Food and Drug Administration Safety and Innovation Act also provides that FDA will issue guidance that, for purposes of section 505-1(h)(2)(A) of the FD&C Act, describes the types of modifications to approved risk evaluation and mitigation strategies that are considered to be minor modifications of such strategies.

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 Heart, Lung, and Blood Institute Special Emphasis Panel; R13 Conference Grant Review.

*Date:* July 30, 2019.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Keith A. Mintzer, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892, 301-594-7947, [mintzerk@nhlbi.nih.gov](mailto:mintzerk@nhlbi.nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Outstanding Investigator Award (OIA).

*Date:* August 5–6, 2019.

*Time:* August 05, 2019, 1:00 p.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Time:* August 06, 2019, 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301-435-0297, [nagelinmh2@nhlbi.nih.gov](mailto:nagelinmh2@nhlbi.nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; Stimulating Access to Research in Residency (StARR).

*Date:* August 21, 2019.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301-827-7953, [kristen.page@nih.gov](mailto:kristen.page@nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel;

Continuation of Existing Grant Based Epidemiology Cohort Studies in Heart, Lung, Blood, and Sleep Diseases and Disorders.

*Date:* August 22, 2019.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892, 301-827-7913, [creazzotl@mail.nih.gov](mailto:creazzotl@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

*Dated:* July 3, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-14647 Filed 7-9-19; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA-2019-0007]

### Cybersecurity and Infrastructure Security Agency Vulnerability Assessments

**AGENCY:** Infrastructure Security Division (ISD), Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

**ACTION:** 60-Day notice and request for comments; Revision, 1670-0035.

**SUMMARY:** DHS CISA ISD will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are due by September 9, 2019.

**ADDRESSES:** You may submit comments, identified by docket number CISA-2019-0007, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.

- *Email:* [IPGatewayHelpDesk@hq.dhs.gov](mailto:IPGatewayHelpDesk@hq.dhs.gov). Please include docket number CISA-2019-0007 in the subject line of the message.

- *Mail:* Written comments and questions about this Information Collection Request should be forwarded

to DHS/CISA/ISD, ATTN: 1670-0035, 245 Murray Lane SW, Mail Stop 0602, Washington, DC 20598-0602.

*Instructions:* All submissions received must include the words “Department of Homeland Security” and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket and comments received, please go to [www.regulations.gov](http://www.regulations.gov) and enter docket number CISA-2019-0007.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

**FOR FURTHER INFORMATION CONTACT:** Ricky Morgan, 866-844-8163, [IPGatewayHelpDesk@hq.dhs.gov](mailto:IPGatewayHelpDesk@hq.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Homeland Security Presidential Directive-7, the Presidential Policy Directive-21, and the National Infrastructure Protection Plan highlight the need for a centrally managed repository of infrastructure attributes capable of assessing risks and facilitating data sharing. To support this mission need, the DHS CISA ISD has developed a data collection system that contains several capabilities which support the homeland security mission in the area of critical infrastructure (CI) protection.

Protective Security Advisors (PSAs) and Cyber Security Advisors (CSAs) conduct voluntary assessments on CI facilities. These assessments are web-based and are used to collect an organization's basic, high-level information, and its dependencies. This data is then used to determine a Protective Measures Index (PMI) and a Resilience Measures Index (RMI) for the assessed organization. This information allows an organization to see how it compares to other organizations within the same sector as well as allows them to see how adjusting certain aspects

would change their score. This allows the organization to then determine where best to allocate funding and perform other high level decision making processes pertaining to the security and resiliency of the organization.

The information will be gathered by site visits, arranged between the organization owners and DHS PSAs or CSAs. The PSA or CSA will then visit the site and perform the assessment, as requested. They then return to complete the vulnerability assessment and input the data into the system where the data is then accessible to system users. Once available, the organization and other relevant system users can then review the data and use it for planning, risk identification, mitigation and decision making. All data is captured electronically by the PSA, CSA or by the organization as a self-assessment. The vulnerability assessments are voluntary but are required in order for the organization to receive an evaluation of their security posture.

After assessments are input into the system, the user is prompted to participate in a feedback questionnaire. Every user is prompted to participate in the Post Assessment questionnaire after entering an assessment. Participation in the Post Assessment questionnaire is voluntary. The Post Assessment Questionnaires are designed to capture feedback about a vulnerability assessment and the system. There are three different questionnaires correlated and prompted after entering a particular assessment into the database. The results are used internally within DHS to make programmatic improvements.

The collection of information uses automated electronic vulnerability assessments and questionnaires. The vulnerability assessments and questionnaires are electronic in nature and include questions that measure the security, resiliency and dependencies of an organization. The vulnerability assessments are arranged at the request of an organization and are then scheduled and performed by a PSA or CSA.

The changes to the collection since the previous OMB approval include: Updating the title of the collection, adding three customer feedback questionnaires, increase in burden estimates and costs. The three questionnaires were added to the collection to provide user feedback on the content and functionality of the system. The addition of the questionnaires have increased the burden estimates by \$3,861.

The annual burden cost for the collection has increased by \$121,591,

from \$1,786,166 to \$1,907,757, due to the addition of the Post Assessment Questionnaires and updated wage rates.

The annual government cost for the collection has increased by \$509,195, from \$1,710,959 to \$2,220,152, due to the addition of the Post Assessment Questionnaires and updated wage rates.

This is a revision and renewal of an information collection.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Title of Collection:* Cybersecurity and Infrastructure Security Agency Vulnerability Assessments.

*OMB Control Number:* 1670-0035.

*Frequency:* Annually.

*Affected Public:* State, Local, Tribal, and Territorial Governments and Private Sector Individuals.

*Number of Annualized Respondents:* 3,181.

*Estimated Time per Respondent:* 7.5 hours, 0.17 hours.

*Total Annualized Burden Hours:* 21,907 hours.

*Total Annualized Respondent*

*Opportunity Cost:* \$1,907,757.

*Total Annualized Respondent Out-of-Pocket Cost:* \$0.

*Total Annualized Government Cost:* \$2,220,152.

**Scott Libby,**

*Deputy Chief Information Officer.*

[FR Doc. 2019-14698 Filed 7-9-19; 8:45 am]

**BILLING CODE 9910-9P-P**

## DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA-2019-0008]

### IP Gateway User Registration

**AGENCY:** Infrastructure Security Division (ISD), Cybersecurity and Infrastructure

Security Agency (CISA), Department of Homeland Security (DHS).

**ACTION:** 60-Day notice and request for comments; revision, 1670-0009.

**SUMMARY:** DHS CISA ISD will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are due by September 9, 2019.

**ADDRESSES:** You may submit comments, identified by docket number CISA-2019-0008, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.

- *Email:* [IPGatewayHelpDesk@hq.dhs.gov](mailto:IPGatewayHelpDesk@hq.dhs.gov). Please include docket number CISA-2019-0008 in the subject line of the message.

- *Mail:* Written comments and questions about this Information Collection Request should be forwarded to DHS/CISA/ISD, ATTN: 1670-0009, 245 Murray Lane SW, Mail Stop 0602, Washington, DC 20598-0602.

*Instructions:* All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket and comments received, please go to [www.regulations.gov](http://www.regulations.gov) and enter docket number CISA-2019-0008.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

### FOR FURTHER INFORMATION CONTACT:

Ricky Morgan, 866-844-8163, [IPGatewayHelpDesk@hq.dhs.gov](mailto:IPGatewayHelpDesk@hq.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Homeland Security Presidential

Directive–7, Presidential Policy Directive–21, and the National Infrastructure Protection Plan highlight the need for a centrally managed repository of infrastructure attributes capable of assessing risks and facilitating data sharing. To support this mission need, the DHS CISA IDS has developed the IP Gateway. The IP Gateway contains several capabilities which support the homeland security mission in the area of critical infrastructure (CI) protection.

The purpose of this collection is to gather the details pertaining to the users of the IP Gateway for the purpose of creating accounts to access the IP Gateway. This information is also used to verify a need to know to access the IP Gateway. After being vetted and granted access, users are prompted and required to take an online training course upon first logging into the system. After completing the training, users are permitted full access to the system. In addition, this collection will gather feedback from the users of the IP Gateway to determine any future system improvements.

The information gathered will be used by the CISA IP Gateway Program Management Team to vet users for a need to know and grant access to the system. As part of the registration process, users are required to take a one-time online training course. When logging into the system for the first time, the system prompts users to take the training courses. Users cannot opt out of the training and are required to take the course in order to gain and maintain access to the system. When users complete the training, the system automatically logs that the training is complete and allows full access to the system.

Additionally, CISA uses a Utilization Survey to assess the current functionality of the IP Gateway as well as identify any further capabilities to be developed. Through this process, the IP Gateway will remain a viable solution for the stakeholders. This survey is available to users as an ideal way to consolidate end user satisfaction feedback and gather undeveloped capabilities that would aid in the expansion and functionality of the IP Gateway.

The collection of information uses automated electronic forms. During the online registration process, there is an electronic form used to create a user account and an online training course required to grant access.

The survey is electronic and includes questions that measure the satisfaction of the user as well as a section to capture any improvements that the user

would like to see added and/or corrected. This voluntary survey is available by clicking a link labeled “User Survey” on the IP Gateway landing page. By clicking on this link, the user is then provided the electronic form for them to complete and submit.

The changes to the collection since the previous OMB approval include: Updating the title of the collection, decrease in burden estimates and decrease in costs. The total annual burden cost for the collection has decreased by \$31,909, from \$37,230 to \$5,321 due to a decrease in registrations, as registration is a one-time burden. The total number of responses has decreased by 1,150 from 1,500 to 350 since most users are already registered for the system as well as making updates for the number of survey responses received. The annual government cost for the collection has decreased by \$95,188 from \$107,857 to \$12,668, due to removing the costs associated with designing the survey.

This is a revision and renewal of an information collection.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Title of Collection:* IP Gateway User Registration.

*OMB Control Number:* 1670–0009.

*Frequency:* Annually.

*Affected Public:* State, Local, Tribal, and Territorial Governments and Private Sector Individuals.

*Number of Annualized Respondents:* 250.

*Estimated Time per Respondent:* 0.17 hours, 0.5 hours.

*Total Annualized Burden Hours:* 92 hours.

*Total Annualized Respondent Opportunity Cost:* \$5,321.

*Total Annualized Respondent Out-of-Pocket Cost:* \$0.

*Total Annualized Government Cost:* \$12,668.

**Scott Libby,**

*Deputy Chief Information Officer.*

[FR Doc. 2019–14697 Filed 7–9–19; 8:45 am]

**BILLING CODE 9110–9P–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS–R7–ES–2019–0053; FXES111607MRG01–190–FF07CMM00]

#### Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorizations for Northern Sea Otters in Southeast Alaska

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications and proposed incidental harassment authorizations; availability of draft environmental assessments; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received two requests, one from the City and Borough of Sitka (CBS) and one from Duck Point Development II, LLC (DPD), for authorization to take small numbers of the southeast Alaska stock of northern sea otters incidental to pile driving in Sitka Sound and Port Frederick, Alaska, between April 1, 2019, and September 30, 2019. However, due to the time needed to process the request, we evaluated the estimated take of northern sea otters during project activities between July 22, 2019, and December 31, 2019. We estimate there may be up to 12 nonlethal, incidental takes by harassment of 4 northern sea otters for the CBS project, and up to 1,380 nonlethal, incidental takes by harassment of 220 northern sea otters for the DPD project. In accordance with provisions of the Marine Mammal Protection Act of 1972, we request comments on our proposed authorizations, which, if finalized, will be for take by Level B harassment only. We anticipate no take by injury or death and include none in these proposed authorizations.

**DATES:** Comments on the proposed incidental harassment authorizations and draft environmental assessments must be received by August 9, 2019.

**ADDRESSES:** *Document availability:* You may view these proposed authorizations, the application packages, supporting information, draft environmental assessments, and the

lists of references cited herein at <http://www.regulations.gov> under Docket No. FWS-R7-ES-2019-0053, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**. You may submit comments on these proposed authorizations by one of the following methods:

- *U.S. mail or hand-delivery*: Public Comments Processing, Attn: Docket No. FWS-R7-ES-2019-0053, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041-3803.

- *Electronic submission*: Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R7-ES-2019-0053.

We will post all comments at <http://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Putnam, U.S. Fish and Wildlife Service, 1011 East Tudor Road, MS 341, Anchorage, Alaska, 99503, by email at [fw7\\_ak\\_marine\\_mammalst@fws.gov](mailto:fw7_ak_marine_mammalst@fws.gov), or by telephone at 1-800-362-5148. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361, *et seq.*), authorizes the Secretary of the Interior (Secretary) to allow, upon request, the incidental but not intentional taking by harassment of small numbers of marine mammals of a species or population stock by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified region during a period of not more than 1 year. Incidental take by harassment may be authorized only if statutory and regulatory procedures are followed and the U.S. Fish and Wildlife Service (hereafter, “the Service” or “we”) makes the following findings: (i) Take is of a small number of animals, (ii) take will have a negligible impact on the species or stock, and (iii) take will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses by coastal-dwelling Alaska Natives.

The term “take,” as defined by the MMPA, means to harass, hunt, capture,

or kill, or to attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13)). Harassment, as defined by the MMPA, means any act of pursuit, torment, or annoyance that (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA calls this “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 (the MMPA calls this “Level B harassment”).

The terms “negligible impact,” “small numbers,” and “unmitigable adverse impact” are defined in the Code of Federal Regulations at 50 CFR 18.27, the Service’s regulations governing take of small numbers of marine mammals incidental to specified activities. “Negligible impact” is defined 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. Although “small numbers” is defined in 50 CFR 18.27, we do not rely on that definition as it conflates the terms “small numbers” and “negligible impact,” which we recognize as two separate and distinct requirements (see *Natural Res. Def. Council, Inc. v. Evans*, 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2003)). In our determination, we evaluate “small numbers” by analyzing the number of marine mammals likely to be taken in relation to the size of the overall stock. “Unmitigable adverse impact” is defined as an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters, and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

If the requisite findings are made, we issue an incidental harassment authorization (IHA), which sets forth the following: (i) Permissible methods of taking; (ii) other means of effecting the least practicable impact on marine mammals and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of marine mammals for taking for subsistence uses by coastal-dwelling

Alaska Natives; and (iii) requirements for monitoring and reporting take.

#### Summary of Requests

##### *City and Borough of Sitka—O’Connell Bridge Lightering Float*

On November 12, 2018, the City and Borough of Sitka, Alaska, (hereafter “CBS”) submitted a request to the Service’s Marine Mammals Management Office (MMM) for authorization to take by harassment a small number of northern sea otters (*Enhydra lutris kenyoni*, hereafter also “sea otters” or “otters”). Following requests for additional information, CBS submitted an amended application on March 21, 2019, and additional information was received on March 25, 2019. The applicant expects that take by incidental harassment may occur during its planned pile-driving activities at the O’Connell Bridge dock facility located in Sitka, Alaska.

##### *Duck Point Development II, LLC—Hoonah Berth II Project*

On January 30, 2019, Duck Point Development II, LLC, (hereafter “DPD”) submitted a request to the Service’s MMM for authorization to take by harassment a small number of sea otters. Following requests for additional information, DPD submitted an amended application on March 21, 2019. The applicant expects that take by incidental harassment may occur during their planned pile-driving activities at Cannery Point located near Hoonah, Alaska.

#### Description of Specified Activities and Geographic Area

##### *City and Borough of Sitka—O’Connell Bridge Lightering Float*

The specified activity (the “project”) consists of CBS’s proposed repairs to the O’Connell Bridge Lightering Float, specifically the removal and replacement of six 16-inch-diameter steel pipe piles. CBS will conduct work on 3 days between July 22, 2019, and December 31, 2019.

Removal of the extant piles will be accomplished by either dry pull or vibratory extraction. Sockets to accommodate the replacement piles will be drilled so that the piles may be installed to a greater depth than that of the existing piles, allowing for the accommodation of larger vessels. The replacement piles will be installed using both vibratory and impact methods. Transfer of personnel and equipment between shore and the work platform will be done using skiffs approximately 7.6–10.7 meters (m) or 25–30 feet (ft) in length with a 35–50 horsepower (hp)

outboard engine. Further information and technical specifications can be found in CBS's IHA application available at: <http://www.regulations.gov>, Docket No. FWS-R7-ES-2019-0053.

*Duck Point Development II, LLC—  
Hoonah Berth II Project*

The project at Hoonah consists of two components: (1) The installation of a lightering float at the existing dock facility on the southwest side of Cannery Point; and (2) the installation of a cruise ship berth on the northeast side of Cannery Point. This will involve the installation and subsequent removal of up to 62 temporary 30-inch piles and installation of 45 permanent piles ranging from 24 to 42 inches in diameter. Temporary piles will be installed and removed by vibratory extraction; permanent piles will be installed using both vibratory and impact methods. Additionally, there will be socket and anchor drilling to secure piles at depth. Transfer of personnel and equipment between shore and the work platform will be done using skiffs approximately 7.6–10.7 m (25–30 ft) in length with a 35–50 hp outboard engine, and a similar vessel will be used for visual monitoring of marine mammals in the waters of Port Frederick and parts of Icy Strait. Work will take place over a 75-day period between July 22, 2019, and December 31, 2019. Further information and technical specifications can be found in DPD's IHA application at: <http://www.regulations.gov>, Docket No. FWS-R7-ES-2019-0053.

**Description of Marine Mammals in the Specified Area**

The northern sea otter is currently the only marine mammal under the Service's jurisdiction that normally occupies Sitka Sound and Port Frederick, Alaska. There are three stocks of northern sea otters in Alaska. These are the southeast, southcentral, and southwest stocks. Sea otters that occur in Sitka Sound and Port Frederick/Icy Strait belong to the southeast Alaska stock. The Service's most recent stock assessment report is available at [https://www.fws.gov/alaska/fisheries/mmm/stock/Revised\\_April\\_2014\\_Southeast\\_Alaska\\_Sea\\_Otter\\_SAR.pdf](https://www.fws.gov/alaska/fisheries/mmm/stock/Revised_April_2014_Southeast_Alaska_Sea_Otter_SAR.pdf).

Sea otters may occur anywhere within the specified project area other than upland areas. Abundance and densities of the southeast Alaska stock of sea

otters were estimated from aerial surveys conducted by the Service in cooperation with the U.S. Geological Survey (USGS) between 1995 and 2012 (Tinker *et al.*, in press). Total abundance in the northern region of Southeast Alaska was estimated to be 11,635 sea otters, with over half (7,955) of these animals occurring in Glacier Bay (Tinker *et al.*, in press). Densities of sea otters in the project areas were estimated at 0.842 otters per square km (km<sup>2</sup>) in Sitka Sound and 0.368 otters per km<sup>2</sup> in Port Frederick and Icy Strait (Tinker *et al.*, in press).

Sea otters generally occur in shallow water near the shoreline. They are most commonly observed within the 40-m (131-ft depth contour (USFWS, 2014), although they can be found in areas with deeper water. Depth is generally correlated with distance to shore, and sea otters typically remain within 1 to 2 kilometers (km) (0.62 to 1.24 miles (mi)) of shore (Riedman and Estes 1990). They tend to remain closer to shore during storms, but they may be found farther from shore when seas are calm (Lensink 1962; Kenyon 1969).

Sea otters are non-migratory and generally do not disperse over long distances (Garshelis and Garshelis 1984). They usually remain within a few kilometers of their established feeding grounds (Kenyon 1981). Breeding males remain for all or part of the year in a breeding territory covering up to 1 km (0.62 mi) of coastline. Adult females have home ranges of approximately 8 to 16 km (5 to 10 mi), which may include one or more male territories. Juveniles move greater distances between resting and foraging areas (Lensink 1962; Kenyon 1969; Riedman and Estes 1990). Although sea otters generally remain local to an area, they are capable of long-distance travel. Otters in Alaska have shown daily movement distances greater than 3 km (1.9 mi) at speeds up to 5.5 km/hour (3.4 mi/hour) (Garshelis and Garshelis 1984).

**Potential Effects of the Activities**

*Exposure of Sea Otters to Noise*

The applicants have requested authorizations for Level B incidental harassment of the southeast Alaska stock of northern sea otters. Otters in the project area will be exposed to the visual and auditory stimulation associated with the presence and operation of pile-driving equipment and support vessels. Vessel traffic and

human presence on docks are common in Sitka Sound and Port Frederick/Icy Strait; however, pile-driving operations will create sounds that are unfamiliar to otters in these areas. If sea otters are disturbed, it will likely be due to the underwater noise associated with pile-driving operations, or possibly, the noise in tandem with the sight of equipment and vessels. Pile driving and vessel operations may cause disruptions to biologically significant sea otter behavioral patterns, thereby resulting in incidental take by Level B harassment.

*Noise From Pile Driving*

During the course of pile driving, a portion of the kinetic energy from the hammer is lost to the water column in the form of sound. Levels of underwater sounds produced during pile driving are dependent upon the size and composition of the pile, the substrate into which the pile is driven, bathymetry, physical and chemical characteristics of the surrounding waters, and pile installation method (Illingworth and Rodkin 2007, 2014; Denes *et al.* 2016).

Both impact and vibratory pile installation produce underwater sounds of frequencies predominantly lower than 2.5 kilohertz (kHz), with the highest intensity of pressure spectral density at or below 1 kHz (Denes *et al.* 2016; Dahl *et al.* 2015; Illingworth and Rodkin 2007). Source levels of underwater sounds produced by impact pile driving tend to be higher than for vibratory pile driving; however, both methods of installation can generate underwater sound levels capable of causing behavioral disturbance or hearing threshold shift in marine mammals. A summary of the properties of sounds produced by the proposed activities can be found in table 1.

Whether a specific noise source will affect an otter depends on several factors, including the distance between the animal and the sound source, the sound intensity, background noise levels, the noise frequency, duration, and whether the noise is pulsed or continuous. The actual noise level perceived by individual otters will depend on distance to the pile-driving site, whether the animal is above or below water, atmospheric and environmental conditions, and the operational parameters of the piles and pile-driving equipment being used.

TABLE 1—SUMMARY OF ACOUSTIC SOURCE LEVELS FOR PROPOSED ACTIVITIES

Applicant	Activity	Sound pressure levels (dB re 1 µPa)	Frequency	References
CBS .....	Impact pile driving .....	181.3 dB <sub>PK</sub> @ 10 m (168.2 dB <sub>SEL</sub> @ 10 m).	Up to 2.5 kHz ...	Austin <i>et al.</i> 2016; Denes <i>et al.</i> 2016.
CBS .....	Vibratory pile installation/ removal.	161 @ 10 m .....	Up to 2.5 kHz ...	Austin <i>et al.</i> 2016; Denes <i>et al.</i> 2016.
CBS .....	Socket drilling .....	189.8 @ 1 m .....	Up to 10 kHz ....	Denes <i>et al.</i> 2016.
CBS .....	General vessel operations	145–175 dB rms @ 1 m ....	10–1,500 Hz ....	Richardson <i>et al.</i> 1995; Kipple and Gabriele 2004; Ireland and Bisson 2016.
CBS .....	Barge operations .....	180 dB rms @ 1 m .....	10–1,500 Hz ....	Richardson <i>et al.</i> 1995; Kipple and Gabriele 2004; Ireland and Bisson 2016.
DPD .....	Impact pile driving .....	198.6 dB <sub>PK</sub> @ 10 m (186.7 dB <sub>SEL</sub> @ 10 m).	Up to 2.5 kHz ...	Austin <i>et al.</i> 2016; Denes <i>et al.</i> 2016.
DPD .....	Vibratory pile installation/ removal.	161.9 to 168.2 @ 10 m ....	Up to 2.5 kHz ...	Austin <i>et al.</i> 2016; Denes <i>et al.</i> 2016.
DPD .....	Socket and anchor drilling	189.8 @ 1 m .....	Up to 10 kHz ....	Denes <i>et al.</i> 2016.
DPD .....	General vessel operations	145–175 dB rms @ 1 m ....	10–1,500 Hz ....	Richardson <i>et al.</i> 1995; Kipple and Gabriele 2004; Ireland and Bisson 2016.
DPD .....	Barge operations .....	180 dB rms @ 1 m .....	10–1,500 Hz ....	Richardson <i>et al.</i> 1995; Kipple and Gabriele 2004; Ireland and Bisson 2016.

CBS = City and Borough of Sitka, DPD = Duck Point Development II, LLC for Hoonah Berth II, dB<sub>PK</sub> = Decibels peak, dB<sub>SEL</sub> = Decibels sound exposure level, dB<sub>RMS</sub> = Decibels root mean squared.

#### Noise From Vessels

Characteristics of sounds produced by vessels are a product of several variables pertaining to the specifications of the vessel, including the number and type of engines, propeller shape and size, and the mechanical condition of these components. Operational status of the vessel, such as pushing or towing heavy loads, or using bow thrusters, can significantly affect the levels of sounds emitted by the same vessel at different times (Richardson *et al.* 1995; Ireland and Bisson 2016).

The proposed vessels are skiffs approximately 7.6–10.7 m (25–30 ft) in length with 35–50 hp outboard engines. Recordings of sounds produced by similar vessels in Glacier Bay National Park were loudest at frequencies between roughly 100 Hertz (Hz) and 5 kHz, with source levels ranging from 160–182 Decibels referenced at 1 micro Pascal at 1 meter (dB re 1 µPa at 1 m) (Kipple and Gabriele 2004). Acoustic properties of sounds expected from vessel operations are shown in table 1.

#### Sea Otter Hearing

Sound frequencies produced by vessels, pile driving, and removal equipment will fall within the hearing range of northern sea otters and will be audible to animals during the proposed construction activities. Controlled sound exposure trials on southern sea otters (*E. l. nereis*) indicate that those otters can hear frequencies between 125 Hz and 38 kHz with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Aerial and underwater audiograms for a captive

adult male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sounds than terrestrial mustelids but similar to that of sea lions. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane *et al.* 1995; Ghoul and Reichmuth 2012a).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary or permanent changes in hearing sensitivity, discomfort, and injury. Species-specific criteria for sea otters have not been identified for preventing harmful sound exposures. Thresholds have been developed for other marine mammals, above which exposure is likely to cause behavioral disturbance and injuries (Southall *et al.* 2007, 2019; Finneran and Jenkins 2012; NMFS 2018a). Because sea otter hearing abilities and sensitivities have not been fully evaluated, we relied on functionally similar hearing information from other species to evaluate the potential effects of noise exposure.

California sea lions (*Zalophus californianus*) (an otariid pinniped) have shown a frequency range of hearing most functionally similar to that of southern sea otters (Ghoul and Reichmuth 2014) and provide the closest proxy for which data are available. Sea otters and otariid pinnipeds share a similar mammalian aural physiology (Echteler *et al.* 1994; Solntseva 2007). Both are adapted to

amphibious hearing, and both use sound in similar ways.

#### Exposure Thresholds

Noise exposure criteria have been established by the NMFS for identifying underwater noise levels capable of causing Level A harassment (injury) of marine mammals, including otariid pinnipeds (NMFS 2018a). Sea otter-specific criteria have not been established; however, because of the biological similarities between otariid pinnipeds and sea otters, we assume that noise criteria developed by NMFS for injury for otariid pinnipeds are a suitable proxy for sea otters. Those criteria are based on estimated levels of sound exposure capable of causing a permanent shift in sensitivity of hearing (*e.g.*, a permanent threshold shift (PTS) (NMFS 2018a)). Exposure to moderate durations of very loud noise or long-term continuous exposure of moderate noise levels may cause the hairs within the inner ear system to die or disable the synapses between hair cells and their neurons, resulting in PTS.

NMFS's (2018a) criteria for sound exposure incorporate two metrics of exposure: The peak level of instantaneous exposure likely to cause PTS, and the effects of cumulative exposure during a 24-hour period. They also include weighting adjustments for the sensitivity of different species to varying frequencies. PTS-based injury criteria were developed from theoretical extrapolation of observations of temporary threshold shifts (TTS) detected in lab settings during sound exposure trials. The estimated PTS



thresholds for otariid pinnipeds are 232 dB peak and 203 dB sound exposure level cumulative (SEL<sub>CUM</sub>) for impulsive noise, and 219 dB SEL<sub>CUM</sub> for non-impulsive noise (NMFS 2018a). NMFS criteria for Level A harassment represents the best available information for predicting injury from exposure to underwater sound among otariid pinnipeds. We assume these criteria also represent appropriate exposure limits for Level A harassment of sea otters. A recent review of literature regarding the effects of noise upon the hearing of marine mammals placed sea otters into a functional hearing group called “other carnivores”, which also includes otariid pinnipeds (Southall *et al.* 2019), but no new hearing threshold criteria were identified in that study.

NMFS (2018a) criteria do not identify thresholds for avoidance of Level B harassment. For pinnipeds, NMFS has adopted a 160-dB threshold Level B harassment from exposure to impulse noise and a 120-dB threshold for continuous noise (NMFS 1998; HESS 1999; NMFS undated). These thresholds were developed from observations of mysticetes responding to airgun operations (*e.g.*, Malme *et al.* 1983a, 1983b; Richardson *et al.* 1986, 1995) and from equating Level B harassment with noise levels capable of causing TTS in lab settings.

Southall *et al.* (2007) reviewed the literature and derived TTS thresholds for pinnipeds from impulsive sounds based on 212 dB peak and 171 dB SEL<sub>CUM</sub>. The updated review from Southall *et al.* (2019) gives values of 232 dB peak and 203 dB SEL<sub>CUM</sub> for the TTS threshold for the “other carnivore”

group. Kastak *et al.* (2005) found exposures resulting in TTS in pinnipeds ranging from 152 to 174 dB (183–206 dB SEL). Kastak *et al.* (2008) demonstrated persistent TTS, if not PTS, after 60 seconds of 184 dB SEL. Kastelein *et al.* (2012) found small but statistically significant TTSs at approximately 170 dB SEL (136 dB, 60 min) and 178 dB SEL (148 dB, 15 min). Finneran (2015) summarized these and other studies, which NMFS (2018a) has used to develop a TTS threshold for otariid pinnipeds of 199 dB SEL<sub>CUM</sub>.

Southall *et al.* (2007) also assessed behavioral response studies and found considerable variability among captive pinnipeds. They determined that exposures between approximately 90–140 dB generally do not induce strong behavioral responses in pinnipeds in water (Southall *et al.* 2007). Avoidance and other behavioral effects were observed in the range between 120–160 dB; however, only one of the observed reactions reported in Southall *et al.* (2007) was sufficiently severe to meet behavioral criteria for take by Level B harassment (see *Characterizing Take by Level B Harassment*, below). In the *Evidence from Sea Otter Studies* section below, we review the observed and studied behavioral responses of wild sea otters to noise. Behavioral observations indicate that a 120-dB threshold is likely to overestimate the likelihood of Level B harassment, but these studies do not provide definitive support for a particular threshold. Therefore, the work of NMFS (2018a, undated), Southall *et al.* (2007, 2019), and others described here represent the best

available data and suggest that either a 199-dB SEL<sub>CUM</sub> threshold or a 160-dB threshold is likely to be the best predictor of Level B harassment.

In conclusion, a 199-dB SEL<sub>CUM</sub> exposure threshold is likely to be more accurate than a 160-dB threshold when the behaviors of individual otters can be closely monitored. Given the lack of TTS data specific to otters, the 160-dB threshold provides a measure of insurance against underestimation of the possible risks to otters, and provides greater practicability for application of mitigation and monitoring.

Exposure to impulsive sound levels greater than 160 dB can elicit behavioral changes in marine mammals that might be detrimental to health and long-term survival where it disrupts normal behavioral routines. Thus, using information available for other marine mammals as a surrogate, and taking into consideration the best available information about sea otters, the Service has determined the received sound level under water of 160 dB as a threshold for Level B take by disturbance for sea otters for this proposed IHA (based on Ghoul and Reichmuth 2012a,b; McShane *et al.* 1995; Riedman 1983; Richardson *et al.* 1995; and others). Exposure to unmitigated in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB will be considered by the Service as Level B take for both continuous and impulsive sound sources; thresholds for potentially injurious Level A take will be 232 dB peak or 203 dB SEL for impulsive sounds and 219 dB SEL for continuous sounds (table 2).

TABLE 2—SUMMARY OF NORTHERN SEA OTTER ACOUSTIC THRESHOLDS FOR UNDERWATER SOUND IN THE FREQUENCY RANGE 125 HZ–38 KHZ

Marine mammals	Injury (Level A) threshold		Disturbance (Level B) threshold
	Impulsive <sup>1</sup>	Non-Impulsive <sup>1</sup>	
			All
Sea otters .....	232 dB peak; 203 dB SEL <sub>CUM</sub> .....	219 dB SEL <sub>CUM</sub> .....	160 dB rms.

<sup>1</sup> Based on NMFS acoustic criteria for otariid pinnipeds (NMFS 2018a).

Evidence From Sea Otter Studies

The available studies of northern and southern sea otter behavior indicate that sea otters are somewhat more resistant to the effects of sound than other marine mammals (Riedman 1983, 1984; Ghoul *et al.* 2012a, b; Reichmuth and Ghoul 2012). Southern sea otters off the California coast showed only mild interest in boats passing within hundreds of meters and appeared to have habituated to boat traffic (Riedman

1983; Curland 1997). There are no available data regarding the reactions of northern sea otters to pile driving. Southern sea otters in an area with frequent railroad noise appeared to be relatively undisturbed by pile-driving activities, many showing no response and generally reacting more strongly to passing vessels than to the sounds of pile-driving equipment (ESNERR 2011; ESA 2016). Additionally, many of the otters who displayed a reaction behavior

during pile driving did so while their heads were above the surface of the water, suggesting that airborne noise was as important as underwater noise in prompting the animals’ reactions. When sea otters have displayed behavioral disturbance in response to acoustic stimuli, responses were short-lived, and the otters quickly became habituated and resumed normal activity (Davis *et al.* 1987, 1988; Ghoul *et al.* 2012b). Sea otters may be less sensitive to noise as

they do not rely on sound to orient themselves, locate prey, or communicate underwater.

Sea otters in Alaska have shown signs of disturbance (escape behaviors) in response to the presence and approach of vessels. Behaviors included diving or actively swimming away from a boat, hauled-out sea otters entering the water, and groups of otters dispersing and swimming in multiple different directions (Udevitz *et al.* 1995). Sea otters in Alaska have also been shown to avoid areas with heavy boat traffic but return to those same areas during seasons with less traffic (Garshelis and Garshelis 1984).

Disturbance is possible from the applicants' activities. Individual sea otters in Sitka Sound and Port Frederick/Icy Strait are likely to show a range of responses to noise from the applicants' equipment and vessels. Some may abandon the construction areas and return when the disturbance has ceased. Based on the observed movement patterns of wild otters (*i.e.*, Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990), we expect that some individuals (*e.g.*, independent juveniles) will respond to the applicants' proposed activities by dispersing to nearby areas of suitable habitat while others will not be displaced.

Some otters will likely show startle responses, change direction of travel, or dive. Otters reacting to pile driving or vessels may divert time and attention from biologically important behaviors, such as feeding. Other effects may be undetectable in observations of behavior, especially the physiological effects of chronic noise exposure. Some otters in the area of activity may become habituated to noise caused by the project due to the existing continual vessel traffic in the area and will have little, if any, reaction to the presence of vessels or human activity on the barge platforms.

#### *Effects on Habitat*

Habitat areas of significance for otters exist near the project areas. Physical and biological features of coastal habitat essential to the conservation of northern sea otters include the benthic invertebrates (urchins, mussels, clams, etc.) eaten by otters and the shallow rocky areas and kelp beds that provide cover from predators. The CBS project involves the removal and replacement of piles at an extant dock facility, and little to no habitat within Sitka Sound will be altered. For the DPD project, the lightering float will be installed between two busy commercial docks at Cannery Point. This area already experiences

frequent vessel traffic, and the addition of the lightering float will not result in a substantial increase in vessel traffic to the area. Therefore, it is unlikely that sea otter habitat would be significantly modified by the addition of the lightering float.

The northeast side of Cannery Point—the proposed location for the second cruise ship berth at Hoonah—is not developed and otters may be displaced by the installation of the berth and a subsequent increase in vessel traffic. Impacts upon benthic habitat of otters and their prey are minimized by the use of a floating dock, which will not require dredging or fill. The installation of the berth will increase vessel traffic to the northeast side of Cannery Point where otters may become habituated to traffic or may be displaced. However, passengers from cruise ships are currently being transferred to shore a few at a time on board small vessels. The presence of a facility at which passengers can walk off a vessel to participate in shore excursions will bring about a reduction in the number of small vessel trips between moored cruise ships and the shore near Cannery Point.

#### **Mitigation and Monitoring**

If IHAs for the applicants' projects are issued, they must specify means for effecting the least practicable impact on northern sea otters and their habitat, paying particular attention to habitat areas of significance, and on the availability of northern sea otters for taking for subsistence uses by coastal-dwelling Alaska Natives.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on a species or stock and their habitat, as well as subsistence uses, we considered the manner in which, and the degree to which, the successful implementation of the measures are expected to reduce impacts to sea otters, their habitat, and their availability for subsistence uses. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood that the measures will be effective if implemented, and the likelihood of effective implementation. We also considered the practicability of the measures for applicant implementation (*e.g.*, cost, impact on operations).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the applicants have proposed mitigation measures including, but not limited to, the following:

- Development of marine mammal monitoring and mitigation plans;
- Establishment of shutdown and monitoring zones during noise-generating work;
- Visual mitigation monitoring by designated Protected Species Observers (PSOs);
- Conducting all work during periods of good visibility;
- Site clearance before start-up;
- Soft-start procedures;
- Shutdown procedures;
- Use of pile caps to reduce noise during impact pile driving; and
- Vessel strike avoidance measures.

These measures are further specified under Proposed Authorizations, part *B. Avoidance and Minimization*.

#### **Estimated Incidental Take**

##### *Characterizing Take by Level B Harassment*

An individual sea otter's reaction will depend on its prior exposure to vessels and human presence at the project sites, some intrinsic motivation or requirement to be in the particular area, its physiological status, or other intrinsic factors. The location, timing, frequency, intensity, and duration of the encounter are among the external factors that will also influence the animal's response.

Relatively minor reactions such as increased vigilance or a short-term change in direction of travel are not likely to disrupt biologically important behavioral patterns and are not considered take by harassment as defined by the MMPA. These types of responses typify the most likely reactions of sea otters that will be exposed to the applicants' activities. Extreme behavioral reactions capable of causing injury are characterized as Level A harassment events, which are unlikely to result from the proposed project and will not be authorized. Intermediate reactions that disrupt biologically significant behaviors of the affected animal meet the criteria for Level B harassment under the MMPA. In 2014, the Service identified the following sea otter behaviors as indicating possible Level B harassment. The following list does not describe all possible behaviors, and other situations may indicate Level B harassment:

- Swimming away at a fast pace on belly (*i.e.*, porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spy hopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spy hopping while hiding behind and holding onto its mother's head;

- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors along the shoreline;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft so that the raft disperses;
- Sudden diving of an entire raft; and
- Flushing animals off a haulout.

#### Estimating Exposure Rates

The Service anticipates that incidental harassment of sea otters may occur during the proposed activities in Sitka Sound and Port Frederick/Icy Strait. Underwater noise levels from pile driving and related activities may cause short-term, nonlethal, but biologically significant changes in behavior that the Service considers Level B harassment. The number of animals affected will be determined by the distribution of animals and their location in proximity to the project work.

Sound exposure criteria provide the best available proxy for estimation of exposure. The behavioral response of sea otters to shoreline construction and vessel activities is related to the distance between the activity and the animals. Underwater sound is generated in tandem with other airborne visual, olfactory, or auditory signals from the specified activities, and travels much farther. Therefore, estimating exposure to underwater sound can be used to

estimate exposure to all proposed activities.

No separate exposure evaluation was done for activities that do not generate underwater sound. All of the proposed activities that may disturb sea otters will occur simultaneously with in-water activities that do generate sound. For example, operation of heavy equipment on barge platforms will facilitate underwater pile driving. The otters affected by the equipment operations are the same as those affected by the pile driving. Sound exposure and behavioral disturbances are accumulated over a 24-hour period, resulting in estimation of one exposure from all in-water sources rather than one each from equipment operations and pile-driving noise.

#### Predicting Behavioral Response Rates

Although we cannot predict the outcome of each exposure of a sea otter to the sounds, equipment, and vessels used for the proposed activities, it is possible to consider the most likely reactions. Whether an individual animal responds behaviorally to such exposure is dependent upon many variables. The health, physiological state, reproductive state, and temperament of the individual animals will have an effect. Factors such as the activity of the animal, exposure to other disturbances, habituation of the animal to similar disturbances, and the presence of predators, pups, or other otters will

have an effect as well. We assumed all animals exposed to underwater sound levels that meet acoustic criteria would experience Level B harassment.

#### Distances to Thresholds

The total take of sea otters for each of the proposed construction projects in Sitka Sound and Port Frederick was estimated by calculating the number of otters in the ensonified areas during the full duration of the projects. To calculate the areas that will be ensonified during each component of the projects, we first estimated the distances that underwater sound will travel before attenuating to levels below thresholds for take by Level A and Level B harassment. The distances to the Level A thresholds were calculated using the NMFS Acoustical Guidance Spreadsheets (NMFS 2018b) and their thresholds for otariid pinnipeds as a proxy for sea otters. Distances to the 160-dB Level B threshold were calculated using a practical spreading transmission loss model (15 LogR).

Model estimates incorporated operational and environmental parameters for each activity, and characteristics of the sound produced are shown in table 3. Weighting factor adjustments were used for SEL calculations based on NMFS Technical Guidance (NMFS 2018a). Operational parameters were estimated from the description of activities outlined in the applicants' petitions.

TABLE 3—ASSUMPTIONS USED IN CALCULATING DISTANCES TO LEVEL A AND LEVEL B THRESHOLDS

Activity	Type of source	Source level <sup>1</sup>	WFA <sup>2</sup>	Source velocity	Pulse duration	Repetition rate	Duration per day
Impact pile driving (16-inch piles).	Stationary impulsive.	181.3 dB <sub>PK</sub> @ 10 m (168.2 dB <sub>SEL</sub> @ 10 m).	2 kHz .....	N/A .....	N/A .....	30 strikes/pile ....	≤0.1 hrs/day.
Vibratory pile driving (16-inch piles).	Stationary non-impulsive.	161 @ 10 m .....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	1 hr/day.
Socket drilling .....	Stationary non-impulsive.	189.8 @ 1 m .....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	6 hrs/day.
Crew skiff .....	Mobile non-impulsive.	175 @ 1 m .....	1.5 kHz ....	1.54 m/s ...	N/A .....	N/A .....	<1 hr/day.
Barge handling skiff.	Stationary non-impulsive.	180 @ 1 m .....	1.5 kHz ....	N/A .....	N/A .....	N/A .....	3 hrs/day.
Impact pile driving (36-inch piles).	Stationary impulsive.	198.6 dB <sub>PK</sub> @ 10 m (186.7 dB <sub>SEL</sub> @ 10 m).	2 kHz .....	N/A .....	N/A .....	100 strikes/pile ...	400 strikes/day.
Impact pile driving (42-inch piles).	Stationary impulsive.	198.6 dB <sub>PK</sub> @ 10 m (186.7 dB <sub>SEL</sub> @ 10 m).	2 kHz .....	N/A .....	N/A .....	135 strikes/pile ...	370 strikes/day.
Vibratory pile driving (24-inch piles).	Stationary non-impulsive.	161.9 @ 10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	0.7 hrs/day.
Vibratory pile driving (30-inch temporary piles).	Stationary non-impulsive.	161.9 @ 10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	2 hrs/day.
Vibratory pile removal (30-inch temporary piles).	Stationary non-impulsive.	161.9 @ 10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	1 hr/day.

TABLE 3—ASSUMPTIONS USED IN CALCULATING DISTANCES TO LEVEL A AND LEVEL B THRESHOLDS—Continued

Activity	Type of source	Source level <sup>1</sup>	WFA <sup>2</sup>	Source velocity	Pulse duration	Repetition rate	Duration per day
Vibratory pile driving (30-inch piles).	Stationary non-impulsive.	161.9 @10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	1 hr/day.
Vibratory pile driving (36-inch piles).	Stationary non-impulsive.	168.2 @10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	1 hr/day.
Vibratory pile driving (42-inch piles).	Stationary non-impulsive.	161.9 @10 m ....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	2 hrs/day.
Socket and anchor drilling.	Stationary non-impulsive.	189.8 @1 m .....	2.5 kHz ....	N/A .....	N/A .....	N/A .....	4 hrs/day.
Crew skiff .....	Mobile non-impulsive.	175 @1 m .....	1.5 kHz ....	1.54 m/s ...	N/A .....	N/A .....	<1 hr/day.
Monitoring skiff ....	Mobile non-impulsive.	175 @1 m .....	1.5 kHz ....	1.54 m/s ...	N/A .....	N/A .....	12 hrs/day.
Barge handling skiff.	Stationary non-impulsive.	180 @1 m .....	1.5 kHz ....	N/A .....	N/A .....	N/A .....	3 hrs/day.

<sup>1</sup> Source level is given in dBrms re 1  $\mu$  Pa, unless otherwise indicated, as measured at the given distance from the source in meters.

<sup>2</sup> Weighting factor adjustment.

The distances to the modelled Level A and Level B thresholds are shown in table 4. Each estimate represents the radial distance away from the sound source within which an otter exposed to the sound of the activity is expected to experience take by Level A or Level B harassment.

TABLE 4—CALCULATED DISTANCE IN METERS (M) TO LEVEL A AND LEVEL B THRESHOLDS

Applicant	Activity	Level A—NMFS Otariid			Level B—USFWS
		Impulsive		Non-impulsive	Both
		232 dB peak	203 dB SEL	219 dB SEL	160 dB rms
City and Borough of Sitka .....	Impact pile driving (16-inch piles) ....	0.0	0.4	.....	263.0
	Vibratory pile driving/removal (16-inch piles).	.....	.....	0.3	11.7
	Socket drilling .....	.....	.....	8.0	97.0
	Crew skiff .....	.....	.....	0.6	10.0
	Barge handling skiff .....	.....	.....	1.5	21.5
Duck Point Development, LLC for Hoonah.	Impact pile driving (36-inch piles) ....	0.0	37.3	.....	3,744.0
	Impact pile driving (42-inch piles) ....	0.0	28.7	.....	3,744.0
	Vibratory pile driving (24-inch piles)	.....	.....	0.3	13.4
	Vibratory pile driving (30-inch temporary piles).	.....	.....	0.5	13.4
	Vibratory pile removal (30-inch temporary piles).	.....	.....	0.3	13.4
	Vibratory pile driving (30-inch piles)	.....	.....	0.3	13.4
	Vibratory pile driving (36-inch piles)	.....	.....	0.9	35.2
	Vibratory pile driving (42-inch piles)	.....	.....	1.4	35.2
	Socket and anchor drilling .....	.....	.....	9.7	97.0
	Crew skiff .....	.....	.....	0.6	10.0
	Monitoring skiff .....	.....	.....	0.6	10.0
	Barge handling skiff .....	.....	.....	1.5	21.5

#### Estimates of Take

To calculate the areas that will be ensonified by pile driving, we used either half or all of the area of the circle of the radii in table 4, above, depending on the size of the radius. Pile driving will take place close to shore; however, many of the radii are small enough that their defined circles will fall entirely, or nearly entirely, in the water, especially at higher tides—in these instances, the area was calculated as  $\pi r^2$ . The

exceptions are the Level B radii for impact installation of the 36- and 42-inch piles at Hoonah; for these we used half of the area of the circle, or  $\frac{1}{2} \pi r^2$ .

The areas ensonified by crew and monitoring vessel operations were estimated by multiplying the vessels' anticipated daily track length by twice the 160-dB radius plus  $\pi r^2$  to account for the rounded ends of the track line. Based on the figures provided in the applicants' proposals and discussions

with the contractors, it was estimated that each trip would be no more than 500 m (1,640 ft); six trips per day are expected for the crew vessel at Sitka, and eight trips per day are expected for the crew vessel at Hoonah. For the monitoring skiff, the track length was estimated by multiplying running time by vessel speed: 12 hours per day by 20 km per hour or about 10 knots, plus the rounded end of the track line as described above. The barge handling

skiff will be stationary, so the ensonified area is simply the area of the circle defined by the 160 dB radius,  $\pi r^2$ .

We then took two approaches to estimate the number of otters that may be present within the areas that will be ensonified by the various sound sources. We used densities of otters based on recent analyses of data from aerial and skiff-based surveys conducted by the Service and USGS in southeast Alaska. The most recently available estimates of the distribution and abundance of northern sea otters in southeast Alaska indicate that the

density of animals in Sitka Sound is 0.842 otters per km<sup>2</sup>; in the Port Frederick area the density is estimated at 0.368 animals per km<sup>2</sup> (Tinker *et al.*, in press). To estimate the expected numbers of animals exposed to noise levels at or above the Level A and Level B thresholds, we multiplied the ensonified areas by the density of otters and the number of days for each activity. For the Sitka project, this resulted in an estimate of zero exposures of northern sea otters to noise levels exceeding Level A thresholds and 0.252 exposures of northern sea otters to

noise levels exceeding Level B thresholds (table 5). For the Hoonah project, the estimates are 0.012 Level A takes and 199.888 Level B takes (table 5). The only operations with the potential for take by Level A harassment are impact pile driving of 36- and 48-inch piles. The application of shutdown measures (see *Measures to Reduce Impact*, below) will eliminate the possibility of otters being exposed to sounds in excess of Level A thresholds. No authorization of take by Level A harassment is being requested, none is expected, and none will be authorized.

TABLE 5—ESTIMATE OF TOTAL TAKE FOR EACH PROPOSED ACTIVITY BASED ON ESTIMATES DERIVED FROM NORTHERN SEA OTTER DENSITIES IN THE PROJECT AREAS. THESE ESTIMATES DO NOT ACCOUNT FOR AVOIDANCE OF TAKE BY THE APPLICATION OF PROPOSED MITIGATION MEASURES

Applicant	Activity	Number of piles	Duration (days)	Level A			Level B
				Impulsive		Non-impulsive	160 rms
				232 pk	203 SEL	219 SEL	
City and Borough of Sitka.	Impact pile driving (16-inch piles).	6	1	0.000	0.000	.....	0.183
	Vibratory pile driving (16-inch piles).	6	1	.....	.....	0.000	0.000
	Socket drilling .....	.....	2	.....	.....	0.000	0.000
	Crew skiff .....	.....	3	.....	.....	0.000	0.067
	Barge handling skiff .....	.....	3	.....	.....	0.000	0.002
Total .....	.....	.....	3	0.000	0.000	0.000	0.252
DPD/Hoonah Berth II ...	Impact pile driving (36-inch piles).	16	4	0.000	0.006	.....	32.411
	Impact pile driving (42-inch piles).	8	4	0.000	0.006	.....	32.411
	Vibratory pile driving (24-inch piles).	24	4.5	.....	.....	0.000	0.000
	Vibratory pile driving (30-inch temporary piles).	62	10.5	.....	.....	0.000	0.002
	Vibratory pile removal (30-inch temporary piles).	62	10.5	.....	.....	0.000	0.002
	Vibratory pile driving (30-inch permanent piles).	3	1.5	.....	.....	0.000	0.000
	Vibratory pile driving (36-inch piles).	16	8	.....	.....	0.000	0.006
	Vibratory pile driving (42-inch piles).	8	4	.....	.....	0.000	0.006
	Socket drilling/rock anchoring .....	.....	28	.....	.....	0.000	0.304
	Crew skiff .....	.....	75	.....	.....	0.000	2.217
	Monitoring skiff .....	.....	75	.....	.....	0.000	132.489
	Barge handling skiff .....	.....	75	.....	.....	0.000	0.040
Total .....	.....	.....	75	0.000	0.012	0.000	199.888

In the calculation of otter densities, sightings data from transect surveys are averaged over a large area. While densities provide the most reliable estimates of animal presence within a relatively large subset of the area for which density was calculated, they do not account for patchy distribution of animals within relatively small areas. For each project area considered here, local knowledge suggests that sea otter

utilization of some areas of habitat near the construction sites is greater than indicated by density data. The estimates of take based on density (table 5) almost certainly underestimate the number of otters likely to be affected by the activities planned for each location.

Solstice Alaska Consulting, Inc. conducted surveys of the Sitka O'Connell Bridge site; the data collected suggest that between one and four sea

otters can be expected near the project area daily (Solstice Alaska Consulting Inc., unpublished data). We therefore assumed that 4 animals would be present on each of the 3 days of operations.

The Hoonah Indian Association, based on local knowledge and in consultation with Solstice Alaska Consulting Inc., indicated that between one and six sea otters would likely be

near the project area daily. Communications among Service staff indicated that group sizes at Cannery Point can be larger—frequently 10 animals (Michelle Kissling, USFWS, pers. comm.). We assumed that a group of 10 otters would be present each day in the immediate project vicinity at Hoonah. Additionally, the Hoonah Indian Association indicated that larger rafts of otters, up to 60 individuals, are sighted regularly near Halibut Island, which lies within the Level B zone of acoustical influence for impact pile driving for the DPD project. For the purposes of estimating take, we therefore assumed that 60 individuals would be present at Halibut Island on each day during the project.

With this information in mind, we made a second estimate of take by Level

B harassment by multiplying the number of otters expected to be in the Level B harassment zone by the number of days of operations (table 6). For the CBS project, operations are expected to take place on 3 days and result in the take of four otters each day. Four otters multiplied by 3 days results in 12 takes of otters.

The total number of days of operations for the DPD project is 75. However, the number of potentially affected otters on a given day is dependent upon which operations are undertaken. During the 8 days of impact pile driving at Hoonah, the area in which noise levels will exceed the Level B harassment threshold is likely to contain 70 sea otters:—10 animals within the immediate vicinity of Hoonah and 60 animals near Halibut

Island. On the other 67 days of pile-driving operations, the Level B harassment zone does not reach Halibut Island, and would contain only the 10 animals expected to be present in the immediate vicinity of Cannery Point. On all 75 days of operations, the monitoring skiff will be operating well outside the areas defined by the 160-dB zone for pile-driving operations, and so the density approach was applied to estimating take for this larger area. Sea otters may be encountered within the 160-dB radius created by the skiff's motor (10 m or 33 ft). We estimated a Level B harassment of two sea otters per day for the operation of the monitoring skiff based on the density approach (above). The total number of Level B exposures for the DPD/Hoonah Berth II project is 1,380 (table 6).

TABLE 6—ESTIMATE OF TOTAL TAKE FOR EACH PROPOSED ACTIVITY BASED ON ESTIMATES DERIVED FROM NORTHERN SEA OTTER GROUP SIZES IN THE PROJECT AREAS

Applicant	Activity	Duration (days)	Number of Level B exposures per day	Total Level B exposures
City and Borough of Sitka .....	All .....	3	4	12
Duck Point Development/Hoonah Berth II .....	Total .....			12
	Impact pile driving .....	8	70	560
	Monitoring skiff .....	75	2	150
	Vibratory pile driving/removal, socket drilling, crew vessel, barge positioning.	67	10	670
	Total .....			1,380

For the CBS project at O'Connell Bridge, we assumed that the four animals present on each day would likely be the same individuals from day to day. We therefore estimate that there would be 12 exposures of 4 northern sea otters to sounds in excess of the threshold for take by Level B harassment.

For the DPD/Hoonah Berth II project, we assumed that the composition of the groups at Cannery Point and Halibut Island would remain static but that two different individuals would be encountered by the monitoring skiff on each day of surveys of the waters of Port Frederick and Icy Strait. Thus, the number of individuals affected would be  $10 + 60 + (2 \times 75) = 220$  otters.

#### Critical Assumptions

We propose to authorize up to 12 takes of 4 sea otters by Level B harassment from the CBS project. For the DPD/Hoonah Berth II project, we propose to authorize up to 1,380 takes of 220 northern sea otters. We made several critical assumptions to conduct this analysis. We assumed that take by

harassment equated to exposure to noise meeting or exceeding the specified criteria. We also assumed all otters exposed to these noise levels would exhibit behavioral responses that indicate harassment or disturbance. We assumed the response rates are uniform throughout the population, though there are likely to be some animals that respond more to disturbance and some less. Our estimates also do not account for variable responses by age and sex. There is not enough information available to develop a correction factor for these differences; therefore, a correction factor was not applied. This will result in overestimation in take calculations from exposure to underwater noise and underestimation of take from all other sources. The degree of over- or under-estimation of take is unknown.

The estimate of behavioral responses do not account for the variability of movements of animals in the project area. Our assessment assumes that the animals near Sitka, Cannery Point, and Halibut Island will remain, *i.e.*, the individual composition of the affected

groups of sea otters will not change. Conversely, we assume that otters encountered in the waters of Port Frederick and Icy Strait will be transitory, *i.e.*, different individual animals each day. There is not enough information about the movement of sea otters in response to specific disturbances to refine these assumptions. While otters do have smaller home ranges than other marine mammals, and those in the project area are likely to be exposed to sound during multiple days of work, it is unlikely that any single otter will continue to respond in the same manner. The otter will either leave the area then return after activities are complete, or it will habituate to the disturbance. However, we have no data to adjust for the likelihood of departure or habituation. This situation is likely to result in overestimation of take.

We do not account for an otter's time at the water's surface where sound attenuates faster than in deeper water. The average dive time of a northern sea otter is only 85 to 149 seconds (Bodkin *et al.* 2004; Wolt *et al.* 2012). Wolt *et al.*

(2012) found Prince William Sound sea otters average 8.6 dives per feeding bout, and when multiplied by the average dive time (149 sec), the average total time a sea otter spends underwater during a feeding bout is about 21 minutes. Bodkin *et al.* (2007) found the overall average activity budget (proportion of 24-hour day) spent foraging and diving was 0.48 (11.4 hours per day), and 0.52 nondiving time (12.5 hours per day). Gelatt *et al.* (2002) found that the percent time foraging ranged from 21 percent for females with very young (less than 3 weeks of age) dependent pups to 52 percent for females with old (greater than or equal to 10 weeks of age) pups. Therefore, although exposure to underwater sound during a single dive is limited, accumulation of exposure over time is expected. Our assessment will cause some overestimation in this regard.

We also assume that the mitigation measures presented will be effective for eliminating take by Level A harassment and reducing take by Level B harassment. Given that the largest Level A radius is slightly under 40 m (131 ft), it is reasonable to expect that visual monitoring and mitigation will be effective in this regard. However, additional information is needed to quantify the effectiveness of mitigation. The monitoring and reporting in these proposed IHAs will help fill this information need in the future, but for this suite of proposed activities, no adjustments were made to estimate the number of Level B takes that will be avoided by applying effective mitigation measures.

#### Potential Impacts on the Southeast Alaska Sea Otter Stock

The estimated level of take by Level B harassment is small relative to the most recent stock abundance estimates for the southeast Alaska stock of northern sea otter, which is 25,712 animals (USFWS 2014). The take of animals associated with the CBS project is less than 0.1 percent of the current population size ( $4 \div 25,712 \approx 0.0002$ ). For the DPD project, the take of 220 animals is about 0.9 percent of the southeast Alaska stock ( $220 \div 25,712 \approx 0.0086$ ).

#### Potential Impacts on Subsistence Uses

Sea otter subsistence harvest by Alaska Natives from the villages of Sitka and Hoonah occurs year-round in areas relatively near the proposed project areas. Between 2013 and 2017, Alaska Native residents of Sitka harvested approximately 1,541 sea otters averaging 257 per year (although numbers from 2018 are preliminary). Over the same period, Alaska Native residents of

Hoonah harvested 394 animals, averaging 67 per year.

The applicants' activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Pile driving and vessel use may displace otters, resulting in changes to availability of otters for subsistence use during the project period. Otters may be more vigilant during periods of disturbance, which could affect hunting success rates. The applicants have coordinated with the Indigenous People's Council for Marine Mammals, the Alaska Sea Otter and Steller Sea Lion Commission, the Hoonah Indian Association, and the Sitka Tribe of Alaska to identify and avoid potential conflicts. The applicants reported that no conflicts with sea otter subsistence harvest were identified by these groups.

#### Findings

We propose the following findings regarding these actions:

##### *Small Numbers*

For small numbers analyses, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of "small" to the agency's discretion. In this case, we propose a finding that the applicants' projects may result in takes from the southeast stock as follows: The take of 4 sea otters for CBS and 220 sea otters for DPD. The current estimate of the southeast Alaska stock of northern sea otters is 25,712 animals (USFWS 2014). The number of animals taken associated with the CBS project represent 0.02 percent of the stock. For the DPD project, the number of animals taken represent 0.86 percent of the stock. Based on these numbers, we propose a finding that the applicants' projects will take a small number of animals.

##### *Negligible Impact*

We propose a finding that the incidental take by harassment resulting from the proposed project cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otter through effects on annual rates of recruitment or survival and would, therefore, have no more than a negligible impact on the southeast Alaska stock of northern sea otters. In making this finding, we considered the best available scientific information, including the biological and behavioral characteristics of the species; the most recent information on species distribution and abundance within the area of the specified activities; the potential sources of disturbance caused

by the project; and the potential responses of animals to this disturbance. In addition, we reviewed materials supplied by the applicants, other operators in Alaska, our files and datasets, published reference materials, and species experts.

Otters are likely to respond to proposed activities with temporary behavioral modification or displacement. These reactions are unlikely to have consequences for the health, reproduction, or survival of affected animals. The areas in which sound production is expected to reach levels capable of causing harm are small and we expect visual monitoring to eliminate this risk, so Level A harassment is not anticipated and not authorized. Most animals will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected animals are expected to resume normal behaviors soon after exposure, with no lasting consequences. Some animals may exhibit more acute responses typical of Level B harassment, such as fleeing, ceasing feeding, or flushing from a haulout. These responses could have significant biological impacts for a few affected individuals, but most animals will also tolerate this type of disturbance without lasting effects. We do not expect this type of harassment to affect annual rates of recruitment or survival or result in adverse effects on the species or stock.

Our proposed finding of negligible impact applies to incidental take associated with the proposed activities as mitigated by the avoidance and minimization measures identified in the applicants' mitigation and monitoring plans. These measures are designed to reduce interactions with and impacts to otters. Mitigation, monitoring, and reporting procedures are required for the validity of our findings and are a necessary component of the IHAs. For these reasons, we propose findings that the CBS and DPD projects will have a negligible impact on the southeast Alaska stock of sea otters.

##### *Impact on Subsistence*

We propose a finding that the anticipated harassment caused by both applicants' activities would not have an unmitigable adverse impact on the availability of sea otters for taking for subsistence uses. In making this finding, we considered the timing and location of the proposed activities and the location of subsistence harvest activities in the area of the proposed project. We also considered both applicants' consultations with subsistence

communities and commitment to development of a Plan of Cooperation (POC), should any adverse impacts be identified.

### Required Determinations

#### *National Environmental Policy Act (NEPA)*

We have prepared draft environmental assessment in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that approval and issuance of the authorizations for the nonlethal, incidental, unintentional take by Level B harassment of small numbers of the southeast Alaska stock of northern sea otters in Sitka Sound and Port Frederick, during activities conducted by the applicants in 2019, would not significantly affect the quality of the human environment, and that the preparation of an environmental impact statement for these actions is not required by section 102(2) of NEPA or its implementing regulations. We are accepting comments on these draft environmental assessments as described above in **ADDRESSES**.

#### *Endangered Species Act (ESA)*

The proposed authorization has no effect on any species listed as threatened or endangered under the ESA.

#### *Government-to-Government Coordination*

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native tribes and corporations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by the following policies and directives: (1) The Native American Policy of the Service (January 20, 2016); (2) the Alaska Native Relations Policy (currently in draft form); (3) Executive Order 13175 (January 9, 2000); (4) Department of the Interior Secretarial Orders 3206 (June 5, 1997), 3225 (January 19, 2001), 3317 (December 1, 2011), and 3342 (October 21, 2016); (5) the Alaska Government-to-Government Policy (a departmental memorandum issued January 18, 2001); and (6) the Department of the Interior's policies on consultation with Alaska Native tribes and organizations.

We have evaluated possible effects of the proposed activities on federally recognized Alaska Native Tribes and corporations. Through the IHA process identified in the MMPA, the applicants have presented a communication process, culminating in a POC if needed, with the Native organizations and communities most likely to be affected by their work. The applicants have engaged these groups in informational meetings.

### Proposed Authorization

The Service proposes to issue an IHA to the CBS for up to 12 incidental takes by Level B harassment of 4 northern sea otters from the southeast Alaska stock. We also propose to issue an IHA to DPD for up to 1,380 incidental takes by Level B harassment of 220 sea otters. Authorized take will be limited to disruption of behavioral patterns that may be caused by pile driving and vessel operations conducted by the applicants in Sitka Sound and Port Frederick/Icy Strait, Alaska, during the time period of July 22, 2019, through December 31, 2019. Take by injury or death to northern sea otters resulting from these construction activities and vessel operations is neither anticipated nor authorized.

The final IHA will incorporate the mitigation, monitoring, and reporting requirements provided below. The applicants would be responsible for following these requirements. These authorizations would not allow the intentional taking of sea otters.

#### *A. General Conditions for Issuance of the Proposed IHAs*

1. The taking of sea otters whenever the required conditions, mitigation, monitoring, and reporting measures are not fully implemented as required by the IHAs will be prohibited. Failure to follow measures specified may result in the modification, suspension, or revocation of the IHA.

2. If take exceeds the level or type identified in the proposed authorization (e.g., greater than 12 incidents of take of sea otters by Level B harassment for CBS; greater than 1,380 incidents of take of sea otters by Level B harassment for DPD (including separation of a mother from young; injury; or death), the IHA will be invalidated and the Service will reevaluate its findings. If project activities cause unauthorized take, the applicant must take the following actions: (i) Cease its activities immediately (or reduce activities to the minimum level necessary to maintain safety); (ii) report the details of the incident to the Service's MMM within

48 hours; and (iii) suspend further activities until the Service has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the applicant that it may resume project activities.

3. All operations managers and vessel operators must receive a copy of the IHA and maintain access to it for reference at all times during project work. These personnel must understand, be fully aware of, and be capable of implementing the conditions of the IHA at all times during project work.

4. The IHA will apply to activities associated with the proposed project as described in this document and in the applicants' amended applications (Solstice Alaska Consulting, Inc., 2019a, and b). Changes to the proposed project without prior authorization may invalidate the IHA.

5. The applicants' IHA applications will be approved and fully incorporated into the IHAs, unless exceptions are specifically noted herein or in the final IHAs.

The CBS application includes these items: The applicant's original request for an IHA, dated November 12, 2018; the applicant's response to a request for additional information from the Service, dated March 19, 2019; the amended application, dated March 21, 2019; the applicant's response to a request for additional information from the Service, dated March 25, 2019; and the *Marine Mammal Monitoring and Mitigation Plan* prepared by Solstice Alaska Consulting, Inc. (2019b).

The DPD application includes the following items: The applicant's original request for an IHA, dated January 30, 2019; the applicant's response to a request for additional information from the Service, dated March 19, 2019; the amended application, dated March 21, 2019; and the *Marine Mammal Monitoring and Mitigation Plan* prepared by Solstice Alaska Consulting, Inc. (2019a).

6. Operators will allow Service personnel or the Service's designated representative to visit project work sites to monitor impacts to sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so. "Operators" are all personnel operating under the applicants' authority, including all contractors and subcontractors.

#### *B. Avoidance and Minimization*

1. Shutdown and monitoring zones will be established as shown in Table 7.



TABLE 7—SHUTDOWN AND MONITORING ZONES BY ACTIVITY TYPE

Applicant	Activity	Level A shutdown zone (radius in meters)	Level B monitoring zone (radius in meters)
City and Borough of Sitka .....	Impact pile driving (16-inch piles) .....	10	265
	Vibratory pile driving (16-inch piles) .....	10	15
	Socket and anchor drilling .....	15	100
	Crew skiff .....	10	100
	Barge handling skiff .....	10	25
Duck Point Development, LLC/ Hoonah Berth II.	Impact pile driving (36-inch piles) .....	50	3,745
	Impact pile driving (42-inch piles) .....	50	3,745
	Vibratory pile driving (24-inch piles) .....	10	25
	Vibratory pile driving (30-inch temporary piles) .....	10	25
	Vibratory pile removal (30-inch temporary piles) .....	10	25
	Vibratory pile driving (30-inch piles) .....	10	25
	Vibratory pile driving (36-inch piles) .....	10	50
	Vibratory pile driving (42-inch piles) .....	10	50
	Socket and anchor drilling .....	15	100
	Crew skiff .....	10	100
	Monitoring skiff .....	10	100
	Barge handling skiff .....	10	25

2. Vessels will not approach within 100 m (328 ft) of individual sea otters or 500 m (1,640 ft) of groups of 10 or more otters. Operators will reduce vessel speed if a sea otter approaches or surfaces within 100 m (328 ft) of a vessel.

3. All vessels must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.

#### C. Monitoring

1. Trained and qualified PSOs will be placed at positions with good vantage of shutdown and monitoring zones for pile-driving activities to perform the monitoring of sea otters necessary for initiation of adaptive mitigation measures.

2. A trained and qualified PSO will be placed on the vessel used to monitor the Level B harassment zones defined in these IHAs and in any IHAs issued by the NMFS to perform the monitoring of sea otters necessary for initiation of adaptive mitigation measures.

3. While on shift, PSOs will have no primary duties other than to watch for and report on events related to marine mammals.

#### D. Measures To Reduce Impacts to Subsistence Users

Prior to conducting the work, applicants will take the following steps to reduce potential effects on subsistence harvest of sea otters: (i) Avoid work in areas of known subsistence harvest of sea otters; (ii) discuss the planned activities with subsistence stakeholders including Sitka Sound and Port Frederick villages, traditional councils, and harvest

commissions; (iii) identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and (iv) if any unresolved or ongoing concerns remain, develop a POC in consultation with the Service and subsistence stakeholders to address these concerns.

#### E. Reporting Requirements

1. The applicants must notify the Service at least 48 hours prior to commencement of activities.

2. Reports will be submitted to the Service's MMM weekly during project activities. The reports will summarize project work and monitoring efforts.

3. A final report will be submitted to the Service's MMM within 90 days after the expiration of the IHAs. It will include a summary of monitoring efforts and observations. All project activities will be described, along with any additional work yet to be done. Factors influencing visibility and detectability of marine mammals (*e.g.*, sea state, number of observers, fog, and glare) will be discussed. The report will describe changes in sea otter behavior resulting from project activities and any specific behaviors of interest. Sea otter observation records will be provided in the form of an electronic database or spreadsheet files. The report will assess any effects that operations may have had on the availability of sea otters for subsistence harvest and, if applicable, evaluate the effectiveness of the POC for preventing impacts to subsistence users of sea otters.

4. Injured, dead, or distressed sea otters that are associated with project activities must be reported to the

Service MMM within 48 hours of discovery. Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.*, animals found outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition, or scavenger damage) do not need to be reported to the Service. Photographs, video, location information, or any other available documentation shall be provided to the Service.

5. If behaviors indicative of Level B harassment are observed during the course of pile driving or vessel operations, the PSO will record the details regarding the behavior(s) and the distance(s) at which the animals showed behaviors indicative of harassment. If such incidences take place at distances greater than the standoff and shutdown radii described above in *Avoidance and Minimization*, this information will be reported to the Service's MMM within 24 hours; the Service MMM will evaluate the information and determine whether adjustment of the standoff or shutdown distance is appropriate.

6. All reports shall be submitted by email to [fw7\\_mmm\\_reports@fws.gov](mailto:fw7_mmm_reports@fws.gov).

7. Applicants must notify the Service upon project completion or end of the work season.

#### References

A list of the references cited in this notice is available at [www.regulations.gov](http://www.regulations.gov) in Docket No. FWS-R7-ES-2019-0053.

#### Request for Public Comments

If you wish to comment on these proposed IHAs, the associated draft environmental assessments, or both, you

may submit your comments by any of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed IHAs (and which IHA), draft environmental assessments (and which environmental assessment), or both (IHAs and environmental assessments), make your comments as specific as possible, confine them to issues pertinent to the proposed authorization(s), and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The Service will consider all comments that are received before the close of the comment period (see **DATES**).

Comments, including names and street addresses of respondents, will become part of the administrative record for this proposal. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: May 30, 2019.

**Gregory E. Siekaniec,**

*Regional Director, Alaska Region.*

[FR Doc. 2019-14667 Filed 7-9-19; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[19X.LLAK941000 L14100000.ET0000; AA-65513, AA-61299]

#### Public Land Order No. 7880, Partial Revocation of Public Land Orders No. 5176 and 5179, Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This Order partially revokes two Public Land Orders (PLOs) insofar as they affect 217,486 acres of public lands reserved for study and classification as appropriate by the Department of the Interior. The purposes for which these lands were withdrawn no longer exist as described in the analysis and decisions made through the 2007 East Alaska Resource Management Plan (East Alaska RMP).

**DATE:** This PLO takes effect on July 10, 2019.

#### FOR FURTHER INFORMATION CONTACT:

David V. Mushovic, Bureau of Land Management Alaska State Office, 222 West Seventh Avenue, Mailstop #13, Anchorage, AK 99513-7504, telephone: 907-271-4682, or email: [dmushovi@blm.gov](mailto:dmushovi@blm.gov). People who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Mushovic during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This Order follows the recommendations made in the Bureau of Land Management's 2007 East Alaska RMP. The Environmental Impact Statement accompanying the East Alaska RMP serves as the detailed statement required under section 102(2)(C) of the National Environmental Policy Act. PLO No. 5176, as amended, modified, or corrected, withdrew land for selection by Alaska Native Claims Settlement Act (ANCSA) village and regional corporations in the Chugach Region, and for classification. The selection period expired in 1974 making it possible for revocation of this withdrawal on any segregated land still under selection. PLO No. 5179, as amended, modified, or corrected, withdrew lands in aid of legislation concerning addition to or creation of units of the National Park, National Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and to allow for classification of the lands. Any additions to or creation of new units of National Parks, National Forests, Wildlife Refuges or Wild and Scenic Rivers from the land withdrawn by PLO No. 5179 were accomplished by the Alaska National Interest Lands Conservation Act of 1980. The classification of the lands withdrawn by PLO No. 5176 and 5179 were satisfied by the analysis conducted during the development of the East Alaska RMP.

#### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, and Section 22(h)(4) of the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1621(h)(4), it is ordered as follows:

1. Subject to valid existing rights, PLOs No. 5176 (37 FR 5579 (1972)), 5179 (37 FR 5589 (1972)), and any amendments, modifications, or corrections to these orders, if any, are

hereby revoked insofar as they affect the following described Federal lands:

#### Copper River Meridian, Alaska

- T. 18 S, R. 15 E, unsurveyed, secs. 19 thru 36.
- T. 16 S, R. 16 E, unsurveyed, secs. 25 thru 28 and secS, 33 thru 36.
- T. 18 S, R. 16 E, unsurveyed, secs. 1 thru 4, secs. 9 thru 16, and secS, 19 thru 36.
- T. 16 S, R. 17 E, unsurveyed, secs. 19 thru 36, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 17 S, R. 17 E, unsurveyed.
- T. 18 S, R. 17 E, unsurveyed.
- T. 19 S, R. 17 E, partly unsurveyed, secs. 1 thru 14, secs. 17 thru 20, secs. 23 thru 26, and secs. 35 and 36.
- T. 16 S, R. 18 E, unsurveyed, secs. 17 thru 20, and sec. 30, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 17 S, R. 18 E, unsurveyed, secs. 19 thru 23, and secs. 25 thru 36, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 18 S, R. 18 E, unsurveyed, secs. 1 thru 36, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 18 S, R. 19 E, unsurveyed, secs. 6 thru 9, secs. 15 thru 22, and secs. 27 thru 34, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 19 S, R. 19 E, unsurveyed, secs. 2 thru 36, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 20 S, R. 19 E.
- T. 19 S, R. 20 E, unsurveyed, secs. 17 thru 20, and secs. 27 thru 34, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 20 S, R. 20 E, unsurveyed, secs. 3 thru 10, secs. 15 thru 22, and secs. 27 thru 34, excepting PL 96-487 Wrangell-St. Elias National Park.
- T. 21 S, R. 20 E, partly unsurveyed, secs. 1 thru 3, secs. 10 thru 17, and secs. 20 thru 29.

The areas described aggregate 217,486 acres. Some lands covered by the revocation of the above listed withdrawals as to the lands described above have been top-filed by the State of Alaska per the Alaska Statehood Act.

2. The lands subject to revocation in this Order will not be subject to additional withdrawal by PLO No. 5418, effective March 28, 1974, amending PLO No. 5180.

3. At 8 a.m. AKDT on August 9, 2019, the lands described in Paragraph 1 shall be open to all forms of appropriation under the public land laws, including selection by the State of Alaska under the Alaska Statehood Act, location and entry under the mining laws, leasing under the Mineral Leasing Act of February 25, 1920, as amended, and selection by Regional Corporations under section 12 of the ANCSA, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of

applicable law. All valid applications received at or prior to 8 a.m. AKDT on August 9, 2019, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the lands referenced in this Order under the general mining laws prior to the date and time of revocation is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. State law governs acts required to establish a location and to initiate a right of possession where not in conflict with Federal law. The BLM will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 26, 2019.

**Joseph R. Balash,**

*Assistant Secretary for Land and Minerals Management.*

[FR Doc. 2019-14708 Filed 7-9-19; 8:45 am]

**BILLING CODE 4310-JA-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[18X.LLAK941000 L14100000.ET0000; F-16301, F-16302, AA-61299, F-16304, F-85667, AA-61005, F-86064]

### Public Land Order No. 7879; Partial Revocation of Public Land Orders No. 5173, 5178, 5179, 5180, 5184, 5186 and 5187, Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This Order partially revokes seven Public Land Orders (PLOs) insofar as they affect 1,151,877.36 acres of public lands reserved for study and classification as appropriate by the Department of the Interior. The purposes for which these lands were withdrawn no longer exist as described in the analysis and decisions made through the Eastern Interior Fortymile Resource Management Plan (RMP).

**DATES:** This PLO takes effect on July 10, 2019.

**FOR FURTHER INFORMATION CONTACT:** David V. Mushovic, Bureau of Land Management Alaska State Office, 222 West Seventh Avenue, Mailstop #13, Anchorage, AK 99513-7504, 907-271-4682, or [dmushovi@blm.gov](mailto:dmushovi@blm.gov). People 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:** This Order follows the recommendations made in the Bureau of Land Management's 2016 Eastern Interior Fortymile RMP. The Environmental Impact Statement accompanying the Fortymile RMP serves as the detailed statement required under section 102(2)(C) of the National Environmental Policy Act. PLOs 5173 and 5178, as amended, modified, or corrected, withdrew lands for selection by Village and Regional Corporations under Sec. 11(a)(3) of Alaska Native Claims Settlement Act (ANCSA), and for classification. Sec. 22(h)(4) of ANCSA states "the Secretary is authorized to terminate any withdrawal . . . whenever he determines the withdrawal is no longer necessary." The purposes for which these lands were withdrawn were satisfied by the analysis conducted during the development of the Bureau of Land Management's 2016 Eastern Interior Fortymile RMP. PLO No. 5179, as amended, modified, or corrected, withdrew lands in aid of legislation concerning addition to or creation of units of the National Park, National Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and to allow for classification of the lands. Any additions to or creation of new units of National Parks, National Forests, Wildlife Refuges or Wild and Scenic Rivers from the land withdrawn by PLO No. 5179 were accomplished by the Alaska National Interest Lands Conservation Act (ANILCA). The classification of the lands withdrawn by PLO No. 5179 has been satisfied by the analysis conducted during the development of the Fortymile RMP. PLO No. 5180, as amended, modified, or corrected, withdrew lands to allow for classification and for the protection of the public interest in these lands. The classification and protection of the public interest in the lands withdrawn by PLO No. 5180 has been satisfied by the analysis conducted during the development of the Fortymile RMP. PLO No. 5184, as amended, modified, or corrected, withdrew lands to allow for classification or reclassification of some of areas withdrawn by Section 11 of the ANCSA. These purposes were satisfied by the analysis conducted during the development of the Fortymile RMP. PLO No. 5186, as amended, modified, or corrected, withdrew lands for classification and protection of the public interest in lands not selected by

the State of Alaska. These purposes for which these lands were withdrawn were satisfied by the analysis conducted during the development of the Fortymile RMP. PLO No. 5187, as amended, modified, or corrected, withdrew lands for classification and protection of the public interest in lands in military reservations. The classification of the lands withdrawn by PLO No. 5187 has been satisfied by the analysis conducted during the development of the Fortymile RMP. In addition, PLO No. 5418, effective March 28, 1974, amends PLO No. 5180 to add "All unreserved public lands in Alaska, or those that may become unreserved unless specified by order at that time." Upon revocation, the lands in this Order will not be subject to the terms and conditions of PLO No. 5418, which amended PLO No. 5180, but will continue to be subject to the terms and conditions of any other withdrawal, application, or segregation of record. Some lands covered by the revocation of the above listed withdrawals have been top-filed by the State of Alaska per the Alaska Statehood Act. Upon revocation of the above listed withdrawals, the top filings will convert to selections, subject to valid existing rights. Lands validly selected by or conveyed to the State of Alaska are not subject to the subsistence management provisions of Title VIII of the ANILCA as they no longer meet the definition of public lands. The Sec. 810 analysis for the approved Fortymile RMP found no significant restriction on subsistence uses due to this action.

### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, and Section 22(h)(4) of the ANCSA of 1971, 43 U.S.C. 1621(h)(4), it is ordered as follows:

1. Subject to valid existing rights, PLOs 5173 (37 FR 5575 (1972)); 5178 (37 FR 5579 (1972)); 5179 (37 FR 5579 (1972)); 5180 (37 FR 5583 (1972)); 5184 (37 FR 5588 (1972)); 5186 (37 FR 5589 (1972)); and 5187 (37 FR 5591 (1972)), and any amendments, modifications, or corrections to these orders, if any, are hereby revoked insofar as they affect the following described Federal lands:

#### Copper River Meridian, Alaska

T. 22 N, R. 5 E,  
U.S. Survey No. 4359.  
T. 24 N, R. 5 E,  
sec. 31.  
T. 22 N, R. 6 E,  
Lot 2, U.S. Survey No. 4368.  
T. 27 N, R. 6 E, unsurveyed  
secs. 1, 2, 11, and 12.

- T. 28 N, R. 6 E, unsurveyed  
secs. 35 and 36.
- T. 23 N, R. 7 E,  
tract C, those lands within AKF-14852-B.
- T. 27 N, R. 7 E, unsurveyed,  
sec. 2, W $\frac{1}{2}$ ;  
secs. 3 thru 10;  
sec. 11, W $\frac{1}{2}$ ;
- T. 28 N, R. 7 E, unsurveyed  
secs. 31 thru 34.
- T. 15 N, R. 8 E, unsurveyed,  
tract C.
- T. 21 N, R. 8 E,  
tract B, that portion within AKF-14852-B  
and AKF-22481, excepting U.S. Survey  
No. 3620.
- T. 20 N, R. 10 E,  
secs. 14, 22, 27, and 34, excepting U.S.  
Survey No. 7310;  
lots 5 and 6, U.S. Survey No. 5615A.
- T. 21 N, R. 10 E,  
tract A, those lands within AKF-22556.
- T. 22 N, R. 10 E, unsurveyed.
- T. 23 N, R. 10 E, unsurveyed,  
excepting U.S. Survey Nos. 11204 and  
13842.
- T. 24 N, R. 10 E, partly unsurveyed.
- T. 27 N, R. 10 E, partly unsurveyed,  
sec. 5, E $\frac{1}{2}$  and NW $\frac{1}{4}$ ;  
sec. 8, E $\frac{1}{2}$ ;  
sec. 17, E $\frac{1}{2}$ ;  
sec. 20, E $\frac{1}{2}$ ;  
sec. 28;  
sec. 29, E $\frac{1}{2}$ ;  
sec. 32, E $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
sec. 33.
- T. 28 N, R. 10 E, partly unsurveyed,  
sec. 31, NE $\frac{1}{4}$ ;  
secs. 32 thru 35.
- T. 18 N, R. 11 E,  
sec. 12, lot 5 and S $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
lots 5 and 8, U.S. Survey No. 2631.
- T. 19 N, R. 11 E,  
tract B, those lands within AKF-027784  
and AKF-14943-A.
- T. 20 N, R. 11 E,  
sec. 30, lot 1, those lands within AKF-  
87180 parcel B and AKF-14943-B.
- Tps. 22 thru 26 N, R. 11 E, partly  
unsurveyed.
- T. 27 N, R. 11 E,  
secs. 13 thru 18, secs. 22 thru 27, and secs.  
31 thru 36;  
tract A.
- T. 15 N, R. 12 E,  
tract A.
- T. 18 N, R. 12 E,  
sec. 7, lots 2 and 3;  
sec. 25, S $\frac{1}{2}$ SW $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 36, NW $\frac{1}{4}$ NE $\frac{1}{4}$ .
- T. 20 N, R. 12 E,  
secs. 1 and 2 and secs. 11 thru 16.
- T. 21 N, R. 12 E,  
tract A.
- T. 22 N, R. 12 E, partly unsurveyed,  
secs. 1 thru 36;  
U.S. Survey No. 14347.
- T. 23 N, R. 12 E, partly unsurveyed.
- T. 24 N, R. 12 E, partly unsurveyed,  
secs. 6, 7, 18, 19, and secs. 34 thru 36.
- T. 25 N, R. 12 E, partly unsurveyed,  
secs. 1 thru 36;  
U.S. Survey No. 14348.
- T. 26 N, R. 12 E
- T. 27 N, R. 12 E,  
secs. 1 and secs. 11 thru 36.
- T. 28 N, R. 12 E,  
sec. 36.
- Tps. 21, 22 and 23 N, R. 13 E, partly  
unsurveyed.
- T. 24 N, R. 13 E, unsurveyed,  
secs. 1 thru 4, excepting U.S. Survey Nos.  
7617 and 7618;  
secs. 12, 31, and 36.
- T. 25 N, R. 13 E, partly unsurveyed,  
secs. 1 thru 36, excepting U.S. Survey Nos.  
7337 and 11243.
- T. 26 N, R. 13 E
- T. 27 N, R. 13 E, partly unsurveyed.
- T. 28 N, R. 13 E
- T. 20 N, R. 14 E, partly unsurveyed.
- T. 26 N, R. 14 E, partly unsurveyed,  
secs. 1 thru 23;  
sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and W $\frac{1}{2}$ ,  
excepting, lots 3 thru 8, U.S. Survey No.  
7609;  
secs. 25 thru 36;  
lots 7 and 8, U.S. Survey No. 7609.
- T. 27 N, R. 14 E, unsurveyed.
- T. 28 N, R. 14 E, unsurveyed,  
secs. 31 thru 36.
- T. 17 N, 15 E, unsurveyed,  
secs. 1 and 12.
- T. 18 N, R. 15 E,  
tract B, excepting AKF-028269.
- T. 20 N, R. 15 E, unsurveyed,  
secs. 1 thru 24 and secs. 27 thru 34.
- T. 21 N, R. 15 E, partly unsurveyed.
- T. 19 N, R. 16 E,  
tract A.
- T. 20 N, R. 16 E, partly unsurveyed,  
secs. 1 thru 4, secs. 9 thru 16, secs. 21 thru  
28, and secs. 33 thru 36.
- T. 21 N, R. 16 E,  
secs. 1, 2, and 3, secs. 10 thru 15, secs. 22  
thru 27, and secs. 34, 35 and 36.
- T. 16 N, R. 17 E,  
sec. 3, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , excepting Tetlin  
National Wildlife Refuge;  
sec. 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , excepting Tetlin  
National Wildlife Refuge.
- T. 27 N, R. 18 E,  
sec. 29, excepting AKF-79587, U.S. Survey  
Nos. 13799 and 14233, and M.S. Nos.  
2095 and 2178;  
M.S. No. 2429, those lands within AKF-  
79587.
- T. 15 N, R. 19 E,  
sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 15, E $\frac{1}{2}$ ;  
sec. 20, E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 21, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 22;  
sec. 23, S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
sec. 24, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
sec. 25, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
sec. 26, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
and W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 28, lot 4, excepting Interim  
Conveyance Nos. 364 and 365 as  
corrected by Interim Conveyance Nos.  
2403 and 2404, and Tetlin National  
Wildlife Refuge;  
sec. 29, lot 10, excepting Interim  
Conveyance Nos. 364, 365, 964 and 965,  
as corrected by Interim Conveyance Nos.  
2403 and 2404, and Tetlin National  
Wildlife Refuge;  
sec. 33, lot 11, excepting Interim  
Conveyance Nos. 364, 365, 964, and 965,
- as corrected by Interim Conveyance Nos.  
2403 and 2404, and Tetlin National  
Wildlife Refuge;  
sec. 34, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , and  
N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .
- T. 14 N, R. 20 E,  
secs. 1, 2, 11, 12, and 13.
- T. 25 N, R. 22 E, unsurveyed,  
secs. 1, 12, 13, 24, 25, and 36, those lands  
within Presidential Proclamation 810.
- T. 26 N, R. 22 E, unsurveyed,  
secs. 1, 12, 13, 24, 25, and 36, those lands  
within Presidential Proclamation 810.
- T. 27 N, R. 22 E, unsurveyed,  
secs. 1, 12, 13, and 24, those lands within  
Presidential Proclamation 810;  
sec. 25, SE $\frac{1}{4}$ SE $\frac{1}{4}$ , those lands within  
Public Land Order No. 5645 as amended  
by Public Land Order No. 7336; and  
Presidential Proclamation 810.  
sec. 36, those lands within Presidential  
Proclamation 810.
- T. 28 N, R. 22 E, unsurveyed,  
sec. 36, those lands within Presidential  
Proclamation 810.
- T. 10 N, R. 23 E, unsurveyed,  
secs. 1, 12, 13, 24, 25, and 36, those lands  
within Presidential Proclamation 810.  
lots 5 and 8, U.S. Survey No. 5291, those  
portions northerly and easterly of the  
centerline of the Alaska Highway.
- T. 11 N, R. 23 E, unsurveyed,  
secs. 1, 12, 13, 24, 25, and 36, those lands  
within Presidential Proclamation 810.
- T. 12 N, R. 23 E, unsurveyed,  
secs. 1, 12, 13, 24, 25, and 36, those lands  
within Presidential Proclamation 810.
- T. 13 N, R. 23 E, unsurveyed,  
secs. 2, 11, 14, 23, 26, and 35, those lands  
within Presidential Proclamation 810.
- T. 14 N, R. 23 E, unsurveyed,  
secs. 2, 11, 14, 23, 26, and 35, those lands  
within Presidential Proclamation 810.
- T. 15 N, R. 23 E, unsurveyed,  
secs. 2, 11, 14, 23, 26, and 35, those lands  
within Presidential Proclamation 810.
- T. 16 N, R. 23 E, unsurveyed,  
secs. 2, 11, 14, 23, 26, and 35, those lands  
within Presidential Proclamation 810.
- T. 17 N, R. 23 E, unsurveyed,  
secs. 4, 9, 16, 21, 28, and 33, those lands  
within Presidential Proclamation 810.
- T. 18 N, R. 23 E, unsurveyed,  
secs. 4, 9, 16, 21, 28, and 33, those lands  
within Presidential Proclamation 810.
- T. 19 N, R. 23 E, unsurveyed,  
secs. 4, 9, 16, 21, 28, and 33, those lands  
within Presidential Proclamation 810.
- T. 20 N, R. 23 E, unsurveyed,  
secs. 4, 9, 16, 21, 28, and 33, those lands  
within Presidential Proclamation 810.
- T. 21 N, R. 23 E, unsurveyed,  
secs. 6, 7, 18, 19, 30, and 31, those lands  
within Presidential Proclamation 810.
- T. 22 N, R. 23 E, unsurveyed,  
secs. 6, 7, 18, 19, 30, and 31, those lands  
within Presidential Proclamation 810.
- T. 23 N, R. 23 E, unsurveyed,  
secs. 6, 7, 18, 19, 30, and 31, those lands  
within Presidential Proclamation 810.
- T. 24 N, R. 23 E, unsurveyed,  
secs. 6, 7, 18, 19, 30, and 31, those lands  
within Presidential Proclamation 810.
- Fairbanks Meridian, Alaska**
- T. 2 N, R. 1 E,

- sec. 13, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, and S<sup>1</sup>/<sub>2</sub>;  
 sec. 14, NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> and S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 17, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 20, E<sup>1</sup>/<sub>2</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;  
 sec. 21, excepting AKF-024507 and M.S. Nos. 1606, 1619, 1620, 1762, 1784, 1785, 1939, 1940, 1981;  
 sec. 22, excepting M.S. Nos. 1619, 1620, 1659, 1940, 1941, and 1981;  
 sec. 23, excepting M.S. No. 1945;  
 sec. 24, excepting M.S. Nos. 1945 and 2483;  
 sec. 25;  
 sec. 26, excepting M.S. No. 1975;  
 sec. 27, excepting M.S. Nos. 1601, 1749, 1762, 1766, 1792, 1925, and 1975;  
 sec. 28, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, excepting M.S. Nos. 1606, 1634, 1744, 1762, 1766, 1772, 1781, 1784, 1785, 1791, 1925;  
 sec. 29, lot 7, N<sup>1</sup>/<sub>2</sub>, and NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;  
 sec. 30, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 32, W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 34, lots 1 and 2, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>;  
 sec. 35, E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> and W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>;  
 M.S. No. 2401.
- T. 2 N, R. 2 E,  
 sec. 7 and 18, excepting AKF-029454;  
 sec. 19, lots 1, 2, and 3, excepting AKF-029454;  
 sec. 20, excepting AKF-029454.
- T. 3 N, R. 27 E, unsurveyed,  
 secs. 1 and 2, secs. 11 thru 14, and secs. 24 and 25.
- T. 4 N, R. 27 E, unsurveyed,  
 secs. 1, 2, secs. 11 thru 14, secs. 23 thru 26, and secs. 35 and 36, excepting the Yukon-Charley Rivers National Preserve.
- T. 1 N, R. 28 E, partly unsurveyed,  
 secs. 27 and 28;  
 sec. 29, N<sup>1</sup>/<sub>2</sub>;  
 sec. 30, NE<sup>1</sup>/<sub>4</sub>;  
 sec. 34, NE<sup>1</sup>/<sub>4</sub>.
- T. 2 N, R. 28 E, partly unsurveyed,  
 secs. 1 thru 6 and secs. 11 and 12.
- T. 3 N, R. 28 E, unsurveyed,  
 secs. 5 thru 9, secs. 15 thru 22, and secs. 25 thru 36, excepting the Yukon-Charley Rivers National Preserve.
- T. 2 N, R. 29 E, partly unsurveyed,  
 secs. 5 thru 8, secs. 12 thru 18, and secs. 21 thru 26, excepting Yukon-Charley Rivers National Preserve, and U.S. Survey No. 8005
- T. 3 N, R. 29 E, unsurveyed,  
 secs. 30 and 31, excepting the Yukon-Charley Rivers National Preserve.
- T. 2 N, R. 30 E, unsurveyed,  
 secs. 7, and 16 thru 27, excepting the Yukon-Charley Rivers National Preserve.
- T. 2 N, R. 31 E,  
 secs. 30, 31, and 32, excepting the Yukon-Charley Rivers National Preserve
- T. 1 N, R. 33 E,  
 sec. 22, Lot 1;  
 sec. 27, Lot 1;  
 sec. 34, Lot 1.
- T. 1 S., R. 1 E,  
 sec. 24, S<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>.
- T. 2 S, R. 2 E, partly unsurveyed,  
 sec. 12, E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and E<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>.
- T. 2 S, R. 3 E, partly unsurveyed,  
 sec. 5, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> and S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;
- sec. 6, lot 9, S<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, and S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>;
- sec. 7, lots 1, 2, 3, NE<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;
- sec. 8, W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;
- sec. 13;  
 sec. 14, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 18, W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, and W<sup>1</sup>/<sub>2</sub>W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>;  
 sec. 19; NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, and N<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, excepting U.S. Survey No. 9074;  
 sec. 20, W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>, and N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>;  
 sec. 22, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 23, NE<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>, and NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 24, N<sup>1</sup>/<sub>2</sub>;  
 sec. 26, NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>;  
 sec. 27, E<sup>1</sup>/<sub>2</sub>;  
 sec. 33, lots 1 thru 11 and NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>;  
 sec. 34, lots 1 thru 11, E<sup>1</sup>/<sub>2</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, and SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>;  
 secs. 35 and 36.
- T. 3 S, R. 3 E, partly unsurveyed,  
 secs. 1, 2, and 3;  
 sec. 4, lots 1, 2, 3, 6 thru 12 and NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 9, lots 1 thru 6;  
 sec. 10, N<sup>1</sup>/<sub>2</sub>, N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>;  
 secs. 11 thru 14,  
 sec. 15, lots 1 thru 9;  
 secs. 23, 24, and 25;  
 sec. 26, E<sup>1</sup>/<sub>2</sub>, E<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, and E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>;  
 sec. 35, lots 1 thru 9, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, and E<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 36.
- T. 1 S, R. 4 E, partly unsurveyed,  
 sec. 9, lots 4 and 7;  
 sec. 16, lot 2;  
 sec. 17, lot 4;  
 sec. 21, lot 2.
- T. 2 S, R. 4 E, unsurveyed,  
 sec. 17, W<sup>1</sup>/<sub>2</sub>;  
 sec. 18;  
 sec. 19, N<sup>1</sup>/<sub>2</sub>;  
 sec. 20, NW<sup>1</sup>/<sub>4</sub>.
- T. 3 S, R. 4 E, unsurveyed,  
 secs. 6 and 7;  
 sec. 8, S<sup>1</sup>/<sub>2</sub>;  
 sec. 9, SW<sup>1</sup>/<sub>4</sub>;  
 secs. 16, 17, and 18;  
 sec. 19, N<sup>1</sup>/<sub>2</sub> and SW<sup>1</sup>/<sub>4</sub>;  
 sec. 20, N<sup>1</sup>/<sub>2</sub>;  
 sec. 21, N<sup>1</sup>/<sub>2</sub>.
- T. 6 S, R. 4 E,  
 sec. 2, lots 13, 14, 23, 28, 34, 39, 42, 43, 44, 48, 49, 50, 51, 52, 53, 56, 100, 101, and 159;  
 sec. 10, lots 10 and 12;  
 sec. 11, lots 13 thru 16.
- T. 7 S, 5 E, partly unsurveyed,  
 sec. 12, lots 7, 8, 10, and 11;  
 sec. 13, lots 11, 17, 18, 21, 22, and 32.
- T. 7 S, R. 6 E,  
 sec. 7, lots 3 and 5.
- T. 8 S, R. 18 E,  
 sec. 4, W<sup>1</sup>/<sub>2</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 9;  
 sec. 10, W<sup>1</sup>/<sub>2</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 14, W<sup>1</sup>/<sub>2</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 secs. 15, 16, 21, 22 and 23;  
 sec. 24, W<sup>1</sup>/<sub>2</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 secs. 25 thru 28 and secs. 33 thru 36.
- T. 3 S, R. 19 E, partly unsurveyed,  
 tract A.
- T. 4 S, R. 20 E, partly unsurveyed,  
 tract A.
- T. 7 S, R. 22 E, unsurveyed,  
 sec. 2;  
 sec. 10, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 11;  
 secs. 22 and 27;  
 sec. 28, E<sup>1</sup>/<sub>2</sub>;  
 secs. 33 and 34.
- T. 8 S, R. 22 E, partly unsurveyed,  
 sec. 5, E<sup>1</sup>/<sub>2</sub>.
- T. 7 S, R. 23 E, partly unsurveyed,  
 secs. 3 thru 9, and secs. 17, 18, and 19;  
 sec. 24, S<sup>1</sup>/<sub>2</sub>;  
 secs. 30 and 31.
- T. 6 S, R. 24 E, partly unsurveyed,  
 sec. 1;  
 sec. 2, S<sup>1</sup>/<sub>2</sub>;  
 sec. 3, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 11, N<sup>1</sup>/<sub>2</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 12;  
 sec. 13, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> and N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>;  
 sec. 24, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 25, NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 36.
- T. 7 S, R. 24 E,  
 sec. 1;  
 sec. 11, NE<sup>1</sup>/<sub>4</sub> and S<sup>1</sup>/<sub>2</sub>;  
 secs. 12, 13, and 14;  
 sec. 15, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 19, NE<sup>1</sup>/<sub>4</sub> and S<sup>1</sup>/<sub>2</sub>;  
 sec. 20;  
 sec. 21, S<sup>1</sup>/<sub>2</sub>;  
 secs. 22 thru 36.
- T. 8 S, R. 24 E,  
 secs. 1 thru 4, secs. 9 thru 16, secs. 21 thru 28, and secs. 33 thru 36.
- T. 5 S, R. 25 E, partly unsurveyed,  
 sec. 12, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 13;  
 sec. 14, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 22, S<sup>1</sup>/<sub>2</sub>;  
 sec. 23;  
 sec. 24, N<sup>1</sup>/<sub>2</sub>, N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 27, N<sup>1</sup>/<sub>2</sub>, SW<sup>1</sup>/<sub>4</sub>, and NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 28, NE<sup>1</sup>/<sub>4</sub> and S<sup>1</sup>/<sub>2</sub>;  
 sec. 29, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 31, S<sup>1</sup>/<sub>2</sub>;  
 sec. 32;  
 sec. 33, N<sup>1</sup>/<sub>2</sub>, SW<sup>1</sup>/<sub>4</sub>, and W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>.
- T. 6 S, R. 25 E, partly unsurveyed,  
 sec. 4, W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>;  
 secs. 5, 6, and 7;  
 sec. 8, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, and W<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>;  
 sec. 10, SE<sup>1</sup>/<sub>4</sub>;  
 sec. 11, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, and S<sup>1</sup>/<sub>2</sub>;  
 secs. 12 thru 15;  
 sec. 16, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 17, NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>;  
 sec. 18, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> and N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>;  
 sec. 19, S<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>;  
 sec. 20, W<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, and S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>;  
 sec. 21, NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub>;

- secs. 22 thru 36.  
T. 7 S, R. 25 E,  
secs. 1 thru 8, secs. 17 thru 20, secs. 22 thru 27, and secs. 29, thru 36;  
tracts A and B.  
T. 8 S, R. 25 E  
T. 5 S, R. 26 E, partly unsurveyed,  
secs. 1 thru 5;  
sec. 6, SE $\frac{1}{4}$ ;  
secs. 7 thru 12;  
sec. 15, N $\frac{1}{2}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
sec. 16, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
secs. 17 and 18;  
sec. 19, N $\frac{1}{2}$ ;  
sec. 20, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
sec. 24, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 25, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
sec. 26, S $\frac{1}{2}$ ;  
sec. 27, S $\frac{1}{2}$ SW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 31, S $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
secs. 33 thru 36.  
Tps. 6 and 7 S, R. 26 E.  
T. 4 S, R. 27 E, partly unsurveyed,  
sec. 20, W $\frac{1}{2}$ ;  
sec. 29, NW $\frac{1}{4}$ ;  
sec. 32, SW $\frac{1}{4}$ .  
T. 5 S, R. 27 E, unsurveyed,  
sec. 2, W $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
secs. 3 thru 8;  
sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
sec. 11, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 12, W $\frac{1}{2}$ ;  
sec. 19, S $\frac{1}{2}$ SW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 26, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 27;  
sec. 28, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , and SE $\frac{1}{4}$ ;  
secs. 30 thru 36.  
T. 3 S, R. 28 E, partly unsurveyed,  
secs. 1 thru 4, and secs. 9 thru 17;  
sec. 18, E $\frac{1}{2}$  and NW $\frac{1}{4}$ ;  
sec. 20, E $\frac{1}{2}$  and NW $\frac{1}{4}$ ;  
secs. 21 thru 28;  
sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
sec. 33, E $\frac{1}{2}$  and NW $\frac{1}{4}$ ;  
secs. 34, 35, and 36.  
T. 4 S, R. 28 E, partly unsurveyed,  
secs. 1 and 2.  
T. 5 S, R. 28 E,  
sec. 30, W $\frac{1}{2}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 31;  
sec. 32, N $\frac{1}{2}$  and SW $\frac{1}{4}$ .  
T. 6 S, R. 28 E, partly unsurveyed  
sec. 31, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
sec. 32, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
sec. 33.  
T. 7 S, R. 28 E, partly unsurveyed,  
secs. 4 and 5;  
sec. 6, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
secs. 7, 8, and 9;  
secs. 14 thru 23 and secs. 26 thru 30;  
sec. 31, lot 1;  
secs. 32 thru 35.  
T. 1 S, R. 29 E, partly unsurveyed,  
sec. 24, NE $\frac{1}{4}$ .  
T. 2 S, R. 29 E, unsurveyed,  
sec. 36, S $\frac{1}{2}$ .  
T. 3 S, R. 29 E, partly unsurveyed.  
T. 4 S, R. 29 E, partly unsurveyed,  
secs. 1 thru 12;  
sec. 20, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
secs. 21 and 22;  
sec. 25, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 26, N $\frac{1}{2}$ ;  
sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
sec. 29, S $\frac{1}{2}$ SW $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 30, SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
secs. 31 and 32;  
sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , and SE $\frac{1}{4}$ ;  
sec. 34, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 35, S $\frac{1}{2}$ NW $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
sec. 36, W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ .  
T. 5 S, R. 29 E, partly unsurveyed,  
secs. 1, 12, and 13;  
sec. 14, E $\frac{1}{2}$ ;  
sec. 24, E $\frac{1}{2}$ .  
T. 1 S R., 30 E, unsurveyed,  
secs. 5 thru 8;  
secs. 13 thru 29;  
sec. 30, N $\frac{1}{2}$ ;  
sec. 33, N $\frac{1}{2}$ ;  
sec. 34, N $\frac{1}{2}$ ;  
sec. 35, N $\frac{1}{2}$ ;  
sec. 36, N/12.  
T. 2 S R., 30 E, unsurveyed,  
sec. 25, W $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
sec. 26;  
sec. 27, NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
sec. 31, S $\frac{1}{2}$ ;  
sec. 32;  
sec. 33, S $\frac{1}{2}$ ;  
secs. 34, 35, and 36.  
T. 3 S, R. 30 E, partly unsurveyed.  
T. 4 S, R. 30 E, partly unsurveyed,  
sec. 1, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
secs. 2 and 11, 12, 13, 24, 25, 28, and 29;  
sec. 30, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 31, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
sec. 33, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 34, N $\frac{1}{2}$ ;  
sec. 35, N $\frac{1}{2}$ ;  
sec. 36, N $\frac{1}{2}$ .  
T. 5 S, R. 30 E, partly unsurveyed,  
sec. 3, W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , and SE $\frac{1}{4}$ ;  
secs. 4 thru 7, and secs. 18 and 19.  
T. 4 S, R. 31 E, partly unsurveyed,  
secs. 1 thru 5;  
sec. 6, E $\frac{1}{2}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
secs. 8 thru 17;  
secs. 20, 21, 22, 27, 28, 33, and 34;  
tract A.  
T. 5 S, R. 31 E, partly unsurveyed,  
secs. 1 and 2;  
sec. 3, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
sec. 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$ ;  
secs. 8 and 9.  
T. 7 S, R. 31 E, unsurveyed,  
sec. 1;  
sec. 2, E $\frac{1}{2}$ ;  
sec. 12, NE $\frac{1}{4}$ .  
T. 3 S, R. 32 E,  
secs. 20 and 21, 28, and 29;  
sec. 33, lots 1 and 2;  
sec. 34.  
T. 5 S, R. 32 E, partly unsurveyed,  
sec. 36, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ .  
T. 6 S, R. 32 E, partly unsurveyed,  
secs. 12, 13, and secs. 23 thru 26;  
sec. 33, excepting PL 96–487 Fortymile Wild and Scenic River;  
sec. 36.  
T. 7 S, R. 32 E, partly unsurveyed,  
sec. 2, N $\frac{1}{2}$ .  
T. 1 S, R. 33 E,  
sec. 1, lot 1;  
sec. 12, lot 1;  
sec. 13, lot 1;  
sec. 24, lot 1;  
sec. 25, lot 1;  
sec. 36, lot 1.  
T. 2 S, R. 33 E,  
sec. 1, lot 3;  
sec. 12, lot 7;  
sec. 13, lot 5;  
sec. 24, lot 1;  
sec. 25, lot 1;  
sec. 36, lot 1.  
T. 3 S, R. 33 E,  
sec. 1, lots 1 and 4;  
sec. 12, lot 1;  
sec. 13, lot 1;  
sec. 24, lot 1;  
sec. 25, lot 1;  
sec. 36, lot 1.  
T. 4 S, R. 33 E,  
sec. 1, lot 1;  
sec. 12, lot 1;  
sec. 13, lot 1;  
sec. 24, lot 1;  
sec. 25, lot 1;  
sec. 36, lot 1.  
T. 5 S, R. 33 E, partly unsurveyed,  
secs. 1, 12, 13, 23 thru 27, and 33 thru 36.  
T. 6 S, R. 33 E, unsurveyed,  
sec. 26, NW $\frac{1}{4}$ ;  
secs. 27 thru 34.  
T. 7 S, R. 33 E, unsurveyed,  
sec. 3, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
secs. 4 and 5;  
sec. 6, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
sec. 7, NE $\frac{1}{4}$ ;  
sec. 8, N $\frac{1}{2}$ ;  
sec. 9, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
sec. 10, NW $\frac{1}{4}$ .  
T. 5 S, R. 34 E, unsurveyed,  
secs. 4, 9, 16, and 21, those lands within Presidential Proclamation 810;  
secs. 28, 29, 31, 32, and 33.  
T. 6 S, R. 34 E, unsurveyed,  
sec. 4, N $\frac{1}{2}$ ;  
sec. 5, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
sec. 6;  
sec. 7, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
sec. 18, NW $\frac{1}{4}$ .  
T. 7 S, R. 34 E, unsurveyed,  
sec. 32, SW $\frac{1}{4}$ .  
The areas described aggregate 1,151,877.36 acres.  
2. The lands subject to revocation in this order will not be subject to additional withdrawal by PLO 5418.  
3. At 8 a.m. AKST on August 9, 2019, the lands described in Paragraph 1 shall be open to all forms of appropriation under the public land laws, including location and entry under the mining laws, leasing under the Mineral Leasing Act of February 25, 1920, as amended, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the

requirements of applicable law. All valid applications received at or prior to 8 a.m. AKDST on August 9, 2019, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the lands referenced in this order under the general mining laws prior to the date and time of revocation is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. State law governs acts required to establish a location and to initiate a right of possession where not in conflict with Federal law. The BLM will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 26, 2019.

**Joseph R. Balash,**

*Assistant Secretary for Land and Minerals Management.*

[FR Doc. 2019-14709 Filed 7-9-19; 8:45 am]

**BILLING CODE 4310-JA-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCON01000.L1020000.JB0000.19X]

#### Notice of Temporary Travel Restriction on Public Lands in Moffat County, Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of temporary travel restriction.

**SUMMARY:** Notice is hereby given that a temporary restriction of activities is in effect on public lands administered by the Little Snake Field Office, Bureau of Land Management (BLM).

**DATES:** The temporary restriction takes effect on August 9, 2019 and lasts until July 12, 2021.

**ADDRESSES:** Copies of this temporary closure, maps and associated documents are available at the BLM Little Snake Field Office, 455 Emerson Street, Craig, Colorado 81625.

**FOR FURTHER INFORMATION CONTACT:**

Bruce Sillitoe, Field Manager, BLM Little Snake Field Office, at the **ADDRESSES** section above. Phone: (970) 826-5000, Email: [lsfoweb@blm.gov](mailto:lsfoweb@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a

day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

**SUPPLEMENTARY INFORMATION:** The BLM will temporarily restrict motorized vehicle use on BLM-administered lands to existing routes on approximately 3,081 acres in the Sand Wash Open Off-Highway Vehicle Area affected by the 2018 Boone Draw Fire. This action is necessary to allow reseeding and revegetation efforts to take hold in the area, prevent erosion, and protect public health and safety.

This temporary restriction affects public lands north of Colorado State Route 318; west of the Sand Wash Herd Management Area; and south of the intersection at Moffat County Roads 46 and 48 in Moffat County, Colorado. The legal description of the affected public lands is:

#### Colorado, Sixth Principal Meridian

T. 8 N, R. 99 W, Sections 3-5, 7-10.

The area to be temporarily restricted is a designated open area for OHV use. With the loss of vegetative cover following the Boone Draw Fire, there is high risk of severe erosion in the area. Unrestricted motorized use may hinder rehabilitation efforts and accelerate erosion problems. The BLM will post temporary restriction signs at the main entry points to this area and the temporary restriction order will be posted at the BLM Little Snake Field Office, see the **ADDRESSES** section earlier.

This temporary restriction is categorically excluded from further documentation under the National Environmental Policy Act in accordance with 516 DM2, Appendix 3, 1.13. Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0-7, and 43 CFR 8364.1, the BLM will enforce the following temporary restriction within the portion of the Sand Wash Open Area affected by the Boone Draw Fire:

All motorized use within the temporary restricted area will be limited to existing routes. Cross country motorized travel is prohibited until this temporary restriction is lifted.

**Exemptions:** The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or firefighting forces in the performance of the official duties; and persons with written authorization from the BLM.

**Penalties:** Any person who violates this temporary restriction may be tried

before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.07, or both. In accordance with 43 CFR 8365.17, State or local officials may also impose penalties for violations of State law.

(Authority: 43 CFR 8364.1)

**Jamie E. Connell,**

*BLM Colorado State Director.*

[FR Doc. 2019-14716 Filed 7-9-19; 8:45 am]

**BILLING CODE 4310-JB-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Hedge IV

Notice is hereby given that, on April 25, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on HEDGE IV (“HEDGE IV”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Honeywell International, Inc., Plymouth, MI, has changed its name to Garrett Automotive Co.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HEDGE IV intends to file additional written notifications disclosing all changes in membership.

On February 14, 2017, HEDGE IV, filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15238).

The last notification was filed with the Department on March 11, 2019. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 4, 2019 (84 FR 13317).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics Unit, Antitrust Division.*

[FR Doc. 2019-14662 Filed 7-9-19; 8:45 am]

**BILLING CODE 4410-11-P**



**DEPARTMENT OF JUSTICE****Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation**

Notice is hereby given that, on June 18, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Heterogeneous System Architecture Foundation (“HSA Foundation”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Huawei Technologies Co., Ltd., San Diego, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on April 29, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 17, 2019 (84 FR 22520).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics Unit, Antitrust Division.*

[FR Doc. 2019-14661 Filed 7-9-19; 8:45 am]

**BILLING CODE 4410-11-P**

**DEPARTMENT OF JUSTICE****Antitrust Division****United States v. Harris Corporation and L3 Technologies, Inc.; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of

Columbia in *United States of America v. Harris Corporation and L3 Technologies, Inc.*, Civil Action No. 1:19-cv-01809. On June 20, 2019, the United States filed a Complaint alleging that the proposed merger of Harris Corporation (“Harris”) and L3 Technologies, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the Defendants to divest Harris’s night vision business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division’s website at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division’s website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (telephone: 202-307-0924).

**Patricia A. Brink,**

*Director of Civil Enforcement.*

**United States District Court for the District of Columbia**

*UNITED STATES OF AMERICA, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, D.C. 20530, Plaintiff, v. HARRIS CORPORATION, 1025 West NASA Boulevard, Melbourne, FL 32919, and, L3 TECHNOLOGIES, INC., 600 Third Avenue, New York, NY 10016, Defendants.*

Civil Action No.: 1:19-cv-01809

Judge: Hon. Thomas F. Hogan

**COMPLAINT**

The United States of America (“United States”), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants Harris Corporation (“Harris”) and L3 Technologies, Inc. (“L3”) to enjoin the proposed merger of Harris and L3. The United States complains and alleges as follows:

**I. NATURE OF THE ACTION**

1. Pursuant to an agreement and plan of merger dated October 12, 2018, Harris and L3 propose to merge in a transaction that would create the sixth-largest defense contractor in the United States.

2. Harris and L3 are the only suppliers of image intensifier tubes for use by the United States military. Image intensifier tubes are the key component in night vision devices such as goggles and weapon sights, which are purchased by the U.S. Department of Defense (“DoD”). Night vision devices amplify visible light and allow soldiers and aircrews to see their surroundings in dark conditions. The proposed merger would eliminate the competition between Harris and L3 and create a monopoly for image intensifier tubes for night vision devices purchased by DoD (hereinafter “U.S. military-grade image intensifier tubes”).

3. As a result, the proposed transaction likely would substantially lessen competition in the market for the design, development, manufacture, sale, service, and distribution of U.S. military-grade image intensifier tubes in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

**II. THE DEFENDANTS**

4. Harris is incorporated in Delaware and has its headquarters in Melbourne, Florida. Harris provides night vision devices and image intensifier tubes, tactical communications solutions, electronic warfare solutions, and space and intelligence systems. In 2018, Harris had sales of approximately \$6.2 billion.

5. L3 is incorporated in Delaware and is headquartered in New York, New York. L3 provides night vision devices and image intensifier tubes; intelligence, surveillance, and reconnaissance systems; aircraft sustainment, simulation, and training; and security and detection systems. In 2018, L3 had sales of approximately \$10.2 billion.

**III. JURISDICTION AND VENUE**

6. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

7. Defendants design, develop, manufacture, sell, service, and distribute U.S. military-grade image intensifier tubes. Defendants’ activities in the design, development, manufacture, sale, service, and distribution of these products substantially affects interstate commerce. This Court has subject

matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

8. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22, and under 28 U.S.C. § 1391(c).

#### **IV. U.S. MILITARY-GRADE IMAGE INTENSIFIER TUBES**

##### **A. Background**

9. Image intensifier tubes amplify visible light and are integrated into night vision devices produced by Harris, L3, and other companies. Night vision devices allow the user to see in dark conditions, increasing the situational awareness, threat detection, and mission performance of soldiers and aircrews operating in low-light environments. Night vision devices come in the form of goggles, binoculars, and monoculars and can be handheld or mounted to objects like helmets or weapons. There are over half a million such devices in use today, and DoD expects to purchase at least one hundred thousand additional devices over the next few years.

10. DoD also purchases significant quantities of image intensifier tubes as replacement parts for night vision devices currently in the field. In addition, as L3 and Harris innovate and develop improved image intensifier tubes with greater resolution and light amplification, DoD purchases these more advanced image intensifier tubes to upgrade existing night vision devices. DoD is likely to purchase half a million image intensifier tubes for replacements or upgrades over the next few years.

##### **B. Relevant Markets**

###### **1. Product Market**

11. The quality and usefulness of an image intensifier tube is defined by several characteristics, the most important of which are size, weight, power consumption, and especially sensitivity, which relates to the ability of the tube to amplify low levels of visible light without producing excessive distortion in the resulting image. DoD requires highly capable image intensifier tubes, as the lives of soldiers and aircrews depend on the performance of the night vision devices incorporating these tubes. Less capable image intensifier tubes are therefore not a substitute for the highly capable image intensifier tubes that DoD views as U.S. military grade.

12. Other night vision technologies such as thermal imaging devices and

digital light amplification systems are not substitutes for U.S. military-grade image intensifier tubes. Thermal imaging devices, such as microbolometers and infrared focal plane arrays, detect infrared radiation emitted by warm objects rather than amplifying visible light. Thermal imaging devices also differ from image intensifier tubes in range and sensitivity to environmental factors such as humidity and dust. Night vision equipment incorporating thermal imaging devices tends to be larger, heavier, and substantially more expensive than similar equipment incorporating image intensifier tubes. Although some night vision devices incorporate both image intensifier tubes and thermal imaging devices to combine the benefits of the two and create a “fused” image, thermal imaging devices cannot replicate the performance of image intensifier tubes or replace them in night vision devices.

13. Digital light amplification systems based on charge-coupled device (“CCD”) or complementary metal oxide semiconductor (“CMOS”) detectors are also not adequate substitutes for U.S. military-grade image intensifier tubes. CCD- and CMOS-based devices tend to be heavier, consume more power, and cost significantly more than devices incorporating image intensifier tubes. Moreover, because such devices are digital, and therefore require a certain amount of signal processing, the images produced also tend to lag behind the actual scene being viewed, potentially creating disorientation in the user.

14. For the foregoing reasons, DoD will not substitute less-capable image intensifier tubes, thermal imaging devices, or CCD- or CMOS-based digital light amplification systems for U.S. military-grade image intensifier tubes in response to a small but significant and non-transitory increase in the price of U.S. military-grade image intensifier tubes. Accordingly, U.S. military-grade image intensifier tubes are a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. § 18.

###### **2. Geographic Market**

15. For national security reasons, DoD only considers domestic producers of U.S. military-grade image intensifier tubes. DoD is unlikely to turn to any foreign producers in the face of a small but significant and non-transitory price increase by domestic producers of U.S. military-grade image intensifier tubes.

16. The United States is a relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18.

##### **C. Anticompetitive Effects of the Proposed Transaction**

17. Harris and L3 are currently the only firms that develop, manufacture, and sell U.S. military-grade image intensifier tubes. The merger would therefore give the combined firm a monopoly in this product market, leaving DoD without a competitive alternative for this critical component of night vision devices.

18. Harris and L3 compete for sales of U.S. military-grade image intensifier tubes on the basis of quality, price, and contractual terms such as delivery times. This competition has resulted in higher quality, lower prices, and shorter delivery times, and has fostered innovation, leading to U.S. military-grade image intensifier tubes with higher sensitivity and resolution. The combination of Harris and L3 would eliminate this competition and its future benefits to DoD customers. Post-transaction, the merged firm likely would have the incentive and ability to reduce research and development efforts that lead to innovative and high-quality products and to increase prices and offer less favorable contractual terms.

19. The proposed merger, therefore, likely would substantially lessen competition in the design, development, manufacture, sale, service, and distribution of U.S. military-grade image intensifier tubes in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

##### **D. Difficulty of Entry**

20. Sufficient, timely entry of additional competitors into the market for U.S. military-grade image intensifier tubes is unlikely. Production facilities for U.S. military-grade image intensifier tubes require a substantial investment in both capital equipment and human resources. A new entrant would need to set up a foundry to produce electronic components, establish production lines capable of manufacturing fiber optic subcomponents, and build assembly lines and testing facilities. Engineering and research personnel would need to be assigned to develop, test, and troubleshoot the detailed manufacturing process, involving hundreds of steps, that is necessary to produce U.S. military-grade image intensifier tubes. Any new products would require extensive testing and qualification before they could be used in night vision devices for the U.S. military. As a result, entry would be costly and time-consuming.

21. Moreover, a new entrant is unlikely to recover these costs. Although CMOS-based night vision

devices currently are not suitable for DoD uses and thus are not reasonable substitutes for night vision devices based on U.S. military-grade image intensifier tubes, research and development on these devices is progressing. Industry observers expect these devices to begin replacing night vision devices based on U.S. military-grade image intensifier tubes at some point in the next five to ten years. Because the market for U.S. military-grade image intensifier tubes will likely decline as this transition takes place, an entrant is unlikely to produce sufficient revenue to recover its costs of entry. The prospect of a declining market for U.S. military-grade image intensifier tubes thus would discourage new companies from entering.

22. As a result of these barriers, entry into the market for U.S. military-grade image intensifier tubes would not be timely, likely, or sufficient to defeat the anticompetitive effects likely to result from the merger of Harris and L3.

#### V. VIOLATIONS ALLEGED

23. The merger of Harris and L3 likely would lessen competition substantially in the design, development, manufacture, sale, service, and distribution of U.S. military-grade image intensifier tubes in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

24. Unless enjoined, the merger likely would have the following anticompetitive effects, among others, related to U.S. military-grade image intensifier tubes:

(a) actual and potential competition between Harris and L3 would be eliminated;

(b) competition likely would be substantially lessened; and

(c) prices likely would increase, innovation would decrease, and contractual terms likely would be less favorable to customers.

#### VI. REQUEST FOR RELIEF

25. The United States requests that this Court:

(a) adjudge and decree that Harris's merger with L3 would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed merger of L3 and Harris, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Harris with L3;

(c) award the United States its costs for this action; and

(d) award the United States such other and further relief as the Court deems just and proper.

Dated: June 20, 2019

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

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\* LEAD ATTORNEY TO BE NOTICED

#### United States District Court for the District of Columbia

UNITED STATES OF AMERICA, Plaintiff, v.  
HARRIS CORPORATION, and L3  
TECHNOLOGIES, INC., Defendants.

Civil Action No.: 1:19-cv-01809

Judge: Hon. Thomas F. Hogan

#### PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on June 20, 2019, the United States and Defendants, Harris Corporation ("Harris") and L3 Technologies, Inc. ("L3"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment

constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires, and Defendants agree, to make a certain divestiture for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestiture required below can and will be made and that Defendants will not later raise any claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

#### I. JURISDICTION

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

#### II. DEFINITIONS

As used in this Final Judgment:

A. "Acquirer" means the entity to which Defendants divest the Divestiture Assets.

B. "Harris" means Defendant Harris Corporation, a Delaware corporation with its headquarters in Melbourne, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "L3" means Defendant L3 Technologies, Inc., a Delaware corporation with its headquarters in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Night Vision Business" means Harris's business in the design, development, manufacture, sale, service, and distribution of image intensifier technology and night vision devices.

E. "Divestiture Assets" means the Night Vision Business, including:

1. the facilities located at 7625, 7635, and 7645 Plantation Road, Roanoke, Virginia; 7767 Lila Drive, Roanoke, Virginia; and 7671 Enon Drive, Roanoke, Virginia;

2. all tangible assets, including but not limited to: research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits, certifications, and authorizations issued by any governmental organization for the Night Vision Business; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records; and all other records of the Night Vision Business; and

3. all intangible assets, including but not limited to: all patents; licenses and sublicenses; intellectual property; copyrights; trademarks; trade names; service marks; service names; technical information; computer software and related documentation; know-how; trade secrets; drawings; blueprints; designs; design protocols; specifications for materials; specifications for parts and devices; safety procedures for the handling of materials and substances; quality assurance and control procedures; design tools and simulation capability; all manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees; and all research data concerning historic and current research and development efforts, including but not limited to designs of experiments and the results of successful and unsuccessful designs and experiments.

F. "Regulatory Approvals" means any approvals or clearances pursuant to filings with the Committee on Foreign Investment in the United States ("CFIUS"), or under antitrust, competition, or other U.S. or international laws required for Acquirer's acquisition of the Divestiture Assets to proceed.

### III. APPLICABILITY

A. This Final Judgment applies to Harris and L3, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, Defendants shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

### IV. DIVESTITURE

A. Defendants are ordered and directed, within the later of forty-five (45) calendar days after the entry of the Hold Separate Stipulation and Order by the Court or fifteen (15) calendar days after Regulatory Approvals have been received, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process, except information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States all information relating to all personnel in the Night Vision Business to enable the Acquirer to make offers of employment. Defendants will not interfere in any way with any negotiations or effort by the Acquirer to hire any Defendant employee in the Night Vision Business.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of

the physical facilities of the Night Vision Business; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. At the option of the Acquirer, Defendants shall enter into a transition services agreement for back office, human resource, and information technology services and support for the Night Vision Business for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional six (6) months. If the Acquirer seeks an extension of the term of this transition services agreement, Defendants shall notify the United States in writing at least three (3) months prior to the date the transition services contract expires. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market value of the expertise of the personnel providing any needed assistance. The employee(s) of Defendants tasked with providing these transition services shall not share any competitively sensitive information of the Acquirer with any other employee of Defendants.

H. At the option of the Acquirer, Defendants shall enter into a contract for wafer sawing and sensor packaging services. Such an agreement shall be for a period of up to twelve (12) months. The United States, in its sole discretion, may approve one or more extensions of this agreement for a total of up to an additional six (6) months. If the Acquirer seeks an extension of the term of this agreement, Defendants shall so notify the United States in writing at least three (3) months prior to the date the contract expires. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to the market value of the expertise of the personnel providing any needed assistance. The employee(s) of Defendants tasked with providing these services shall not share any competitively sensitive information of the Acquirer with any other employee of Defendants.

I. Defendants shall warrant to the Acquirer (1) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of the Divestiture Assets, and (2) that following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV or by Divestiture Trustee appointed pursuant to Section V of this Final Judgment shall include the entire Divestiture Assets and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business of the design, development, manufacture, sale, service, and distribution of image intensifier technology and night vision devices. If any of the terms of an agreement between Defendants and the Acquirer to effectuate the divestiture required by the Final Judgment varies from the terms of this Final Judgment then, to the extent that Defendants cannot fully comply with both terms, this Final Judgment shall determine Defendants' obligations. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment,

- (1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of the design, development, manufacture, sale, service, and distribution of image intensifier technology and night vision devices; and
- (2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

## **V. APPOINTMENT OF DIVESTITURE TRUSTEE**

A. If Defendants have not divested the Divestiture Assets within the time period specified in Paragraph IV(A), Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States

and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, in its sole discretion, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as the Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any agents, investment bankers, attorneys, accountants, or consultants, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such agents or consultants shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for any of its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the Divestiture Trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished, but the

timeliness of the divestiture is paramount. If the Divestiture Trustee and Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of the appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other agents or consultants, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any agents or consultants retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall provide or develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secrets; other confidential research, development, or commercial information; or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture; (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished; and (3) the Divestiture Trustee's recommendations. To the extent such reports contain

information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States, which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, the United States may recommend the Court appoint a substitute Divestiture Trustee.

#### **VI. NOTICE OF PROPOSED DIVESTITURE**

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or Section V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee,

if there is one, stating whether it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

#### **VII. FINANCING**

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

#### **VIII. HOLD SEPARATE**

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by the Court. Defendants shall take no action that would jeopardize the divestiture ordered by the Court.

#### **IX. AFFIDAVITS**

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or Section V, Defendants shall deliver to the United States an affidavit, signed by each defendant's Chief Financial Officer and General Counsel, which shall describe the fact and manner of Defendants' compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided

by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

#### **X. COMPLIANCE INSPECTION**

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the United States, including agents retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to Defendants, be permitted:

- (1) access during Defendants' office hours to inspect and copy or, at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants relating to any matters contained in this Final Judgment; and
- (2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if

requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in Section X shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time that Defendants furnish information or documents to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

#### **XI. NO REACQUISITION**

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

#### **XII. RETENTION OF JURISDICTION**

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

#### **XIII. ENFORCEMENT OF FINAL JUDGMENT**

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the Final Judgment and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition the United States alleged was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

D. For a period of four (4) years following the expiration of the Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action under this Section, (2) any appropriate contempt remedies, (3) any additional relief needed to ensure the Defendant complies with the terms of the Final Judgment, and (4) fees or expenses as called for in Paragraph XIII(C).

#### **XIV. EXPIRATION OF FINAL JUDGMENT**

Unless the Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry, except that after five (5) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and that the continuation of the Final Judgment no longer is necessary or in the public interest.

I.

#### **XV. PUBLIC INTEREST DETERMINATION**

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATE

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16:

*United States District Judge*

#### **United States District Court for the District of Columbia**

*UNITED STATES OF AMERICA*, Plaintiff,  
v. *HARRIS CORPORATION*, and *L3 TECHNOLOGIES, INC.*, Defendants.

Civil Action No.: 1:19-cv-01809  
Judge: Hon. Thomas F. Hogan

#### **COMPETITIVE IMPACT STATEMENT**

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

#### **I. NATURE AND PURPOSE OF THE PROCEEDING**

Defendants Harris Corporation ("Harris") and L3 Technologies, Inc. ("L3") entered into an agreement and plan of merger, dated October 12, 2018, pursuant to which Harris and L3 propose to combine in a transaction that would create the sixth-largest defense contractor in the United States. The United States filed a civil antitrust Complaint on June 20, 2019, seeking to enjoin the proposed transaction. The Complaint alleges that the likely effect of this merger would be to lessen competition substantially in the United States for the design, development, manufacture, sale, service, and distribution of U.S. military-grade image intensifier tubes in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

At the same time the Complaint was filed, the United States also filed a Hold



Separate Stipulation and Order (“Hold Separate”) and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the transaction. Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest Harris’s business in the design, development, manufacture, sale, service and distribution of image intensifier technology and night vision devices (the “night vision business”). Under the terms of the Hold Separate Stipulation and Order, Defendants will take certain steps to ensure that Harris’s night vision business is operated as a competitively independent, economically viable, and ongoing business concern that will remain independent and uninfluenced by Harris and that competition is maintained during the pendency of the required divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

## **II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION**

### **A. The Defendants and the Proposed Transaction**

Harris is incorporated in Delaware and has its headquarters in Melbourne, Florida. Harris provides night vision devices and image intensifier tubes, tactical communications solutions, electronic warfare solutions, and space and intelligence systems. In 2018, Harris had sales of approximately \$6.2 billion.

L3 is incorporated in Delaware and is headquartered in New York, New York. L3 provides night vision devices and image intensifier tubes; intelligence, surveillance, and reconnaissance systems; aircraft sustainment, simulation, and training; and security and detection systems. In 2018, L3 had sales of approximately \$10.2 billion.

Harris and L3 entered into an agreement and plan of merger, dated October 12, 2018, pursuant to which Harris and L3 propose to merge.

### **B. The Competitive Effects of the Transaction**

#### **1. Background**

Image intensifier tubes amplify visible light and are integrated into night vision devices produced by Harris, L3, and

other companies. Night vision devices allow the user to see better in dark conditions, increasing the situational awareness, threat detection, and mission performance of soldiers and aircrews operating in low-light environments. Night vision devices come in the form of goggles, binoculars, and monoculars and can be handheld or mounted to objects like helmets or weapons. There are over half a million such devices in use today, and the U.S. Department of Defense (“DoD”) expects to purchase at least one hundred thousand additional devices over the next few years.

DoD also purchases significant quantities of image intensifier tubes as replacement parts for night vision devices currently in the field. In addition, as Harris and L3 innovate and develop improved image intensifier tubes with greater resolution and light amplification, DoD purchases these more advanced image intensifier tubes to upgrade existing night vision devices. DoD is likely to purchase half a million image intensifier tubes for replacements or upgrades over the next few years.

#### **2. Relevant Markets**

As alleged in the Complaint, the quality and usefulness of an image intensifier tube is defined by several characteristics, the most important of which are size, weight, power consumption, and especially sensitivity, which relates to the ability of the tube to amplify low levels of visible light without producing excessive distortion in the resulting image. DoD requires highly capable image intensifier tubes, as the lives of soldiers and aircrews depend on the performance of the night vision devices incorporating these tubes. The Complaint alleges that less capable image intensifier tubes are therefore not a substitute for the highly capable image intensifier tubes that DoD views as U.S. military grade.

According to the Complaint, other night vision technologies such as thermal imaging devices and digital light amplification systems are not substitutes for U.S. military-grade image intensifier tubes. Thermal imaging devices, such as microbolometers and infrared focal plane arrays, detect infrared radiation emitted by warm objects rather than amplifying visible light. Thermal imaging devices also differ from image intensifier tubes in range and sensitivity to environmental factors such as humidity and dust. Night vision equipment incorporating thermal imaging devices tends to be larger, heavier, and substantially more expensive than similar equipment incorporating image intensifier tubes. Although some night vision devices

incorporate both image intensifier tubes and thermal imaging devices to combine the benefits of the two and create a “fused” image, thermal imaging devices cannot replicate the performance of image intensifier tubes or replace them in night vision devices.

The Complaint further alleges that digital light amplification systems based on charge-coupled device (“CCD”) or complementary metal oxide semiconductor (“CMOS”) detectors are also not adequate substitutes for U.S. military-grade image intensifier tubes. CCD- and CMOS-based devices tend to be heavier, consume more power, and cost significantly more than devices incorporating image intensifier tubes. Moreover, because such devices are digital, and therefore require a certain amount of signal processing, the images produced also tend to lag behind the actual scene being viewed, potentially creating disorientation in the user.

For the foregoing reasons, DoD would not substitute less-capable image intensifier tubes, thermal imaging devices, or CCD- or CMOS-based digital light amplification systems for U.S. military-grade image intensifier tubes in response to a small but significant and non-transitory increase in the price of U.S. military-grade image intensifier tubes. Therefore, the Complaint alleges that U.S. military-grade image intensifier tubes are a relevant product market and line of commerce under Section 7 of the Clayton Act.

The Complaint alleges that the relevant geographic market for U.S. military-grade image intensifier tubes is the United States. For national security reasons, DoD only considers domestic producers of U.S. military-grade image intensifier tubes. DoD is unlikely to turn to any foreign producers in the face of a small but significant and non-transitory price increase by domestic producers of U.S. military-grade image intensifier tubes.

#### **3. Anticompetitive Effects**

As alleged in the Complaint, Harris and L3 are currently the only firms that develop, manufacture, and sell U.S. military-grade image intensifier tubes. The merger would therefore give the combined firm a monopoly in this product market, leaving DoD without a competitive alternative for this critical component of night vision devices.

According to the Complaint, Harris and L3 compete for sales of U.S. military-grade image intensifier tubes on the basis of quality, price, and contractual terms such as delivery times. This competition has resulted in higher quality, lower prices, and shorter delivery times and has fostered

innovation, leading to U.S. military-grade image intensifier tubes with higher sensitivity and resolution. The Complaint alleges that the combination of Harris and L3 would eliminate this competition and its future benefits to DoD customers. Post-transaction, absent the required divestiture, the merged firm likely would have the incentive and ability to reduce research and development efforts that lead to innovative and high-quality products and to increase prices and offer less favorable contractual terms.

#### 4. Difficulty of Entry

According to the Complaint, sufficient, timely entry of additional competitors into the market for U.S. military-grade image intensifier tubes is unlikely. Production facilities for U.S. military-grade image intensifier tubes require a substantial investment in both capital equipment and human resources. A new entrant would need to set up a foundry to produce electronic components, establish production lines capable of manufacturing fiber optic subcomponents, and build assembly lines and testing facilities. Engineering and research personnel would need to be assigned to develop, test, and troubleshoot the detailed manufacturing process, involving hundreds of steps, that is necessary to produce U.S. military-grade image intensifier tubes. Any new products would require extensive testing and qualification before they could be used in night vision devices for the U.S. military. As a result, the Complaint alleges that entry would be costly and time consuming.

Moreover, as alleged in the Complaint, a new entrant is unlikely to recover these costs. Although CMOS-based night vision devices currently are not suitable for DoD uses, and thus are not reasonable substitutes for night vision devices based on U.S. military-grade image intensifier tubes, research and development on these devices is progressing, and industry observers expect these devices to begin replacing night vision devices based on U.S. military-grade image intensifier tubes at some point in the next five to ten years. Because the market for U.S. military-grade image intensifier tubes will likely decline as this transition takes place, the Complaint alleges that an entrant is unlikely to produce sufficient revenue to recover its costs of entry. The prospect of a declining market for U.S. military-grade image intensifier tubes thus would discourage new companies from entering.

### III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture required by the proposed Final Judgment will eliminate the anticompetitive effects of the transaction in the market for U.S. military-grade image intensifier tubes by establishing an independent and economically viable competitor. Paragraph IV(A) of the proposed Final Judgment requires Defendants, within the later of 45 calendar days after the entry of the Hold Separate by the Court or 15 calendar days after Regulatory Approvals have been received, to divest Harris's night vision business.<sup>1</sup> Paragraph IV(J) of the proposed Final Judgment provides that the business must be divested in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the design, development, manufacture, sale, service, and distribution of image intensifier technology and night vision devices. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and must cooperate with prospective purchasers.

In the event that Defendants do not accomplish the divestiture within the period prescribed in the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The proposed Final Judgment contains several provisions to facilitate

the immediate use of the Divestiture Assets by the Acquirer. Paragraph IV(G) of the proposed Final Judgment requires Defendants, at the Acquirer's option, to enter into a transition services agreement for back office, human resource, and information technology services and support for the night vision business for a period of up to 12 months. Paragraph IV(H) of the proposed Final Judgment requires Defendants, at the Acquirer's option, to enter into a contract for wafer sawing and sensor packaging services to help facilitate the development of the next-generation of U.S. military-grade image intensifier tubes, for a period of up to 12 months. With respect to any agreements entered into under Paragraph IV(G) or IV(H), the United States, in its sole discretion, may approve one or more extensions for a total of up to an additional six months. If the Acquirer seeks an extension of any such agreement, Defendants must notify the United States in writing at least three months prior to the date the underlying agreement expires. Paragraphs IV(G) and IV(H) further provide that employees of Defendants tasked with providing services under such agreements must not share any competitively sensitive information of the Acquirer with any other employee of Defendants.

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of the Final Judgment as effective as possible. Paragraph XIII(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XIII(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore all competition that would otherwise be harmed by the merger. Defendants agree that they will abide by the proposed Final Judgment

<sup>1</sup> Paragraph II(F) of the proposed Final Judgment defines Regulatory Approvals as "any approvals or clearances pursuant to filings with the Committee on Foreign Investment in the United States ("CFIUS"), or under antitrust, competition, or other U.S. or international laws required for Acquirer's acquisition of the Divestiture Assets to proceed."

and that they may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIII(C) of the proposed Final Judgment provides that should the Court find in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the proposed Final Judgment, Paragraph XIII(C) provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved prior to litigation, the Defendant agrees to reimburse the United States for attorneys' fees, experts' fees, or costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Paragraph XIII(D) states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated under Section XIV. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XIV of the proposed Final Judgment provides that the Final Judgment shall expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and that the continuation of the Final Judgment is no longer necessary or in the public interest.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the merger in the provision of U.S. military-grade image intensifier tubes by establishing a

new, independent, and economically viable competitor to the merged entity.

#### **IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS**

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

#### **V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT**

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, United States Department of Justice, 450 Fifth

Street NW, Suite 8700, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

#### **VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT**

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions preventing the merger of Harris and L3. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of U.S. military-grade image intensifier tubes in the relevant market identified by the United States. Thus, the proposed Final Judgment would achieve all, or substantially all, of the relief the United States would have obtained through litigation but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

#### **VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT**

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

- (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
- (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including

consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States v. U.S. Airways Grp., Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the "court's inquiry is limited" in Tunney Act settlements); *United States v. InBev N.V./S.A.*, No. 08-1965 (JR), 2009 U.S. Dist. LEXIS 84787, at \*3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable").

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether the Final Judgment may positively harm third parties. See *Microsoft*, 56 F.3d at 1458-62. With respect to the adequacy of the relief secured by the Final Judgment, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460-62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at \*3. Instead:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the

effectiveness of antitrust enforcement by consent decree.

*Bechtel*, 648 F.2d at 666 (emphasis added) (citations omitted).<sup>2</sup>

The United States' predictions with respect to the efficacy of the remedy are to be afforded deference by the Court. See, e.g., *Microsoft*, 56 F.3d at 1461 (recognizing courts should give "due respect to the Justice Department's . . . view of the nature of its case"); *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 152-53 (D.D.C. 2016) ("In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[.]; it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." (internal citations omitted)); *United States v. Republic Servs., Inc.*, 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting "the deferential review to which the government's proposed remedy is accorded"); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) ("A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case."). The ultimate question is whether "the remedies [obtained in the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.'" *Microsoft*, 56 F.3d at 1461 (quoting *United States v. Western Elec. Co.*, 900 F.2d 283, 309 (D.C. Cir. 1990)).

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at \*20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court

<sup>2</sup> See also *BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass").

believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459-60.

In its 2004 amendments to the APPA,<sup>3</sup> Congress made clear its intent to preserve the practical benefits of utilizing Final Judgments in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16(e)(2); see also *U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). "A court can make its public interest determination based on the competitive impact statement and response to public comments alone." *U.S. Airways*, 38 F. Supp. 3d at 76 (citing *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000)).

## VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 20, 2019

Respectfully submitted,

Kevin Quin\* (D.C. Bar #415268)

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[FR Doc. 2019-14659 Filed 7-9-19; 8:45 am]

BILLING CODE 4410-11-P

<sup>3</sup> Pub. L. 108-237, § 221.

## OFFICE OF MANAGEMENT AND BUDGET

### Identifying Priority Access or Quality Improvements for Federal Data and Models for Artificial Intelligence Research and Development (R&D), and Testing; Request for Information

**AGENCY:** Office of Management and Budget (OMB), Executive Office of the President.

**ACTION:** Notice of request for information: Identifying Priority Access or Quality Improvements for Federal data and models for Artificial Intelligence Research and Development (R&D), and Testing.

**SUMMARY:** Under the *Executive Order on Maintaining American Leadership in Artificial Intelligence* (Section 5.a.i), <https://www.whitehouse.gov/presidential-actions/executive-order-maintaining-american-leadership-artificial-intelligence/>, the Office of Management and Budget is inviting the public to identify needs for additional access to, or improvements in the quality of, Federal data and models that would improve the Nation's artificial intelligence (AI) research and development (R&D) and testing efforts.

**DATES:** July 10, 2019.

**ADDRESSES:** Submissions are due 30 days from publication of this notice through [www.regulations.gov](http://www.regulations.gov).

**SUPPLEMENTARY INFORMATION:** The National Artificial Intelligence Research and Development Strategic Plan discusses fundamental challenges, novel ideas for human and AI collaboration, and creating AI that is more trustworthy (e.g., AI techniques that address challenges of bias and fairness, transparency and explainability, and robustness, security, and safety).

Beyond fundamental advances in AI, open challenges also include the application of AI to key domains, such as those highlighted on *ai.gov* that include:

- Transportation
- Healthcare
- Manufacturing
- Financial Services
- Agriculture
- Weather Forecasting
- National Security & Defense

Depending on the R&D goal and application domain, different data sets and models may be needed to accelerate AI advances. Additionally, the use of these data sets and models could stimulate new developments that would enhance the transparency and explainability of the AI application, and illuminate ways to ensure the

robustness, security and safety of AI applications.

Over the years, a number of data sets have already been made available via *data.gov*. Some of these datasets are fully publically available, while others have restricted use (see restricted use data sets). However, these data sets may or may not be useful or suitable for AI R&D and testing.

The following lists of topics cover the major areas for which information is sought. These lists are not intended to limit the topics that may be addressed by respondents, who may provide information about any topic that would inform the objective of this action.

To developing requests for additional accesses for data and models to improve AI R&D and testing, input to the following questions is sought:

- What Federal data and models are you seeking to use that are available to the public with no use restrictions, but which have technical issues inhibiting data access? Specifically, what are the technical issues (e.g., is it too big to be downloaded, is it not optimally formatted)? What types of AI R&D and testing would be accelerated with increased access to this data?

- What Federal data and models are you seeking to use that are restricted to the public, *i.e.*, the data asset is available under certain use restrictions? What types of AI R&D and testing would be accelerated with increased access to this data?

- What Federal data and models are you seeking to use that are private and not at all available to the public? Describe the agency that has the data and what, if any, attempts you are aware of that have been made to increase access to the data or model. What types of AI R&D and testing would be accelerated with increased access to this data?

- What are key gaps in data and model availability that are slowing progress in AI R&D and testing? Which areas of AI R&D and testing are most impacted?

In developing requests for quality improvements to accessible data and models to improve AI R&D and testing, input to the following questions is sought:

- As agencies review their data and models, what are the most important characteristics they should consider? Stated differently, what characteristics of data sets or models make them well-suited for AI R&D?

- Which models are most important for agencies to focus on, and why?

- What characteristics should the Federal Government consider to increase a data set or model's utility for

AI R&D (e.g., documentation, provenance, metadata)?

- What data ownership, intellectual property, or data sharing considerations should be included in federally-funded agreements (including, but not limited to, federal contracts and grants) that results in production of data for R&D?

- What research questions and applications are you trying to solve with AI, that require specific types and/or quantities of Federal data and models, and how might the Federal Government reduce barriers to discovery and access?

- Accelerating the application of AI can be enabled with pre-trained models (e.g., ResNet trained on ImageNet) that facilitate transfer learning. What research questions and applications would benefit most from the transfer learning?

Respondents to this RFI may define "data", "data set", and "model" as they desire, indicating clearly what they mean when using the term.

### Instructions for Written Responses

Interested parties should provide written responses to the questions outlined in the purpose of this **Federal Register** notice section. Submissions are due 30 days from publication of this notice through [www.regulations.gov](http://www.regulations.gov).

Please include the below in your response, *limiting this portion of your response to one page*:

- The name of the individual(s) and/or organization responding. Anonymous responses will also be accepted.

- A brief description of the responding individual(s) or organization's mission and/or areas of expertise, if the responder feels appropriate.

- A contact for questions or other follow-up on your response if desired.

Comments submitted in response to this notice are subject to FOIA. OMB may also make all comments available to the public. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

## Next Steps

For background information on the areas of AI activity in the Federal government, please visit: *AI.gov*.

**Russell T. Vought,**

*Acting Director, OMB.*

[FR Doc. 2019-14618 Filed 7-9-19; 8:45 am]

BILLING CODE 3110-05-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 19-140]

### Notification Requirements Regarding Findings of Discrimination, Sexual Harassment, Other Forms of Harassment, or Sexual Assault

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** New reporting requirement for discrimination, sexual or other forms of harassment, or sexual assault; request for comments.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) is soliciting public comment on the agency's proposed implementation of new reporting requirements regarding discrimination and harassment among recipients of NASA financial assistance. The many hundreds of U.S. institutions of higher education and other organizations that receive NASA funds are responsible for fully investigating complaints and for compliance with federal non-discrimination laws, regulations, and executive orders. The implementation of new reporting requirements is necessary as NASA seeks to help ensure research environments to which the Agency provides funding are free from discrimination, including harassment, sexual harassment, other forms of harassment, and sexual assault. Additionally, NASA is taking this action to bolster our policies, guidelines, and communications. The intended effect of this action is, first, to better ensure that organizations funded by NASA clearly understand expectations and requirements. In addition, NASA seeks to ensure that recipients of grants and cooperative agreements respond promptly and appropriately to instances of discrimination, sexual harassment, other forms of harassment, and sexual assault.

**DATES:** Comments must be received by August 9, 2019.

**ADDRESSES:** Comments should be addressed to National Space and Aeronautics Administration Headquarters, 300 E Street SW, Rm.

6O87, Washington, DC 20546 or sent by email to [civilrightsinfo@nasa.gov](mailto:civilrightsinfo@nasa.gov); Phone Number: 202-358-2180, Fax Number: 202-358-3336. We encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Please include "Reporting Requirement Regarding Findings of Discrimination, Sexual Harassment, other Forms of Harassment, or Sexual Assault" in the subject line of the email message; please also include the full body of your comments in the text of the message and as an attachment. Include your name, title, organization, postal address, telephone number, and email address in your message.

#### FOR FURTHER INFORMATION CONTACT:

Richard N. Reback, email: [civilrightsinfo@nasa.gov](mailto:civilrightsinfo@nasa.gov); telephone (202) 358-2180.

**SUPPLEMENTARY INFORMATION:** As a U.S. funding agency of scientific research and development, and the primary funding agency for aeronautics and space research and technology, NASA is committed to promoting safe, productive research and education environments for current and future scientists and engineers. We consider the Principal Investigator (PI) and any Co-I(s) identified on a NASA award and all personnel supported by a NASA award must not engage in discriminatory or harassing behavior during the award period of performance whether at the awardee institution, on-line, or outside the organization, such as at field sites or facilities, or during conferences and workshops.

Upon implementation, the new term and condition will require awardee organizations to notify NASA of any findings/determinations of discrimination, sexual harassment, other forms of harassment, or sexual assault regarding an NASA funded PI or Co-I. The new term and condition also will require the awardee to notify NASA if the PI or Co-I is placed on administrative leave or if the awardee has imposed any administrative action on the PI or any determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to discrimination, sexual harassment, other forms of harassment, or sexual assault. Finally, the award term and condition specifies the procedures that will be followed by NASA upon receipt of a notification.

The full text of the new term and condition is provided below:

### Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault

The Principal Investigator (PI) and any Co-I(s) identified on an NASA award are in a position of trust. These individuals must comport themselves in a responsible and accountable manner during the award period of performance, whether at the awardee institution, on-line, or at locales such as field sites, facilities, or conferences/workshops. Above all, NASA wishes to assure the safety, integrity, and excellence of the programs and activities it funds.

For purposes of this term and condition, the following definitions apply:

**Administrative Leave/Administrative Action:** Any temporary/interim suspension or permanent removal of the PI or Co-I, or any administrative action imposed on the PI or Co-I by the awardee under organizational policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to the following: Teaching, advising, mentoring, research, management/administrative duties, or presence on campus.

**Discrimination:** Treating an individual differently or using methods of administration that have the effect of subjecting individuals to different treatment based on race, color, national origin, sex, disability or age.

**Finding/Determination:** The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or Co-I, or a conviction of a sexual offense in a criminal court of law.

**Other Forms of Harassment:** Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

**Sexual harassment:** May include but is not limited to gender or sex-based harassment, unwelcome sexual attention, sexual coercion, or creating a hostile environment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

The awardee is required to notify NASA of: (1) Any finding/determination regarding the PI or any Co-I<sup>1</sup> that

<sup>1</sup> If a Co-I is affiliated with a subawardee organization, the Authorized Organizational Representative of the subawardee must provide the requisite information directly to NASA, as instructed in this paragraph.

demonstrates a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to discrimination, sexual harassment, other forms of harassment, or sexual assault; and/or (2) if the PI or any Co-I is placed on administrative leave or if any administrative action has been imposed on the PI or any Co-I by the awardee relating to any finding/determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to discrimination, sexual harassment, other forms of harassment, or sexual assault.<sup>2</sup> Such notification must be submitted by the Authorized Organizational Representative (AOR) to NASA's Office of Diversity and Equal Opportunity at [civilrightsinfo@nasa.gov](mailto:civilrightsinfo@nasa.gov) within ten business days from the date of the finding/determination, or the date of the placement of a PI or Co-I by the awardee on administrative leave or the imposition of an administrative action, whichever is sooner.<sup>3</sup>

Each notification must include the following information:

☐ NASA Award Number;

☐ Name of PI or Co-I being reported;<sup>4</sup>

*Type of Notification:* Select one of the following:

☐ Finding/Determination that the reported individual has been found to have violated awardee policies or codes of conduct, statutes, regulations, or executive orders relating to discrimination, sexual harassment, other forms of harassment, or sexual assault;

or

☐ Placement by the awardee of the reported individual on administrative leave or the imposition of any administrative action on the PI or any Co-I by the awardee relating to any finding/determination, or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.

<sup>2</sup> Awardee findings/determinations and placement of a PI or Co-I on administrative leave or the imposition of an administrative action must be conducted in accordance with organizational policies and processes. They also must be conducted in accordance with federal laws, regulations, and executive orders.

<sup>3</sup> Such notification must be provided regardless of whether the behavior leading to the finding/determination, or placement on administrative leave, or the imposition of an administrative action occurred while the PI or Co-I was carrying out award activities.

<sup>4</sup> Only the identification of the PI or Co-I is required. Personally identifiable information regarding any complainants or other individuals involved in the matter must not be included in the notification.

The awardee must also provide:

☐ A description of the finding/determination and action(s) taken, if any; and/or

☐ The reason(s) for, and conditions of placement of the PI or any Co-I on administrative action.

The awardee, at any time, may propose a substitute investigator if it determines the PI or any Co-I may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

In reviewing the notification, NASA will consider, at a minimum, the following factors:

a. The safety and security of personnel supported by the NASA award;

b. The overall impact to the NASA-funded activity;

c. The continued advancement of taxpayer-funded investments in science and scientists; and

d. Whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made.

Upon receipt and review of the information provided, NASA will consult with the AOR, or designee. Based on the results of this review and consultation, the Agency may, if necessary and in accordance with 2 CFR 200.338, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any Co-I, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award.

Other personnel supported by a NASA award must likewise remain in full compliance with awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the awardee must make appropriate arrangements to ensure the safety and security of other award personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.

#### *End of Proposed Term and Condition Implementation*

Upon receipt and resolution of all comments, it is NASA's intention to implement the new term through revision of the NASA Agency Specific Requirements to the Research Terms and Conditions, the Grant General Conditions, and the Cooperative

Agreement—Financial and Administrative Terms and Conditions. These revised terms and conditions will become effective thirty days from the date of publication in the **Federal Register** and will be available in the NASA Grants and Cooperative Agreement Manual (GCAM).

The new term and condition will be applied to all new NASA awards and funding amendments to existing awards made on or after the effective date. This new reporting requirement will apply to all findings/determinations that occur on or after the effective date of the terms and conditions. With regard to notification of placement on administrative leave, the awardee must notify NASA within seven business days from the date the awardee determines that placement on administrative leave is necessary.

Awardees are strongly encouraged to conduct a thorough review of the term and condition to determine whether the new requirements necessitate any changes to the institution's policies and procedures. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave or the imposition of any administrative action by the institution made on or after the start date of an award or funding amendment subject to the new term will invoke the new notification requirements.

**Nanette Smith,**

*NASA Federal Register Liaison Officer.*

[FR Doc. 2019-14653 Filed 7-9-19; 8:45 am]

**BILLING CODE 7510-13-P**

## **NATIONAL TRANSPORTATION SAFETY BOARD**

### **Sunshine Act Meetings**

**TIME AND DATE:** 9:30 a.m., Tuesday, July 23, 2019.

**PLACE:** NTSB Conference Center, 429 L'Enfant Plaza SW, Washington, DC 20594.

**STATUS:** The one item is open to the public.

#### **MATTERS TO BE CONSIDERED:**

59351 Railroad Accident Report—Amtrak Passenger Train Head-on Collision with Stationary CSX Freight Train, Cayce, South Carolina, February 4, 2018.

#### **CONTACT PERSON FOR MORE INFORMATION:**

Candi Bing at (202) 314-6403 or by email at [bingc@ntsb.gov](mailto:bingc@ntsb.gov).



**Media Information Contact:** Keith Holloway by email at [hollowk@ntsb.gov](mailto:hollowk@ntsb.gov) or Eric Weiss by email at [eric.weiss@ntsb.gov](mailto:eric.weiss@ntsb.gov) or at (202) 314-6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314-6305 or by email at [Rochelle.McCallister@ntsb.gov](mailto:Rochelle.McCallister@ntsb.gov) by Wednesday, July 17, 2019.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at [www.ntsb.gov](http://www.ntsb.gov).

Schedule updates, including weather-related cancellations, are also available at [www.ntsb.gov](http://www.ntsb.gov).

The National Transportation Safety Board is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: July 8, 2019.

**LaSean McCray,**

*Assistant Federal Register Liaison Officer.*

[FR Doc. 2019-14748 Filed 7-8-19; 4:15 pm]

**BILLING CODE 7533-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72-30, 50-309, and 72-1015; NRC-2019-0116]

### Maine Yankee Atomic Power Company; Independent Spent Fuel Storage Installation

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; safety evaluation and environmental assessment with finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing four exemptions requested by Maine Yankee Atomic Power Company (Maine Yankee). The requested exemptions are from NRC regulations that require compliance with the terms, conditions, and specifications of Certificate of Compliance (CoC) No. 1015 for the NAC-UMS® spent fuel storage system at Maine Yankee's Independent Spent Fuel Storage Installation (ISFSI). Maine Yankee currently stores sixty NAC-UMS® System canisters under Amendment No. 5 to CoC No. 1015. In order to adopt Amendment No. 6 to CoC No. 1015, Maine Yankee is requesting the reissuance of the four previously approved exemptions.

**DATES:** The environmental assessment (EA) and finding of no significant impact (FONSI) referenced in this

document are available on July 10, 2019. The exemption takes effect on July 10, 2019.

**ADDRESSES:** Please refer to Docket ID NRC-2019-0116 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0116. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents Collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Torre Taylor, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7900; email: [Torre.Taylor@nrc.gov](mailto:Torre.Taylor@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Maine Yankee is a general licensee under part 72 of title 10 of the *Code of Federal Regulations* (CFR). Maine Yankee stores spent nuclear fuel in accordance with the requirements of CoC No. 1015 for the NAC-UMS® System. Section 72.210, "General license issued," establishes a general license to store spent nuclear fuel in an ISFSI at reactor sites licensed under 10 CFR part 50; Maine Yankee holds Facility Operating License No. DPR 36 under 10 CFR part 50. Section 72.212, "Conditions of general license issued under § 72.210," provides the conditions for use of a general license. Section 72.212(b)(3) limits the storage of

spent fuel to the approved casks listed in § 72.214. Casks are approved for storage under the conditions specified in the respective CoCs. The NRC approved the use of the NAC-UMS® System by issuing CoC No. 1015, effective November 20, 2000. NRC regulations require users to comply with the terms and conditions of the CoC including, but not limited to, the associated technical specifications. The requested exemptions would allow Maine Yankee to deviate from certain requirements of the NAC-UMS® System CoC No. 1015, Amendment No. 6, as discussed in this document.

#### II. Request/Action

Maine Yankee is requesting the reissuance of four exemptions from the terms and conditions of Amendment No. 6 to CoC No. 1015 that were previously approved for Amendment No. 5 to CoC No. 1015. Maine Yankee submitted its request by letter dated January 21, 2019, supplemented by letter dated April 11, 2019. Maine Yankee requested specific exemptions from the requirements in 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), and 72.214, with regard to certain terms and conditions of Appendices A and B to the technical specifications of Amendment No. 6 to CoC No. 1015 detailed below.

Maine Yankee stated that adoption of the exemptions would not result in any impact to the safe storage of the spent fuel at the ISFSI and will not increase the probability or consequences of an accident.

The four exemptions are:

1. Appendix A, Section A.3.1.4, Canister Maximum Time in Transfer Cask. This exemption is from the requirement to comply with the 25-day requirement in Limiting Condition of Operation 3.1.4 for canister, NAC-UMS-TSC-790-016.

2. Appendix A, Section A.5.1, Training Program. This exemption is from the requirement to develop a systematic approach to training that includes comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC-UMS® System.

3. Appendix A, Section A.5.5, Radioactive Effluent Control Program. This exemption is from the requirement to submit an annual report pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36(a).

4. Appendix B, Section B.3.4.2.6. This exemption is from the requirement to maintain a coefficient of friction on the ISFSI pad surface of at least 0.5.

The requests for an exemption from the requirements of Appendix A,

Section A.5.1., Training Program, and Appendix A., Section A.5.5., Radioactive Effluent Control Program, are categorically excluded from further environmental review in accordance with 10 CFR 51.22(c)(25)(i–v) and (vi)(B) and (E). In accordance with the requirements in 10 CFR part 51, the NRC prepared an environmental assessment that addresses the remaining two exemptions.

### III. Discussion

#### *Safety Evaluation*

Pursuant to 10 CFR 72.7, “Specific exemptions,” the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

#### *Authorized by Law*

The requested exemptions would allow the licensee to depart from certain requirements of CoC No. 1015, Amendment No. 6. Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. Issuance of these exemptions are consistent with the Atomic Energy Act of 1954, as amended, and is not inconsistent with NRC regulations or other applicable laws. Therefore, the NRC has concluded that the exemptions are authorized by law.

#### *Will Not Endanger Life or Property or the Common Defense and Security*

The requested exemptions are the same exemptions as have been previously reviewed and approved by the NRC as discussed in this document. The NRC verified that there is no change in conditions under which the exemptions were previously approved. Therefore, the NRC has concluded that the exemptions will not endanger life or property, or the common defense and security.

#### *Otherwise in the Public Interest*

The requested exemptions are the same exemptions as have been previously reviewed and approved by the NRC as discussed in this document. Continuing to apply the exemptions would provide for consistent and efficient regulation of the NAC–UMS® System casks at the Maine Yankee ISFSI. Further, the alternative of denying the exemption request would impose an administrative burden on Maine Yankee and the NRC that would not provide a significant safety benefit. Therefore, the NRC has concluded that

the exemptions are in the public interest.

#### *Review of the Requested Exemption*

The NRC reviewed the requested exemptions to verify that there were no differences from the previously approved exemptions. There are no changes in Amendment No. 6 to CoC No. 1015 that affect the terms and conditions from which Maine Yankee is requesting the exemptions. These terms and conditions are identical to the equivalent sections in Amendment No. 5. Each of the exemptions are discussed below.

1. Appendix A, Section A.3.1.4, Canister Maximum Time in Transfer Cask. This exemption is from the requirement to comply with the 25-day requirement in Limiting Condition of Operation 3.1.4 for canister, NAC–UMS–TSC–790–016. The exemption was approved by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010. The NRC’s environmental assessment of this exemption is discussed in the *Environmental Assessment* section later in this document.

2. Appendix A, Section A.5.1, Training Program. This exemption is from the requirement to develop a systematic approach to training that includes comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC–UMS® System. This exemption was previously approved by letter dated January 4, 2005, with the environmental assessment noticed in the **Federal Register** on January 4, 2005. The exemption was approved again by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010.

This exemption would relieve Maine Yankee from the requirements to develop training modules under its systematic approach to training that include comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC–UMS® System. The NRC previously determined, as discussed in the **Federal Register** notice dated January 4, 2005, that Section A.5.1, “Training Program,” would impose regulatory obligations with associated costs that do not provide a commensurate increase in safety. This exemption would allow Maine Yankee to have the training program limited to its storage system. This exemption is categorically excluded from further environmental review in accordance with 10 CFR 51.22(c)(25)(i–v) and (vi)(E).

3. Appendix A, Section A.5.5, Radioactive Effluent Control Program. This exemption is from the requirement to submit an annual report pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36(a). This exemption was previously approved by letter dated January 4, 2005, with the environmental assessment noticed in the **Federal Register** on January 4, 2005.

The exemption was approved again by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010.

Licensees are required to submit an annual report to the Commission regarding effluents released into the environment pursuant to the requirements of 10 CFR 72.44(d)(3). The NRC previously determined, as discussed in the **Federal Register** notice dated January 4, 2005, that this annual report does not impact public safety because the NAC–UMS® System is a sealed and leak-tight spent fuel storage system. Therefore, there should not be any releases to the environment of either liquid or gaseous effluents from normal operation of the storage system. This exemption is categorically excluded from further environmental review in accordance with 10 CFR 51.22(c)(25)(i–v) and (vi)(B).

4. Appendix B, Section B.3.4.2.6. This exemption is from the requirement to maintain a coefficient of friction on the ISFSI pad surface of at least 0.5. This exemption was previously approved by letter dated February 1, 2004, with the environmental assessment noticed in the **Federal Register** on January 30, 2004. The exemption was approved again by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010.

Maine Yankee originally requested the exemption following the discovery of a winter icing condition at its ISFSI that created an indeterminate coefficient of friction between the vertical concrete casks and the ISFSI pad surface. The NRC determined that a specific coefficient of friction was not necessary. The NRC’s environmental assessment of this exemption is discussed in the *Environmental Assessment* section later in this document.

#### *Agencies and Persons Consulted*

The State of Maine reviewed Maine Yankee’s request and, by letter dated January 29, 2019, stated that it has no objections to the request. The State of Maine explained that it sees Maine Yankee’s request as an administrative change to maintain consistency with the canister manufacturer’s Certificate of Compliance. A copy of this document will be provided to the State of Maine prior to publication in the **Federal Register**.

#### *Environmental Assessment*

*Identification of Proposed Action:* The proposed action is the granting of four previously approved exemptions from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), and 72.214. These sections of the NRC regulations require

compliance with the terms, conditions, and specifications of the NAC-UMS® System CoC No. 1015 for spent fuel storage at Maine Yankee's ISFSI. This action will allow Maine Yankee to apply the changes authorized by Amendment No. 6 to CoC No. 1015 to the casks at Maine Yankee's ISFSI. Two of the four exemptions requested by Maine Yankee are categorically excluded from the requirement to conduct an environmental assessment, as discussed earlier in this document, and are not further discussed in this section. This environmental assessment discussion focuses on the two remaining exemptions:

1. Appendix A, Section A.3.1.4, Canister Maximum Time in Transfer Cask. This exemption is from the requirement to comply with the 25-day requirement in Limiting Condition of Operation 3.1.4 for canister, NAC-UMS-TSC-790-016. This exemption was previously approved by the NRC by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010.

2. Appendix B, Section B.3.4.2.6. This exemption is from the requirement to maintain a coefficient of friction on the ISFSI pad surface of at least 0.5. This exemption was previously approved by the NRC by letter dated February 1, 2004, with the environmental assessment noticed in the **Federal Register** on January 30, 2004. The exemption was approved again by letter dated July 14, 2010, with the environmental assessment noticed in the **Federal Register** on June 15, 2010.

*Need for Proposed Action:* Maine Yankee has requested continuation of these exemptions so that it can register its casks to Amendment No. 6 to CoC No. 1015 for the NAC-UMS® System. The regulations in 10 CFR 72.212(b)(4) require the general licensee to register each cask with the NRC no later than 30 days after applying the changes authorized by an amended CoC.

*Environmental Impacts of the Action:* Amendment No. 6 to CoC No. 1015 has been previously evaluated by the NRC and its adoption by Maine Yankee presents no additional radiological environmental impacts. The two exemptions are related to sections in the technical specifications that were not revised as part of Amendment No. 6 to the CoC No. 1015 of the NAC-UMS® System. An environmental assessment for these two exemptions was conducted for the previous approvals, as noted above, and is summarized below.

The requested exemption from Appendix A, Section A.3.1.4, "Canister Maximum Time in Transfer Cask" is an exemption from the requirement to comply with the 25-day requirement in

Limiting Condition of Operation 3.1.4 for one canister, NAC-UMS-TSC-790-016. The affected storage canister had a heat load of 9.59kW, and was placed in a transfer cask for a total of 43 days between December 28, 2002, and February 18, 2003. At that time the Maine Yankee ISFSI operated under the provisions of CoC No. 1015, Amendment No. 2, and the Limiting Condition of Operation 3.1.4 time limit for a canister having a content decay heat load of less than or equal to 14kW was unlimited. During this period, the storage canister was in full compliance with CoC No. 1015, Amendment No. 2, and its stored spent fuel was maintained in a safe condition during the time the canister was in the transfer cask. The transfer of the loaded canister was completed in a safe manner to ensure the transfer cask was not used as a long-term storage device.

The requested exemption from Appendix B, Section B.3.4.2.6 is an exemption from the requirement to maintain a coefficient of friction on the ISFSI pad surface of at least 0.5. As discussed in the **Federal Register** notice published on January 30, 2004, Maine Yankee requested the exemption to address winter icing conditions that could result in a reduced coefficient of friction between the vertical concrete cask and the ISFSI pad surface, and limited vertical concrete cask sliding during a design-basis earthquake. The NRC previously reviewed the evaluations provided by Maine Yankee and found reasonable assurance that the design-basis earthquake will not result in significant sliding of the NAC-UMS® System vertical concrete casks. The NRC evaluated the magnitude of the impact load between two colliding vertical concrete casks and determined that the impact load would be far less severe than that encountered in a tip-over accident for which the NAC-UMS® System has been demonstrated to be structurally adequate. The NRC determined that not maintaining a coefficient of friction between the vertical concrete cask and the ISFSI pad surface of at least 0.5 is consistent with the safety analyses previously evaluated for the NAC-UMS® System, would have no impact on the design basis, and would have no impact on off-site doses. Therefore, the NRC concluded that the requested changes would not pose an increased risk to public health and safety.

The NRC evaluated the impact to public safety that would result from the proposed action and determined that

approval of the exemptions would not increase the probability or consequences of accidents, no changes would be made to the types of effluents released offsite, and there would be no increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the action. Additionally, the proposed action would not involve any construction or other ground disturbing activities, would not change the footprint of the existing ISFSI, and would have no other significant non-radiological impacts. The ISFSI is located on previously disturbed land so it is unlikely to create any significant impact on aquatic or terrestrial habitat in the vicinity of the plant or to threatened, endangered, or protected species under the Endangered Species Act, or to essential fish habitat covered by the Magnuson-Stevens Act. Approval of the exemptions is not the type of activity that has the potential to cause effects on historic or cultural properties, assuming such properties are present at the site.

*Alternative to the Proposed Action:* The alternative to the proposed action would be to deny approval of the exemptions. This alternative would also have no significant environmental impact. Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact were not evaluated.

Given that there are no significant differences in environmental impact between the proposed action and the alternative considered, and that there are no changes in the conditions under which the exemptions were previously approved, the NRC concludes that the preferred alternative is to grant the exemptions.

#### *Finding of No Significant Impact*

The environmental impacts of the exemptions were previously reviewed and determined to have no significant environmental impact. There have been no changes to the conditions under which the previous review was approved. Based upon the foregoing discussion and the previous approvals, the NRC finds that the exemptions will not significantly impact the quality of the human environment.

#### **IV. Availability of Documents**

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No. or Federal Register citation
NAC—UMS® System Certificate of Compliance No. 1015, effective November 20, 2000 .....	ML090120408
Letter from J. Stanley Brown, P.E., Maine Yankee, dated January 21, 2019 .....	ML19031B341
Letter from J. Stanley Brown, P.E., Maine Yankee, dated April 11, 2019 .....	ML19112A024
Letter from J. Goshen, P.E., NRC, to J. Connell, Maine Yankee, dated July 14, 2010 .....	ML101960072
<b>Federal Register</b> notice, "Issuance of Environmental Assessment and finding of No Significant Impact," dated June 15, 2010 .....	75 FR 33853
Letter from L. Camper, NRC, to T. Williamson, Maine Yankee, dated January 4, 2005 .....	ML050050209
<b>Federal Register</b> notice, "Maine Yankee Atomic Power Company, Maine Yankee Independent Spent Fuel Storage Installation, Issuance of Environmental Assessment and Finding of No Significant Impact," dated January 4, 2005 .....	70 FR 396
Letter from L. Camper, NRC, to T. Williamson, Maine Yankee, dated February 1, 2004 .....	ML040350797
<b>Federal Register</b> notice, "Maine Yankee Atomic Power Company, Maine Yankee Independent Spent Fuel Storage Installation, Issuance of Environmental Assessment and Finding of No Significant Impact for a Proposed Exemption," dated January 30, 2004 .....	69 FR 4543
Letter from P.J. Dostie, Maine Department of Health and Human Services, to the NRC, dated January 29, 2019 .....	ML19038A057

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2019–0116. The Federal rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2019–0116); (2) click the "Sign up for Email Alerts" link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

## V. Conclusion

Based on the above considerations, the NRC has determined that, pursuant to 10 CFR 72.7, the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. Therefore, the NRC grants the exemptions from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.212(b)(11), and 72.214.

These exemptions are effective upon publication.

Dated at Rockville, Maryland, this 5th day of July 2019.

For the Nuclear Regulatory Commission.

**John B. McKirgan,**

*Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Materials Safety and Safeguards.*

[FR Doc. 2019–14711 Filed 7–9–19; 8:45 am]

**BILLING CODE 7590–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15927 and #15928; NEBRASKA Disaster Number NE–00074]**

### Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of NEBRASKA

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 4.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of NEBRASKA (FEMA–4420–DR), dated 04/05/2019.

*Incident:* Severe Winter Storm, Straight-line Winds, and Flooding.

*Incident Period:* 03/09/2019 through 04/01/2019.

**DATES:** Issued on 06/28/2019.

*Physical Loan Application Deadline Date:* 06/04/2019.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/06/2020.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of NEBRASKA, dated 04/05/2019, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Cherry, Nuckolls, Scotts Bluff, and the Omaha Tribe of Nebraska, Sac and Fox Nation of Missouri in Kansas and Nebraska,

Santee Sioux Nation, and the Winnebago Tribe of Nebraska within the designated counties.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**  
*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2019–14657 Filed 7–9–19; 8:45 am]

**BILLING CODE 8026–03–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15929 and #15930; IOWA Disaster Number IA–00087]**

### Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Iowa

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of IOWA (FEMA–4421–DR), dated 04/05/2019.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 03/12/2019 through 06/15/2019.

**DATES:** Issued on 07/02/2019.

*Physical Loan Application Deadline Date:* 06/04/2019.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/06/2020.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration,

409 3rd Street SW, Suite 6050,  
Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of IOWA, dated 04/05/2019, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Floyd, Keokuk,  
Wapello.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance  
Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-14656 Filed 7-9-19; 8:45 am]

**BILLING CODE 8026-03-P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15898 and #15899;  
IOWA Disaster Number IA-00086]**

### Presidential Declaration Amendment of a Major Disaster for the State of IOWA

**AGENCY:** U.S. Small Business  
Administration.

**ACTION:** Amendment 7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of IOWA (FEMA-4421-DR), dated 03/23/2019.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 03/12/2019 through  
06/15/2019.

**DATES:** Issued on 07/01/2019.

*Physical Loan Application Deadline  
Date:* 07/16/2019.

*Economic Injury (EIDL) Loan  
Application Deadline Date:* 12/23/2019.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of IOWA, dated 03/23/2019, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/16/2019.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance  
Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-14655 Filed 7-9-19; 8:45 am]

**BILLING CODE 8026-03-P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #16000 and #16001;  
Ohio Disaster Number OH-00057]**

### Presidential Declaration Amendment of a Major Disaster for the State of Ohio

**AGENCY:** U.S. Small Business  
Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Ohio (FEMA-4447-DR), dated 06/18/2019.

*Incident:* Severe Storms, Straight-line  
Winds, Tornadoes, Flooding, and  
Landslides.

*Incident Period:* 05/27/2019 through  
05/29/2019.

**DATES:** Issued on 07/02/2019.

*Physical Loan Application Deadline  
Date:* 08/19/2019.

*Economic Injury (EIDL) Loan  
Application Deadline Date:* 03/18/2020.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Ohio, dated 06/18/2019, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties (Physical Damage and  
Economic Injury Loans):* Mahoning.  
Contiguous Counties (Economic Injury  
Loans Only):

Ohio: Columbiana, Portage, Stark,  
Trumbull.

Pennsylvania: Lawrence, Mercer.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance  
Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-14658 Filed 7-9-19; 8:45 am]

**BILLING CODE 8026-03-P**

## SURFACE TRANSPORTATION BOARD

### Release of Waybill Data

The Surface Transportation Board (Board) has received a request from three researchers at NC State University (WB19-31-6/20/19) for permission to use select data from the Board's 1990-2017 Unmasked Carload Waybill Sample. A copy of this request may be obtained from the Board's website under docket no. WB19-31.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

*Contact:* Alexander Dusenberry, (202) 245-0319.

**Tammy Lowery,**

*Clearance Clerk.*

[FR Doc. 2019-14652 Filed 7-9-19; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions of Proposed Highway Improvement in California

**AGENCY:** Federal Highway  
Administration (FHWA), Department of  
Transportation (DOT).

**ACTION:** Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans), and Federal Highway Administration pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final within the meaning of the United States Code. The actions relate to the proposed VEN-1 Slope Restoration Project on State Route 1 (SR-1) at post mile (PM) 4.0 and 4.2 within the County of Ventura, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency Actions on the highway project will be barred unless the claim is filed on or before December 9, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less

than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For Caltrans: Lourdes Ortega, Senior Environmental Planner, Division of Environmental Planning, California Department of Transportation—District 7, 100 South Main Street, Los Angeles, CA 90012. Office hours: 8 a.m. to 5 p.m., telephone: (213) 897–9572, email: [lourdes.ortega@dot.ca.gov](mailto:lourdes.ortega@dot.ca.gov). For FHWA, contact David Tedrick at (916) 498–5024 or email [david.tedrick@dot.gov](mailto:david.tedrick@dot.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, FHWA assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans and has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California. Caltrans proposes to construct two secant walls at post mile (PM) 4.0 and PM 4.2 on SR–1 in Ventura County to serve as a permanent stabilization of the slope and corresponding roadway from wave induced slope erosion. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Initial Study (IS)/Environmental Analysis (EA) with Negative Declaration (ND)/Finding of No Significant Impact (FONSI) approved on June 28, 2019, and in other documents in the FHWA project records. The Final IS/EA with ND/FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans Final IS/EA with ND/FONSI can be viewed and downloaded from the project website at: <https://dot.ca.gov/caltrans-near-me/district-7/district-7-programs/d7-environmental-docs> or viewed at public libraries in the project area. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

- (1) National Environmental Policy Act (NEPA) of 1969;
- (2) Federal Aid Highway Act of 1970;
- (3) U.S. EPA Section 404(b)(1) Guidelines (40 Code of Federal Regulations [CFR] 230);
- (4) Clean Air Act Amendments of 1990 (CAAA);
- (5) Clean Water Act of 1977 and 1987;
- (6) Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987);
- (7) Safe Drinking Water Act of 1944, as amended;
- (8) Endangered Species Act of 1973;

- (9) Executive Order 13112, Invasive Species;
- (10) Migratory Bird Treaty Act;
- (11) Fish and Wildlife Coordination Act of 1934, as amended;
- (12) Coastal Zone Management Act of 1972;
- (13) Title VI of the Civil Rights Act of 1964, as amended.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1)

Issued on: July 2, 2019.

**Tashia J. Clemons,**

*Director, Planning and Environment, Federal Highway Administration, Sacramento, California.*

[FR Doc. 2019–14552 Filed 7–9–19; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final within the meaning of the United States Code. The actions relate to a proposed highway safety project along State Route 70 in the County of Yuba, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 9, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For Caltrans: Kelly McNally, Branch Chief, Caltrans Office of Environmental Management, M–2, California Department of Transportation–District 3, 703 B Street, Marysville, CA 95901 Office Hours: 8:00 a.m.—5:00 p.m.,

Pacific Standard Time, telephone (530) 741–4134 or email [kelly.mcnally@dot.ca.gov](mailto:kelly.mcnally@dot.ca.gov). For FHWA, contact David Tedrick at (916) 498–5024 or email [david.tedrick@dot.gov](mailto:david.tedrick@dot.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California.

Caltrans proposes a safety project along a 9.6-mile portion of State Route 70 (SR 70) from Laurellen Road to Honcut Creek Bridge in Yuba County. The safety project is intended to significantly reduce traffic fatalities, reduce injury-type collisions, and address operational needs by bringing SR 70 up to current design standards and improve overall safety within the project limits.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant Impact (FONSI) for the project, issued June 20, 2019, and in other documents in Caltrans' project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA, FONSI and other project records can be viewed and downloaded from the project website at <http://www.dot.ca.gov/d3/projects/subprojects/4F380/index.html>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (P.L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)

9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: July 2, 2019.

**Tashia J. Clemons,**

*Director, Planning and Environment, Federal Highway Administration, Sacramento, California.*

[FR Doc. 2019–14554 Filed 7–9–19; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Notices and

Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, August 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Antoinette Ross at 1–888–912–1227 or 202–317–4110.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, August 14, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019–14704 Filed 7–9–19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, August 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be held Thursday, August 8, 2019, at 3:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019–14700 Filed 7–9–19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, August 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Conchata Holloway at 1–888–912–1227 or (336) 690–6217.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be held Tuesday, August 13, 2019, at 3:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Conchata Holloway at 1–888–912–1227 or (336) 690–6217, or write TAP Office, 4905



Koger Blvd., Greensboro, NC 27407 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14701 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel Joint Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, August 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, August 29, 2019, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612-5217 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14699 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, August 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rosalind Matherne at 1-888-912-1227 or 202-317-4115.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, August 14, 2019, 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1-888-912-1227 or 202-317-4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14703 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will

be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, August 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Robert Rosalia at 1-888-912-1227 or (718) 834-2203.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Wednesday, August 14, 2019, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1-888-912-1227 or (718) 834-2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14705 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel Joint Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, August 13, 2019 and Wednesday, August 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer



Advocacy Panel Joint Committee will be held Tuesday, August 12, 2019, from 8:00 a.m. to 4:30 p.m. Mountain Time and Wednesday, August 13, 2019, from 8:00 a.m. to 4:30 p.m. Mountain Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612-5217 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14706 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, August 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Fred Smith at 1-888-912-1227 or (202) 317-3087.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988)

that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, August 8, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1-888-912-1227 or (202) 317-3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: <http://www.improveirs.org>.

Dated: July 5, 2019.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2019-14702 Filed 7-9-19; 8:45 am]

**BILLING CODE 4830-01-P**

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