AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

# FEDERAL REGISTER

Vol. 84 Friday,

No. 125 June 28, 2019

Pages 30853–31170

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

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

**How To Cite This Publication:** Use the volume number and the page number. Example: 84 FR 12345.

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

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

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

**Single copies/back copies:**

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

**FEDERAL AGENCIES**

**Subscriptions:**

Assistance with Federal agency subscriptions:

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

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 84, No. 125

Friday, June 28, 2019

**Agricultural Marketing Service**
**RULES**
Marketing Orders:
Raisins Produced from Grapes Grown in California, 2019–12019

**Agriculture Department**
*See* Agricultural Marketing Service
*See* Federal Crop Insurance Corporation
*See* Food Safety and Inspection Service
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13773

**Army Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13843

**Centers for Medicare & Medicaid Services**
**PROPOSED RULES**
Medicare and Medicaid Programs:
Risk Adjustment Data Validation, 2019–13891
**NOTICES**
Medicare and Medicaid Program:
Application by Accreditation Commission for Health Care for Continued CMS-Approval of its Hospice Accreditation Program, 2019–13901
Medicare Program:
Rechartering and Appointment of New Members to the Medicare Advisory Panel on Clinical Diagnostic Laboratory Tests, 2019–13900

**Civil Rights Commission**
**NOTICES**
Meetings:
Delaware Advisory Committee, 2019–13872
District of Columbia Advisory Committee, 2019–13871
New Jersey Advisory Committee, 2019–13873

**Coast Guard**
**RULES**
Navigation and Navigable Waters, and Shipping; Technical, Organizational, and Conforming Amendments, 2019–12561
Safety Zone:
Annual Events in the Captain of the Port Buffalo Zone, 2019–13881
City of Benicia Fourth of July Fireworks Display, Carquinez Strait, Benicia, CA, 2019–13852
City of North Charleston Fireworks, North Charleston, SC, 2019–13771
City of Port Aransas Fourth of July Fireworks Display, 2019–13798
Fireworks Display, Delaware River, Philadelphia, PA, 2019–13770
Fourth of July Fireworks Patriots Point, Charleston, SC, 2019–13769
Lakewood Independence Day Fireworks, Lake Erie, Lakewood, OH, 2019–13879
San Francisco Waterfront Celebration Fireworks Display, San Francisco Bay, San Francisco, CA, 2019–13816
Upper Mississippi River, Chester, IL, Thebes, IL, 2019–13788
Vallejo Independence Day Fireworks Display, Mare Island Strait, Vallejo, CA, 2019–13794
Safety Zones:
Annual Events in the Captain of the Port Detroit Zone, Fireworks, 2019–13829
Northern California and Lake Tahoe Area Annual Fourth of July Fireworks Events, 2019–13795
Special Local Regulation:
Choptank River, Cambridge, MD, 2019–13772
Special Local Regulations and Safety Zones
Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone, 2019–13635
Special Local Regulations:
Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone, 2019–13815

**Commerce Department**
*See* Economic Analysis Bureau
*See* Foreign-Trade Zones Board
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Committee for Purchase From People Who Are Blind or Severely Disabled**
**NOTICES**
Procurement List; Additions and Deletions, 2019–13818,

**Comptroller of the Currency**
**NOTICES**
Meetings:
Mutual Savings Association Advisory Committee, 2019–13777

**Defense Acquisition Regulations System**
**RULES**
Defense Federal Acquisition Regulation Supplement:
Annual Representations and Certifications—Alternate A, 2019–13745
Only One Offer, 2019–13739
Repeal of Price Adjustment Clause, 2019–13743
Repeal of Transportation Related Provisions and Clauses, 2019–13748
Technical Amendment, 2019–13746
**PROPOSED RULES**
Defense Federal Acquisition Regulation Supplement:
Modification of DFARS Clause ''Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles'', 2019–13742
Modification of DFARS Clause, ''Obligation of the Government'', 2019–13741
Reliability and Maintainability in Weapon System Design, 2019–13744

**Defense Department**
*See* Army Department
*See* Defense Acquisition Regulations System

**Economic Analysis Bureau**
**NOTICES**
Request for Comments:
Development of Gross Domestic Product by County Statistics, 2019–13858

**Education Department**
**NOTICES**
Investigation and Record Requests, 2019–13904

**Energy Department**
*See* Federal Energy Regulatory Commission
*See* National Nuclear Security Administration

**Environmental Protection Agency**
**RULES**
Air Quality State Implementation Plans; Approvals and Promulgations:
Kentucky; Attainment Plan for Jefferson County $SO_2$ Nonattainment Area, 2019–13736
Oklahoma; Regional Haze Five-Year Progress Report, 2019–13738
Pesticide Tolerances:
Ethiprole, 2019–13546
Mefentrifluconazole, 2019–13520
**PROPOSED RULES**
Approval of State Coal Combustion Residuals Permit Program:
Georgia, 2019–13907
Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals In or On Various Commodities (May 2019), 2019–13774
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
New Source Performance Standards for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels, 2019–13883
WasteWise Program, 2019–13786
Environmental Impact Statements; Availability, etc.:
Weekly Receipts, 2019–13727
Meetings:
Science Advisory Board 2019 Scientific and Technological Achievement Awards Committee, 2019–13913
Safer Choice Partner of the Year Awards Call for Submissions, 2019–13841

**Federal Aviation Administration**
**RULES**
Airworthiness Directives:
Airbus Helicopters Deutschland GmbH Helicopters, 2019–13604
Leonardo S.p.A. Helicopters, 2019–13605
**PROPOSED RULES**
Airworthiness Directives:
General Electric Company Turbofan Engines, 2019–13761
The Boeing Company Airplanes, 2019–13672
Special Flight Authorizations for Supersonic Aircraft, 2019–13079
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Acquisition Management System, 2019–13789
Certificated Training Centers Simulator Rule, 2019–13892

**Federal Communications Commission**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13865
Meetings:
Communications Security, Reliability, and Interoperability Council, 2019–13785

**Federal Crop Insurance Corporation**
**RULES**
Catastrophic Risk Protection Endorsement:
Area Risk Protection Insurance Regulations; and Common Crop Insurance Policy Basic Provisions, 2019–13686

**Federal Energy Regulatory Commission**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13822
Application:
Central Hudson Gas and Electric Corp., 2019–13823
Cherokee Rivers Co., LLC, 2019–13826
Chittenden Falls Hydropower, Inc., 2019–13825
Combined Filings, 2019–13845
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Chief Conemaugh Power II, LLC, 2019–13847
Chief Keystone Power II, LLC, 2019–13848
Polaris Wind Energy, LLC, 2019–13846
Preliminary Permit Applications:
ECOsponsible, LLC, 2019–13827

**Federal Financial Institutions Examination Council**
**NOTICES**
Meetings:
Appraisal Subcommittee, 2019–13912

**Federal Railroad Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13792

**Fiscal Service**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application Forms for U.S. Department of the Treasury Stored Value Card Program, 2019–13780
FHA New Account Request, Transition Request, and Transfer Request, 2019–13782

**Fish and Wildlife Service**
**NOTICES**
Permits:
Endangered Species, 2019–13791
Endangered Species; Marine Mammals, 2019–13790

**Food and Drug Administration**
**PROPOSED RULES**
Biologics License Applications and Master Files, 2019–13753
**NOTICES**
Guidance:
Treatment for Heart Failure: Endpoints for Drug Development, 2019–13800
Meetings:
Endpoints for Drug Development in Heart Failure; Public Workshop, 2019–13799

**Food Safety and Inspection Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Industry Responses to Noncompliance Records, 2019–13817

**Foreign Assets Control Office**
RULES
North Korea Sanctions, 2019–13652
NOTICES
Blocking or Unblocking of Persons and Properties, 2019–13836

**Foreign-Trade Zones Board**
NOTICES
Application for Reorganization under Alternative Site Framework:
Foreign-Trade Zone 280, Caldwell, ID, 2019–13864
Application for Subzone:
Waterfront Enterprises, LLC, Foreign-Trade Zone 162, New Haven, CT, 2019–13862
Production Activity:
Whirlpool Corp., Foreign-Trade Zone 100, Dayton, OH, 2019–13861

**Health and Human Services Department**
*See* Centers for Medicare & Medicaid Services
*See* Food and Drug Administration
*See* Health Resources and Services Administration
NOTICES
Meetings:
Advisory Council on Alzheimer's Research, Care, and Services, 2019–13850

**Health Resources and Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Data Collection Tool for State Offices of Rural Health Grant Program, 2019–13804

**Historic Preservation, Advisory Council**
NOTICES
Amendment to the Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way, 2019–13779

**Homeland Security Department**
*See* Coast Guard

**Interior Department**
*See* Fish and Wildlife Service
*See* Land Management Bureau
*See* National Park Service
*See* Surface Mining Reclamation and Enforcement Office

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 2019–13867
Carbon and Certain Alloy Steel Wire Rod from Mexico, 2019–13866
Certain Hot-Rolled Steel Flat Products from Japan, 2019–13863
Welded Line Pipe from the Republic of Turkey, 2019–13860
Meetings:
United States Travel and Tourism Advisory Board, 2019–13851

**International Trade Commission**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Aluminum Wire and Cable from China, 2019–13766
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Electrical Connectors, Components Thereof, and Products Containing the Same, 2019–13787
Certain Strength-Training Systems and Components Thereof, 2019–13784
Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine, 2019–13903
Quartz Surface Products from India and Turkey, 2019–13783

**Justice Department**
*See* Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2019–13834, 2019–13835,
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
IER Charge Form, 2019–13832
Proposed Consent Decree:
Emergency Planning and Community Right-To-Know Act, CERCLA, and the Clean Air Act, 2019–13875

**Justice Programs Office**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Juvenile Residential Facility Census, 2019–13760

**Labor Department**
*See* Mine Safety and Health Administration
*See* Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Report for Multiple Employer Welfare Arrangements, 2019–13805
Insurance and Annuity Contracts and Mutual Fund Principal Underwriters, 2019–13807
Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures, 2019–13806
Notice of Special Enrollment Rights under Group Health Plans, 2019–13802
Personal Protective Equipment for Shipyard Employment, 2019–13808
Prohibited Transaction Exemption 1986–128 for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers, 2019–13801
Short-Time Compensation Grants, 2019–13803
Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Service Members, 2019–13814
Supply and Service Program, 2019–13809
Unemployment Compensation for Ex-Servicemembers Handbook, 2019–13813

**Land Management Bureau**
**NOTICES**
Environmental Impact Statements; Availability, etc.:
Domestic Sheep Grazing Permit Renewals, Gunnison Field Office, Colorado, 2019–13853
Uncompahgre Field Office, Colorado, 2019–13857
Realty Action:
Modified Competitive Sale of 61 Parcels of Public Land in Clark County, NV; and Termination of Recreation and Public Purposes Classification, 2019–13914

**Mine Safety and Health Administration**
**NOTICES**
Affirmative Decisions on Petitions for Modification Granted in Whole or in Part, 2019–13812

**National Council on Disability**
**NOTICES**
Meetings; Sunshine Act, 2019–14040

**National Nuclear Security Administration**
**NOTICES**
Environmental Impact Statements; Availability, etc., 2019–13842

**National Oceanic and Atmospheric Administration**
**RULES**
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 2019–13878
Fisheries off West Coast States:
Pacific Coast Groundfish Fishery; Electronic Monitoring Program, 2019–13324
**PROPOSED RULES**
Takes of Marine Mammals Incidental to Specified Activities:
Alaska Liquefied Natural Gas Project in Cook Inlet, 2019–12568
**NOTICES**
Endangered and Threatened Species:
Take of Anadromous Fish, 2019–13759, 2019–13762
Meetings:
Caribbean Fishery Management Council, 2019–13895,
Mid-Atlantic Fishery Management Council, 2019–13894,
Public Hearings:
Mid-Atlantic Fishery Management Council, 2019–13897
Takes of Marine Mammals Incidental to Specified Activities:
Site Characterization Surveys off the Coast of North Carolina, 2019–13874

**National Park Service**
**NOTICES**
Inventory Completion:
Autry Museum of the American West, Los Angeles, CA, 2019–13840
Carter County Museum, Ekalaka, MT, 2019–13837
Department of Folk Studies and Anthropology at Western Kentucky University, Bowling Green, KY, 2019–13839
Sloan Museum, Flint, MI, 2019–13838

**Nuclear Regulatory Commission**
**NOTICES**
Hearing:
NextEra Energy Seabrook, LLC (Seabrook Station, Unit 1), 2019–13899
Refining and Characterizing Heat Release Rates from Electrical Enclosures During Fire, 2019–13893

**Occupational Safety and Health Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The Standard on Process Safety Management of Highly Hazardous Chemicals, 2019–13811
Grant of Expansion of Recognition:
QPS Evaluation Services, Inc., 2019–13810

**Postal Regulatory Commission**
**NOTICES**
New Postal Product, 2019–13844

**Presidential Documents**
**EXECUTIVE ORDERS**
Committees; Establishment, Renewal, Termination, etc.:
Eliminating Regulatory Barriers to Affordable Housing, White House Council on; Establishment (EO 13878), 2019–14016

**Securities and Exchange Commission**
**NOTICES**
Self-Regulatory Organizations; Proposed Rule Changes:
ICE Clear Europe, Ltd., 2019–13764
MIAX Emerald, LLC, 2019–13763
Nasdaq PHLX, LLC, 2019–13775
The Options Clearing Corp., 2019–13776

**State Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Smart Traveler Enrollment Program, 2019–13882
Culturally Significant Objects Imported for Exhibition:
Exhibition of Two Medieval-period Statues, 2019–13797
Signs and Wonders: The Photographs of John Beasley Greene, 2019–13796

**Surface Mining Reclamation and Enforcement Office**
**NOTICES**
Record of Decision:
Western Energy Company's Rosebud Mine Area F Project; MT, 2019–13778

**Surface Transportation Board**
**NOTICES**
Rail Construction and Operation:
Seven County Infrastructure Coalition; Carbon, Duchesne, and Uintah Counties, UT; Correction, 2019–13890

**Trade Representative, Office of United States**
**NOTICES**
Annual Review of Country Eligibility for Benefits under the African Growth and Opportunity Act, 2019–13905

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Railroad Administration

**Treasury Department**
*See* Comptroller of the Currency
*See* Fiscal Service
*See* Foreign Assets Control Office
**NOTICES**
Meetings:
Financial Research Advisory Committee, 2019–13877

**Veterans Affairs Department**
**NOTICES**
Privacy Act; Systems of Records, 2019–13876

**Separate Parts In This Issue**

**Part II**
Commerce Department, National Oceanic and Atmospheric Administration, 2019–13324

**Reader Aids**

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

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

## CFR PARTS AFFECTED IN THIS ISSUE

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

**3 CFR**

**Executive Orders:**

13878.....30853

**7 CFR**

402.....30857
407.....30857
457.....30857
989.....30862

**14 CFR**

39 (2 documents) .....30864, 30866

**Proposed Rules:**

39 (2 documents) .....30956, 30958
91.....30961

**21 CFR**

**Proposed Rules:**

601.....30968

**31 CFR**

510.....30868

**33 CFR**

1.....30870
26.....30870
80.....30870
81.....30870
83.....30870
89.....30870
100 (4 documents) .....30870, 30883, 30884, 30887
117.....30870
151.....30870
154.....30870
155.....30870
156.....30870
161.....30870
164.....30870
165 (13 documents) .....30870, 30887, 30897, 30898, 30900, 30903, 30905, 30907, 30909, 30911, 30912, 30914, 30916

**40 CFR**

52 (2 documents) .....30918, 30920
180 (2 documents) .....30933, 30939

**Proposed Rules:**

174.....30976
180.....30976
257.....30977

**42 CFR**

**Proposed Rules:**

422.....30983

**46 CFR**

2.....30870
10.....30870
11.....30870
12.....30870
15.....30870
16.....30870
26.....30870
28.....30870
162.....30870

**48 CFR**

204.....30946
215.....30947
247 (2 documents) .....30950, 30952
249.....30953
252 (4 documents) .....30946, 30947, 30950, 30952

**Proposed Rules:**

207.....30984
215.....30984
216.....30984
228.....30986
234.....30984
239.....30988
252 (2 documents) .....30986, 30988

**50 CFR**

635.....30959
660.....31146

**Proposed Rules:**

217.....30991

Federal Register
Vol. 84, No. 125
Friday, June 28, 2019

# Presidential Documents

**Title 3—**

## The President

**Executive Order 13878 of June 25, 2019**

## Establishing a White House Council on Eliminating Regulatory Barriers to Affordable Housing

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1**. *Purpose.* For many Americans, access to affordable housing is becoming far too difficult. Rising housing costs are forcing families to dedicate larger shares of their monthly incomes to housing. In 2017, approximately 37 million renter and owner households spent more than 30 percent of their incomes on housing, with more than 18 million spending more than half of their incomes on housing. Between 2001 and 2017, the number of renter households allocating more than half of their incomes toward rent increased by nearly 45 percent. These rising costs are leaving families with fewer resources for necessities such as food, healthcare, clothing, education, and transportation, negatively affecting their quality of life and hindering their access to economic opportunity.

Driving the rise in housing costs is a lack of housing supply to meet demand. Federal, State, local, and tribal governments impose a multitude of regulatory barriers—laws, regulations, and administrative practices—that hinder the development of housing. These regulatory barriers include: overly restrictive zoning and growth management controls; rent controls; cumbersome building and rehabilitation codes; excessive energy and water efficiency mandates; unreasonable maximum-density allowances; historic preservation requirements; overly burdensome wetland or environmental regulations; outdated manufactured-housing regulations and restrictions; undue parking requirements; cumbersome and time-consuming permitting and review procedures; tax policies that discourage investment or reinvestment; overly complex labor requirements; and inordinate impact or developer fees. These regulatory barriers increase the costs associated with development, and, as a result, drive down the supply of affordable housing. They are the leading factor in the growth of housing prices across metropolitan areas in the United States. Many of the markets with the most severe shortages in affordable housing contend with the most restrictive State and local regulatory barriers to development.

These regulatory barriers impede our Nation's economic growth. Hardworking American families struggle to live in markets where there is an insufficient supply of housing—even in markets generating a significant number of jobs. One recent study suggests that certain regulatory restrictions on housing supply have forced workers to live far away from high-productivity areas with the best available jobs, creating a geographic misallocation of labor between cities that may have decreased the annual economic growth rate in the United States by 36 percent between 1964 and 2009.

Low- and middle-income Americans are often hit the hardest by regulatory barriers to housing development. High housing costs place strains on household budgets, limit educational opportunities, impair workforce mobility, slow job creation, and increase financial risks. Furthermore, studies have consistently identified high housing prices as a primary determinant of homelessness, and research has directly linked more stringent housing market regulation to higher homelessness rates.

To help these populations, in 2018, the Federal Government invested more than $46 billion in rental assistance programs for low-income families—

much of which grows at approximately 3 percent per annum while assisting a fixed number of households. The Federal Government provides additional housing support through the tax code, with over $9.1 billion in tax expenditures in Low-Income Housing Tax Credits (LIHTC) to developers of low-income housing. Generally, these Federal tax dollars are focused disproportionately on areas with high-cost and highly regulated housing markets.

But to improve housing affordability in a truly sustainable manner, we need innovative solutions—not simply increases in spending and subsidies for Federal housing. These solutions must address the regulatory barriers that are inhibiting the development of housing. If we fail to act, Federal subsidies will only continue to mask the true cost of these onerous regulatory barriers, and, as a result, many Americans will not be able to access the opportunities they deserve.

**Sec. 2**. *Policy.* It shall be the policy of my Administration to work with Federal, State, local, tribal, and private sector leaders to address, reduce, and remove the multitude of overly burdensome regulatory barriers that artificially raise the cost of housing development and help to cause the lack of housing supply. Increasing the supply of housing by removing overly burdensome regulatory barriers will reduce housing costs, boost economic growth, and provide more Americans with opportunities for economic mobility. In addition, it will strengthen American communities and the quality of services offered in them by allowing hardworking Americans to live in or near the communities they serve.

**Sec. 3**. *White House Council on Eliminating Regulatory Barriers to Affordable Housing.* There is hereby established a White House Council on Eliminating Regulatory Barriers to Affordable Housing (Council). The Council shall be chaired by the Secretary of Housing and Urban Development, or his designee. The Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, or their designees, shall be Vice Chairs.

(a) *Membership.* In addition to the Chair and Vice Chairs, the Council shall consist of the following officials, or their designees:

(i) the Secretary of the Treasury;

(ii) the Secretary of the Interior;

(iii) the Secretary of Agriculture;

(iv) the Secretary of Labor;

(v) the Secretary of Transportation;

(vi) the Secretary of Energy;

(vii) the Administrator of the Environmental Protection Agency;

(viii) the Director of the Office of Management and Budget;

(ix) the Chairman of the Council of Economic Advisers;

(x) the Deputy Assistant to the President and Director of Intergovernmental Affairs; and

(xi) the heads of such other executive departments and agencies (agencies) and offices as the President, Chair, or Vice Chairs may, from time to time, designate or invite, as appropriate.

(b) *Administration.* The Vice Chairs shall convene regular meetings of the Council, determine its agenda, and direct its work with the oversight of and in consultation with the Chair. The Department of Housing and Urban Development shall provide funding and administrative support for the Council.

**Sec. 4**. *Mission and Functions of the Council.* The Council shall work across agencies and offices, with consideration of existing initiatives, to:

(a) solicit feedback from State, local, and tribal government officials, as well as relevant private-sector stakeholders, including developers, homebuilders, creditors, real estate professionals, manufacturers, academic researchers, renters, advocates, and homeowners, to:

(i) identify Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development and contribute to shortages in housing supply, and

(ii) identify practices and strategies that most successfully reduce and remove burdensome Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development, while highlighting actors that successfully implement such practices and strategies;

(b) evaluate and quantify the effect that various Federal, State, local, and tribal regulatory barriers have on affordable housing development, and the economy in general, and identify ways to improve the data available to the public and private researchers who evaluate such effects, without violating privacy laws or creating unnecessary burdens;

(c) identify and assess the actions each agency can take under existing authorities to minimize Federal regulatory barriers that unnecessarily raise the costs of housing development;

(d) assess the actions each agency can take under existing authorities to align, support, and encourage State, local, and tribal efforts to reduce regulatory barriers that unnecessarily raise the costs of housing development; and

(e) recommend Federal, State, local, and tribal actions and policies that would:

(i) reduce and streamline statutory, regulatory, and administrative burdens at all levels of government that inhibit the development of affordable housing, and

(ii) encourage State, local, and tribal governments to reduce regulatory barriers to the development of affordable housing.

**Sec. 5**. *Reports.* The Vice Chairs, on behalf of the Council, and with the oversight of and in consultation with the Chair, shall:

(a) within 12 months of the date of this order, submit to the President a report on the Council's implementation of section 4 of this order; and

(b) submit to the President any subsequent report that the President may request or that the Council may deem appropriate.

**Sec. 6**. *Agency Participation and Response.* The heads of agencies and offices shall provide such assistance and information to the Council, consistent with applicable law, as may be necessary to carry out the functions of this order.

**Sec. 7**. *Termination.* The Council shall terminate on January 21, 2021, unless extended by the President.

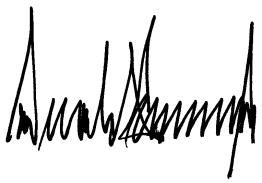
**Sec. 8**. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
*June 25, 2019.*

[FR Doc. 2019–14016
Filed 6–27–19; 8:45 am]
Billing code 3295–F9–P

# Rules and Regulations

Federal Register
Vol. 84, No. 125
Friday, June 28, 2019

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

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

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 402, 407, and 457

**[Docket No. FCIC–19–0002]**

**RIN 0563–AC61**

## Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and Common Crop Insurance Policy Basic Provisions

**AGENCY:** Federal Crop Insurance Corporation, USDA.

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

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) amends the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance (ARPI) Basic Provisions, and the Common Crop Insurance Policy (CCIP) Basic Provisions to implement the changes mandated by the Agriculture Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill). This rule revises the provisions regarding the catastrophic administrative fee, actual production history (APH) yield, crop production on native sod, and the definition of veteran farmer or rancher. In addition to the 2018 Farm Bill required changes, FCIC is changing provisions for premium offsets, electronic delivery of policy changes, and assigned yields. The changes to the policy made in this rule are applicable for the 2020 crop year for crops with a contract change date on or after June 30, 2019. For all crops the changes to the policy made in this rule are applicable for the 2021 and succeeding crop years.

**DATES:**

*Effective:* This final rule is effective June 30, 2019.

*Comment Date:* We will consider comments that we receive on this rule by the close of business August 27, 2019. FCIC will consider these comments and make changes to the rule if warranted in a subsequent rulemaking.

**ADDRESSES:** We invite you to submit comments on this rule. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FCIC–19–0002. Follow the online instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

All comments received, including those received by mail, will be posted without change and publicly available on *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Francie Tolle; telephone (816) 926–7730; email *francie.tolle@usda.gov.* Persons with disabilities who require alternative means of communication should contact the USDA Target Center at (202) 720–2600 (voice).

**SUPPLEMENTARY INFORMATION:**

### Background

The Risk Management Agency (RMA) and FCIC (terms used interchangeably) serve America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. RMA is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIP) sell and service Federal crop insurance policies in every state and in Puerto Rico through a public-private partnership with RMA. RMA reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. RMA's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance (ARPI) Basic Provisions, and the Common Crop Insurance Policy (CCIP) Basic Provisions to implement the changes mandated by the 2018 Farm Bill (Pub. L. 115–334). The changes to the policy made in this rule are applicable for the 2020 crop year for crops with a contract change date on or after June 30, 2019. For all crops the changes to the policy made in this rule are applicable for the 2021 and succeeding crop years.

### Listening Session

On February 14, 2019, the Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and RMA published a notice in the **Federal Register** (84 FR 4041–4044) announcing a listening session for initial public input on the changes to existing programs implemented by the agencies. The purpose of the listening session was for each agency to take into account stakeholder input when making discretionary decisions on program implementation. The agencies also announced an opportunity for the public to make written statements through March 1, 2019. The listening session was held on February 26, 2019. The Commodity, Credit, and Crop Insurance titles, and parts of the Conservation, Energy, and Miscellaneous titles were covered during the listening session.

FSA, NRCS, and RMA received 183 written comments from individuals, trade groups, other organizations, and State entities. All written comments are available to the public for review at: *https://www.regulations.gov/document?D=USDA-2019-0001-0001.* In addition to program-specific comments, there were recurring overarching comments about placing a priority on information sharing between agencies for data collection regarding soil health and conservation practices. The issue raised in comments about native sod are discussed below in the section on the

native sod changes. Comments included suggestions for the commercialization of industrial hemp, further research of industrial hemp, and the need to implement the 2018 Farm Bill quickly for the industrial hemp industry to thrive.

Statements regarding RMA issues outside the scope of this rule that are not addressed include those about Whole Farm Revenue Protection, yield data for Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs, Dairy Margin Coverage and Livestock Gross Margin-Dairy programs, specialty crop insurance, and the USDA interagency workgroup for cover crops. While not related to this rule, the comments will be considered by RMA when implementing 2018 Farm Bill sections that do not require regulatory changes.

In general, RMA related listening session comments focused on the timing of when the 2018 Farm Bill requirements would go into effect. RMA was urged to issue rules and information as quickly as possible.

**Mandatory Farm Bill Provisions**

Provisions in the 2018 Farm Bill that require revisions in the FCIC regulations are discussed below.

**Administrative Fee Changes**

Section 11110 of the 2018 Farm Bill increased the Catastrophic Risk Protection Endorsement Administrative Fee from $300 to $655. The Federal Crop Insurance Act mandates that FCIC offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting when the producer is unable to plant other crops for harvest on the acreage for the crop year due to drought, flood, or other natural disaster. Catastrophic risk protection offers a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price. FCIC will pay a premium subsidy equal to the premium established for the coverage provided under this endorsement. However, producers will pay an administrative fee of $655 for each crop in the county unless otherwise specified in the Special Provisions. The administrative fee will be updated in the regulation in 7 CFR 402.4, in section 6(b).

**APH Cup Option**

Section 11112 of the 2018 Farm Bill added the regulatory authority to provide producers with an election to limit the decrease in APH to not more than 10 percent of the prior crop year's APH (cup), provided that the production decline was the result of drought, flood, natural disaster, or other insurable loss; and that FCIC establish actuarially sound premiums to cover the additional risk. The cup option was implemented procedurally in FCIC—18010 Crop Insurance Handbook on December 2017 for 2018 crops with a Contract Change Date of November 30, 2017, or later.

FCIC is adding the cup option in 7 CFR 457.8 section 36(c) in the CCIP Basic Provisions.

**Crop Production on Native Sod**

Section 11114 of the 2018 Farm Bill revised the crop production on native sod provisions related to crop insurance. Most provisions (such as the penalties, de minimis acreage, applicable States) for native sod from the Agricultural Act of 2014 (Pub. L. 113–79, 2014 Farm Bill) remain the same. The 2014 Farm Bill provisions were in effect for native sod acreage tilled from February 8, 2014, until December 20, 2018, which was the duration of the 2014 Farm Bill. For native sod acreage tilled after the date of enactment of the 2018 Farm Bill, the native sod reduction in benefits will apply to any insurable crop instead of only to annual crops. The reductions will apply for 4 cumulative crop years on the acreage when a crop is insured, with a limitation of the first 10 years after initial tillage of the acreage. This means that if the acreage has not met the 4 cumulative crop years of an insured crop on the acreage within 10 crop years after initially tilling the native sod acreage, after the 10th crop year the acreage is no longer subject to the native sod reduction in benefits.

FCIC is revising the definition of ''tilled'' in the regulation in 7 CFR 407.9 in section 1 and in 7 CFR 457.8 in section 1 to remove the reference to ''annual crops'' as the native sod provisions are now applicable to any insurable crop rather than just annual crops. FCIC is revising 7 CFR 407.9 section 5(d) and adding a new section 5(f) and 7 CFR 457.8 section 9(e) and adding a new section 9(g) to specify the section applies to native sod acreage that has been tilled and planted during the timeframe of the 2014 Farm Bill until that native sod acreage has reached 4 crop years of planting. The changes also specify the section applies to native sod acreage that has been tilled and planted to an insured crop during 4 cumulative crop years within the first 10 crop years after initial tillage on native sod acreage beginning after December 20, 2018 (the date of enactment of the 2018 Farm Bill).

**Veteran Farmers or Ranchers**

Section 12306 of the 2018 Farm Bill added a definition of ''veteran farmers or ranchers'' to the Federal Crop Insurance Act and provided for veteran farmers or ranchers to receive the same benefits as beginning farmers or ranchers. The definition of ''veteran farmers or ranchers'' is being added in the regulation in 7 CFR 407.9 in section 1 and in 7 CFR 457.8 in section 1. The benefits for a veteran farmer or rancher include:

- Waiving all CAT and additional coverage policy's administrative fees as added in the regulation in 7 CFR 402.4 section 6(c), 7 CFR 407.9 section 7(a)(6)(i), and 7 CFR 457.8 section 7(e)(4)(i);
- Providing additional premium subsidy 10 percentage points greater than the premium subsidy identified in the actuarial documents as added in the regulation in 7 CFR 407.9 section 7(h) and 7 CFR 457.8 section 7(g);
- Allowing use of another person's production history of the specific acreage transferred to the veteran farmer or rancher where the veteran farmer or rancher was previously involved in the decision making or physical activities of a farm or ranch operation insured under CCIP Basic Provisions policies, specifically, FCIC is revising 7 CFR 457.8 section 3(l) to add that notwithstanding any other provision in section 3, if the insured is a veteran farmer or rancher who was previously involved in a farming or ranching operation, including involvement in the decision-making or physical involvement in the production of the crop or livestock on the farm, for any acreage obtained by the veteran farmer or rancher, the veteran farmer or rancher will receive a yield that is the higher of:
  - The actual production history of the previous producer of the crop or livestock on the acreage in which the veteran farmer or rancher was involved; or
  - The applicable transitional yield (T-yield) of the veteran farmer or rancher; and
- Increasing, from 60 to 80 percent of the applicable T-yield, in the substituted yield for yield adjustment when replacing a low actual yield due to an insured cause of loss under CCIP Basic Provisions policies as specified in 7 CFR 457.8 section 36(a)(2).

**Additional Changes**

In addition to changes statutorily mandated by the 2018 Farm Bill mentioned above, FCIC is making discretionary changes to the ARPI Basic Provisions and CCIP Basic Provisions. These changes are described below.

The changes to the policy made in this rule are applicable for the 2020 crop year for crops with a contract change date on or after June 30, 2019. For all crops the changes to the policy made in this rule are applicable for the 2021 and succeeding crop years.

The additional changes to the ARPI Basic Provisions (7 CFR part 407) and the CCIP Basic Provisions (7 CFR part 457) are as follows:

FCIC is revising 7 CFR 407.9 section 2(j) of the ARPI Basic Provisions and 7 CFR 457.8 section 2(e) of the CCIP Basic Provisions to clarify the provision is only applicable to another crop policy with unbilled administrative fees and premium and that loss credits must first be applied to the policy and crop with the associated claim.

FCIC published a final rule on November 24, 2017, (82 FR 55723–55734) that revised section 2(j) of the ARPI Basic Provisions and section 2(e) of the CCIP Basic Provisions to clarify that with the policyholder's consent the premium and administrative fees can be offset from any prevented planting or indemnity due the policyholder even if the offset occurs before the fees are billed. That allowed insurance providers the latitude to contact the policyholder and inquire as to whether the policyholder would agree to have the ''unbilled'' administrative fees and premium offset from the remaining amount of the loss. In response to the 2017 final rule, FCIC received input from the industry.

*Industry input:* Comments FCIC received suggested the rule reversed the longstanding position of allowing pre-billing date claim offsets without consent for the same crop. AIPs stated the industry has consistently taken the view that a policyholder's consent is not required in order to perform a claim offset prior to the billing date for the same crop. Additionally, AIPs raised concerns that if consent is required for the same (or any) crop to offset premium, the insured could push to have the claim paid prior to the billing date and file for bankruptcy after the claim is paid, which could prevent AIPs from collecting the premium for the same crop on which it had just paid out a claim.

*Response:* The provision as currently written could have unintended consequences that could negatively impact producers if we interpret this provision as consent is required for the same (or any) crop to offset premium. This is because the producers have an expectation that their premium will be automatically offset from indemnities for the same crop and may not anticipate paying premium when it is due. If premium is not received timely, producers are placed on the Ineligible Tracking System, which is an electronic system to identify persons who are ineligible to participate in any program as specified in 7 CFR part 400, subpart U.

Therefore, FCIC is revising the provisions as only applicable to another crop policy with unbilled administrative fees or premium and that loss credits must first be applied to the policy or crop with the associated claim.

The specific changes to the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) are as follows:

FCIC is revising the provisions in sections 3(f) and (g) regarding assigned yields. The industry has expressed concern regarding assigned yields applying to all units of the crop policy. The assigned yield is a policy-level penalty that occurs when an insured's supporting production records do not match their production certification even when the error only applies to one, or an isolated number of actual production history databases.

Currently, an assigned yield reduces an insured's annual yields for the entire crop year, for all units on the policy, to an assigned yield when any annual yield certified by the insured is incorrect. The assigned yield will not exceed 75 percent of the insured's prior year's approved yield. FCIC is revising the language to limit the assigned yield penalty to only those basic unit(s) effected by the incorrect certification.

FCIC is revising section 3(g)(2) to allow an insured to correct, without penalty, inadvertent errors when certifying production. Inadvertent errors include clear numerical transpositions and similar errors made by an insured when certifying their production reports. There are existing regulatory exceptions for inadvertent errors made by an insured for the application, as well as, exceptions for errors made by USDA or AIPs for production reporting. This change also allows an exception for inadvertent producer errors that occur when a producer certifies their production reports.

FCIC is adding a new section 4(d) and revising section 33 to allow that when changes are made to the policy provisions, AIPs will send the changes electronically to the policyholder rather than as a hard copy. Currently a policyholder may individually elect to receive these documents electronically. FCIC is revising the provisions to state all policy provisions, notices, and communications required to be sent by the AIP to the policyholder will be provided by electronic means, unless the AIP does not have the ability to transmit such information to the policyholder by electronic means or the policyholder elects to receive a paper copy of such information. Therefore, FCIC is adding a new section 4(d) to specify that not later than 30 days prior to the cancellation date for the insured crop that the policyholder will be provided, in accordance with section 33, a copy of the changes to the Basic Provisions, Crop Provisions, Commodity Exchange Price Provisions, if applicable, and Special Provisions. In addition, FCIC is adding a new section 4(e) to specify that acceptance of the changes will be conclusively presumed in the absence of notice from the policyholder to change or cancel insurance coverage. FCIC will also make changes accordingly to the notices required in section 33. These changes will reduce the burden of excess distribution of paper policy materials while still allowing policyholders the option to elect to receive a paper copy.

FCIC is removing the provisions in section 5 regarding exclusion of yields and moving the provisions to section 36 of the revised CCIP Basic Provisions.

Because of the various changes to section 36, FCIC is changing the section heading to ''Changes to Yields'' as this section will now contain provisions regarding substitution of yields, exclusion of yields, and yield cups. FCIC is moving the provisions regarding exclusion of yields that were previously contained in section 5 to section 36(b).

**Effective Date and Notice and Comment**

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** for interested persons to be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation and requires a 30-day delay in the effective date of rules, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involves matters relating to contracts and therefore the requirements in section 553 do not apply.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. This rule is not a major rule under SBREFA (Pub. L. 104–121). Therefore, RMA is not required to delay the effective date for 60 days from the

date of publication to allow for Congressional review.

This final rule is effective June 30, 2019. Although not required by APA, RMA has chosen to request comments on this rule.

**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. 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.

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 as not significant, it is not subject to Executive Order 13771.

**Clarity of the Regulation**

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by 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 because as noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

**Environmental Review**

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

**Executive Order 12372**

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. 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 will 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 part 11 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.

FCIC has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, FCIC will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes and additions 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 of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits 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 Program**

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450—Crop Insurance.

**Paperwork Reduction Act of 1995**

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563–0053 and 0563–0083.

**E-Government Act Compliance**

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

**List of Subjects**

*7 CFR Part 402*

Administrative practice and procedure, Claims, Crop insurance, Disaster assistance, Fraud, Penalties, Reporting and recordkeeping requirements.

*7 CFR Part 407*

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

*7 CFR Part 457*

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

**Final Rule**

For the reasons discussed above, FCIC amends 7 CFR parts 402, 407, and 457, effective for the 2020 crop year for crops with a contract change date on or after June 30, 2019, and for the 2021 and succeeding crop years for all other crops, as follows:

## PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

■ 1. The authority citation for 7 CFR part 402 is revised to read as follows:

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

■ 2. Amend § 402.4, section 6 as follows:
■ A. In paragraph (b)(1), remove ''$300'' and add ''$655'' in its place; and
■ B. In paragraph (c), remove the words and punctuation ''rancher'' or a'' and add the words and punctuation ''rancher,'' ''veteran farmer or rancher,'' or'' in their place.

## PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 3. The authority citation for 7 CFR part 407 is revised to read as follows:

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

■ 4. Amend § 407.9 as follows:
■ A. Amend section 1 as follows:
■ i. In the definition of ''tilled'', remove ''an annual crop'' and add ''a crop'' in their place; and
■ ii. Add the definition of ''veteran farmer or rancher'' in alphabetical order;
■ B. Amend section 2 as follows:
■ i. In paragraph (j) introductory text, remove ''due'' and add ''owed'' in its place in the first instance where the word occurs in the paragraph;
■ ii. Remove paragraph (j)(2); and
■ iii. Redesignate paragraph (j)(3) as paragraph (j)(2);
■ C. Amend section 5 as follows:
■ i. Revise paragraph (d), introductory text; and
■ ii. Add paragraph (f);
■ D. Amend section 7 as follows:
■ i. In paragraph (a)(6)(i), add '', or veteran farmer or rancher'' at the end of the sentence; and
■ ii. In paragraph (h), remove ''rancher, your'' and add ''rancher, or veteran farmer or rancher, your'' in their place;

The revisions and additions read in part as follows:

**§ 407.9 Area risk protection insurance policy.**

* * * * *

1. Definitions

* * * * *

*Veteran farmer or rancher.* An individual who has served on active duty in the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components, was discharged or released under conditions other than dishonorable, and:

(1) Has not operated a farm or ranch;

(2) Has operated a farm or ranch for not more than 5 years; or

(3) First obtained status as a veteran during the most recent 5-year period.

A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify as a veteran farmer or rancher. A spouse's veteran status does not impact whether an individual is considered a veteran farmer or rancher.

* * * * *

5. Insurable Acreage

* * * * *

(d) Except as provided in section 5(e), and in accordance with section 5(f), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota, native sod acreage may be insured if the requirements of section 5(a) have been met but will:

* * * * *

(f) Section 5(d) is applicable during the first 4 crop years of planting on native sod acreage that has been tilled beginning on February 8, 2014, and ending on December 20, 2018. Section 5(d) is applicable during 4 cumulative crop years of insurance within the first 10 crop years after initial tillage on native sod acreage tilled after December 20, 2018.

## PART 457—COMMON CROP INSURANCE REGULATIONS

■ 5. The authority citation for part 457 is revised to read as follows:

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

■ 6. Amend § 457.8 as follows:
■ A. Amend section 1 as follows:
■ i. In the definition of ''tilled,'' remove ''an annual crop'' and add ''a crop'' in its place;
■ ii. Add the definition of ''veteran farmer or rancher'' in alphabetical order;
■ B. Amend section 2 as follows:
■ i. In paragraph (e) introductory text, remove ''due'' and add ''owed'' in its place in the first instance where the word occurs;
■ ii. Remove paragraph (e)(2); and
■ iii. Redesignate paragraph (e)(3) as paragraph (e)(2);
■ C. Amend section 3 as follows:

■ i. In paragraph (f)(1), remove ''for the previous crop year'' in the first sentence;
■ ii. In paragraph (g)(2)(i) remove ''or'';
■ iii. Revise paragraph (g)(2)(ii);
■ iv. Add paragraph (g)(2)(iii);
■ v. Revise paragraphs (g)(3) and (g)(4)(i); and
■ vi. In paragraph (l), remove the word ''rancher'' and add ''rancher, or veteran farmer or rancher'' in its place;
■ D. Amend section 4 as follows:
■ i. Revise paragraph (d); and
■ ii. Add paragraph (e);
■ E. Remove and reserve section 5;
■ F. Amend section 7 as follows:
■ i. In paragraph (e)(4)(i), remove the word ''rancher'' and add ''rancher, or veteran farmer or rancher'' in its place; and
■ ii. In paragraph (g), remove the word ''rancher'' and add ''rancher, or veteran farmer or rancher,'' in its place;
■ G. Amend section 9 as follows:
■ i. Revise paragraph (e), introductory text; and
■ ii. Add paragraph (g);
■ H. Amend section 33 as follows:
■ i. Revise paragraph (b);
■ I. Amend section 36 as follows:
■ i. Revise the heading;
■ ii. Redesignate paragraphs (b) through (e) as paragraphs (a)(1) through (4);
■ iii. In newly redesignated paragraph (a)(2), remove ''rancher'' and add ''rancher, or veteran farmer or rancher'' in its place; and
■ iv. Add new paragraphs (b) and (c).

The revisions and additions read as follows:

**§ 457.8 The application and policy.**

* * * * *

*Common Crop Insurance Policy*

* * * * *

1. Definitions

* * * * *

*Veteran farmer or rancher.* An individual who has served active duty in the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components, was discharged or released under conditions other than dishonorable, and:

(1) Has not operated a farm or ranch;

(2) Has operated a farm or ranch for not more than 5 years; or

(3) First obtained status as a veteran during the most recent 5-year period.

A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify as a veteran farmer or rancher. A spouse's veteran status does not impact whether an individual is considered a veteran farmer or rancher.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices

* * * * *

(g) * * *

(2) * * *

(ii) Because the incorrect information was determined to be inadvertently reported by you (Simply stating the error was inadvertent is not sufficient to prove the error was inadvertent); or

(iii) Because the incorrect information was the result of our error or the error of someone from USDA.

(3) If you do not have written verifiable records to support the information you certified on your production report, you will receive an assigned yield in accordance with section 3(f)(1) and 7 CFR part 400, subpart G, for the applicable units, determined by us, for those crop years for which you do not have such records. If the conditions of section 34(c)(3) are not met, you will receive an assigned yield for the applicable basic unit.

(4) * * *

(i) We will correct your approved yield, in accordance with FCIC procedure, by assigning a yield or by using the yield we determine to be correct, for the crop year such information is not correct, and all subsequent crop years;

* * * * *

4. Contract Changes

* * * * *

(d) Not later than 30 days prior to the cancellation date for the insured crop you will be provided, in accordance with section 33, a copy of the changes to the Basic Provisions, Crop Provisions, Commodity Exchange Price Provisions, if applicable, and Special Provisions.

(e) Acceptance of the changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

* * * * *

9. Insurable Acreage

* * * * *

(e) Except as provided in section 9(f), and in accordance with section 9(g), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota, native sod acreage may be insured if the requirements of section 9(a) have been met but will:

* * * * *

(g) Section 9(e) is applicable during the first 4 crop years of planting on native sod acreage that has been tilled beginning on February 8, 2014, and ending on December 20, 2018. Section 9(e) is applicable during 4 cumulative crop years of insurance within the first 10 crop years after initial tillage on native sod acreage tilled after December 20, 2018.

* * * * *

33. Notices

* * * * *

(b) All policy provisions, notices, and communications that we send to you will be:

(1) Provided by electronic means, unless:

(i) We do not have the ability to transmit such information to you by electronic means; or

(ii) You elect to receive a paper copy of such information;

(2) Sent to the location specified in your records with your crop insurance agent; and

(3) Will be conclusively presumed to have been received by you.

* * * * *

36. Changes to Yields

* * * * *

(b) If provided in the actuarial documents, you may elect to exclude any actual yield for any crop year when FCIC determines for a county, or its contiguous counties, the per planted acre yield was at least 50 percent below the simple average of the per planted acre yield for the crop in the county for the previous 10 consecutive crop years.

(c) If provided in the actuarial documents, you may elect to limit a reduction to the approved APH yield to a maximum decline of 10 percent of the previous crop year's approved APH yield when such reduction is due to a decline in production resulting from a natural disaster or other insurable loss, as provided in FCIC procedures.

**Martin R. Barbre,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 2019–13686 Filed 6–27–19; 8:45 am]

**BILLING CODE 3410–08–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 989

**[Doc. No. AMS–SC–19–0006; SC19–989–1]**

## Raisins Produced From Grapes Grown in California; Order Amending Marketing Order No. 989; Corrections

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Correcting amendment.

**SUMMARY:** This amendment implements corrections to typographical and miscellaneous errors in Marketing Order

989, as amended, regulating the handling of raisins produced from grapes grown in California. These changes include removing one duplicate use of the word ''Committee'' and standardizing several occurrences of non-hyphenated words to their hyphenated form. This document is necessary to inform the public of these non-substantive amendments to the marketing order.

**DATES:** Effective July 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kathie Notoro, Marketing Specialist or Terry Vawter, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 538–1672, Fax: (559) 487–5906, or Email: *Kathie.Notoro@usda.gov* or *Terry.Vawter@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

**SUPPLEMENTARY INFORMATION:** This action makes corrections to Marketing Order 989, as amended, (7 CFR part 989) (referred to as the ''marketing order''). The amendments will have no substantive impact and are of a minor and administrative nature dealing with deletion of a duplicate occurrence of a word and standardizing the use of hyphenation. The amendments are effective July 1, 2019. These amendments do not require action by any person or entity regulated by the marketing order.

**List of Subjects in 7 CFR Part 989**

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is corrected by making the following correcting amendments:

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

**§ 989.62 [Amended]**

■ 2. Amend § 989.62 as follows:
■ a. Designating the text of paragraph (b) as paragraph (b)(1);
■ b. Designating the undesignated text following newly designated paragraph (b)(1) as paragraph (b)(2); and
■ c. Removing ''CommitteeCommittee'' and adding in its place ''Committee'' in newly designated paragraph (b)(2).

**§ 989.158 [Amended]**

■ 3. Amend § 989.158(c)(3) by removing the word ''interplant'' and adding in its place ''inter-plant'' and removing the word ''interpacker'' and adding in its place ''inter-packer'' in the paragraph heading.

■ 4. Amend § 989.159 as follows:
■ a. In paragraph (b)(1), removing ''(i)'' and ''(ii)'';
■ b. Revising paragraph (g)(1);
■ c. Redesignating paragraphs (g)(2)(i)(*a*) through (*f*) as paragraphs (g)(2)(i)(A) through (F);
■ d. In newly redesignated paragraph (g)(2)(i)(B), removing the word ''interpacker'' and adding in its place ''inter-packer;''
■ e. In newly redesignated paragraph (g)(2)(i)(E), removing ''(*1*),'' ''(*2*),'' and ''(*3*);''
■ c. Revising paragraph (g)(2)(ii); and
■ d. In paragraph (g)(2)(iv), removing ''(*a*),'' ''(*b*),'' and ''(*c*).''

The revisions read as follows:

**§ 989.159 Regulation of the handling of raisins subsequent to their acquisition.**

* * * * *

(g) * * *

(1) *Recovery of raisins.* (i) For the purposes of §§ 989.59(f) and 989.158(c)(4), a packer may recover raisins from:

(A) Residual raisins from his or her processing of standard raisins;

(B) Any raisins acquired as standard raisins which fail to meet the applicable outgoing grade and condition standards;

(C) Any raisins rejected on a condition inspection; and

(D) Residual raisins from reconditioning of off-grade raisins.

(ii) *Provided,* That such recovery under paragraphs (g)(1)(i)(B) and (C) of this section must occur without blending, if the failure to meet the minimum grade standards for packed raisins is due to a defect or defects affecting the wholesomeness of the raisins: *And provided further,* That such recovery under paragraph (g)(1)(i)(D) of this section must occur without blending, except as permitted in § 989.158(c)(4)(ii), and the weight of standard raisins in residual from off-grade raisins shall be credited equitably to the same lot or lots from which the residual was obtained. The provisions of this paragraph (g)(1) are not intended to excuse any failure to comply with all applicable food and sanitary rules and regulations of city, county, state, federal, or other agencies having jurisdiction.

(2) * * *

(ii) Each such application shall, in addition to the agreement specified in paragraph (g)(2)(iii) of this section, include as a minimum:

(A) The names and addresses of the handler, the buyer, the consignee, and the user;

(B) The quantity of off-grade and other failing raisins and the quantity of raisins residual material to be shipped or otherwise disposed of;

(C) A description of such off-grade raisins and other failing raisins and raisin residual material, as to type or origin;

(D) The present location of such raisins and raisin residual material;

(E) The particular use to be made of the raisins; and

(F) A copy of the sales contract, which may be on a form furnished by the Committee, wherein the buyer agrees:

(*1*) Not to ship such raisins or raisin residual material to points outside the continental United States or to Alaska;

(*2*) To dispose of the raisins or raisin residual material only for uses in eligible non-normal outlet(s); and

(*3*) To maintain complete, accurate, and current records regarding his or her dealings in raisins, retain the records for at least 2 years, and permit representatives of the Committee and of the Secretary of Agriculture to examine all of his or her books and records relating to raisins and residual material.

* * * * *

**§ 989.173 [Amended]**

■ 5. Amend § 989.173 as follows:
■ a. Removing the word ''interhandler'' and adding in its place ''inter-handler'' in paragraph (b)(3) introductory text and paragraph (d) heading;
■ b. Removing the word ''nonfood'' and adding in its place ''non-food'' in the heading of paragraph (b)(5);
■ c. Designating the text of paragraph (b)(5)(vi) as paragraph (b)(5)(vi)(A);
■ d. Designating the undesignated paragraph following newly designated paragraph (b)(5)(vi)(A) as paragraph (b)(5)(vi)(B);
■ e. Removing the word ''nonacquiring'' and adding in its place ''non-acquiring'' in newly designated paragraph (b)(5)(vi)(B); and
■ f. Removing the words ''organically produced'' everywhere they appear and adding in their place ''organically-produced'' in paragraphs (c)(1)(iii), (d)(1)(iii), and (f).

Dated: June 4, 2019.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2019–12019 Filed 6–27–19; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2018–0980; Product Identifier 2017–SW–123–AD; Amendment 39–19669; AD 2019–12–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 C–2 helicopters. This AD requires establishing or reducing the life limit of various parts. This AD was prompted by recalculations. The actions of this AD are intended to address an unsafe condition on these products.

**DATES:** This AD is effective August 2, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0980; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

On November 19, 2018 at 83 FR 58191, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model MBB–BK 117 C–2 helicopters with certain parts installed. The NPRM proposed to require establishing and reducing the life limit of the following parts: Main rotor head—nut, upper and lower quadruple nut, bolts, and inner sleeve; swash plate control ring assembly; rotor flight control collective bellcrank-K; cyclic control rod tube; and upper control forked lever. The proposed requirements were intended to prevent a part remaining in service beyond its fatigue life, which could result in failure of a part and loss of control of the helicopter.

The NPRM was prompted by EASA AD No. 2017–0174, dated September 12, 2017 (EASA AD 2017–0174), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model MBB–BK 117 C–2 helicopters. EASA advises that recalculation by Airbus Helicopters has resulted in new or reduced life limits for certain parts. EASA AD 2017–0174 states the life limits are mandatory for continued airworthiness and failing to replace life-limited parts as specified could result in an unsafe condition. To address this condition, EASA AD 2017–0174 requires replacing the affected parts before exceeding their new or reduced life limit.

### Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

### FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to our bilateral agreement with the European Union, EASA has notified us of the unsafe condition described in its AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for minor editorial changes. ''Bellcrank-K (collective) (4)'' was listed in Table 1 to paragraph (e) of this AD, but should have been ''Bellcrank-K (collective)'' instead. The cost of the parts listed in the Costs of Compliance section have also been updated to reflect current market prices. The updated costs are considered non-substantial. These minor editorial changes are consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of this AD.

### Related Service Information

We reviewed Airbus Helicopters Alert Service Bulletin ASB MBB–BK117 C–2–04A–008, Revision 0, dated April 27, 2017, for Model MBB–BK 117 C–2 and C–2e helicopters. This service information specifies entering into the helicopter records the reduced and new airworthiness life limits for certain part-numbered main rotor head, swash plate, rotor flight controls, cyclic controls, and upper controls parts.

### Costs of Compliance

We estimate that this AD affects 128 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs average $85 per work-hour.

Replacing a nut takes about 5 work-hours and parts cost about $3,736 for an estimated replacement cost of $4,161.

Replacing a quadruple nut upper takes about 5 work-hours and parts cost about $3,682 for an estimated replacement cost of $4,107.

Replacing a quadruple nut lower takes about 5 work-hours and parts cost about $3,819 for an estimated replacement cost of $4,244.

Replacing a bolt takes about 2 work-hours and parts cost about $418 for an estimated replacement cost of $588.

Replacing an inner sleeve takes about 2 work-hours and parts cost about $20,826 for an estimated replacement cost of $20,996.

Replacing a control ring assembly takes about 5 work-hours and parts cost about $11,500 for an estimated replacement cost of $11,925.

Replacing a bellcrank-K (collective) takes about 4 work-hours and parts cost about $3,400 for an estimated replacement cost of $3,740.

Replacing a control rod tube takes about 4 work-hours and parts cost about $1,197 for an estimated replacement cost of $1,537.

Replacing a forked lever takes about 3 work-hours and parts cost about $6,138 for an estimated replacement cost of $6,393.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on helicopters identified in this rulemaking action.

**Regulatory Findings**

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2019–12–14 Airbus Helicopters Deutschland GmbH:** Amendment 39–19669; Docket No. FAA–2018–0980; Product Identifier 2017–SW–123–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2 helicopters with a part listed in Table 1 to paragraph (e) of this AD installed, certificated in any category.

**Note 1 to paragraph (a) of this AD:** Helicopters with an MBB–BK117 C–2e designation are Model MBB–BK117 C–2 helicopters.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a part remaining in service beyond its fatigue life. This condition could result in failure of a part and loss of control of the helicopter.

**(c) Effective Date**

This AD becomes effective August 2, 2019.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

Before further flight, remove from service any part that has reached or exceeded its new or reduced life limit as listed in Table 1 to paragraph (e) of this AD. Thereafter, remove from service each part on or before reaching its new or reduced life limit as listed in Table 1 to paragraph (e) of this AD. For purposes of this AD, a ''landing'' is counted any time the helicopter lifts off into the air and then lands again regardless of the duration of the landing and regardless of whether the engine is shut down.

TABLE 1 TO PARAGRAPH (e)

| Part name | Part No. (P/N) | Life limit |
|---|---|---|
| Nut | B622M1003201 | 65,800 landings or 10,123 hours time-in-service (TIS) if the number of landings is unknown. |
| Quadruple nut upper | B622M1004201 | 60,000 landings or 9,230 hours TIS if the number of landings is unknown. |
| Quadruple nut lower | B622M1005201 | |
| Bolt | B622M1006201, B622M1007201 | 31,200 landings or 4,800 hours TIS if the number of landings is unknown. |
| Inner sleeve | B622M1009201 | 13,300 hours TIS. |
| Control ring assembly | B623M2001101 | 27,600 hours TIS. |
| Bellcrank-K (collective) | B670M7021201 | 21,500 hours TIS. |
| Control rod tube | B291M1015201 | 30,000 hours TIS. |
| Forked lever | B671M7007201<br>B671M7007205 | 22,500 Hours TIS. |

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

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

(1) Airbus Helicopters Alert Service Bulletin ASB MBB–BK117 C–2–04A–008, Revision 0, dated April 27, 2017, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel,

Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0174, dated September 12, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2018–0980.

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head; 6230 Main Rotor Mast/Swashplate; and 6710, Main Rotor Control.

Issued in Fort Worth, Texas, on June 18, 2019.

**James A. Grigg,**

*Acting Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2019–13604 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2018–0648; Product Identifier 2017–SW–087–AD; Amendment 39–19670; AD 2019–12–15]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.A. Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Leonardo S.p.A. (Leonardo) Model AB139 and AW139 helicopters. This AD requires replacing screws installed on the left and right main landing gear (MLG) shock absorber assembly. This AD was prompted by a report that some screws may have been manufactured without meeting specifications. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 2, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

**Examining the AD Docket**

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0648; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (EASA) AD, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *david.hatfield@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Leonardo S.p.A. Model AB139 and AW139 helicopters. The NPRM published in the **Federal Register** on July 19, 2018 (83 FR 34072). The NPRM was prompted by a report that some screws may have been manufactured without meeting specifications. The NPRM proposed to require replacing screws installed on the left and right MLG shock absorber assembly.

We are issuing this AD to address an MLG shock absorber screw that does not meet specifications. This condition could result in failure of the MLG shock absorber, collapse or retraction of the MLG, and subsequent damage to the helicopter.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2016–0077, dated April 19, 2016, to correct an unsafe condition for Finmeccanica S.p.A. (previously Agusta) Model AB139 and AW139 helicopters if equipped with kit ''Increased Gross Weight 6800 kg'' part number (P/N) 4G0000F00111 (kit). EASA advises of a manufacturing issue with the standard screws (P/N NAS1351–5H12P) installed on MLG shock absorber assembly P/N 1652B0000–01. According to EASA, a material analysis shows that the MLG shock absorber screws may have a lower fatigue life than the screws used during the certification fatigue tests. EASA states the affected MLG units have been identified by serial number (S/N). EASA also advises that this unsafe condition, if not detected and corrected, could result in failure of the MLG shock absorber, collapse or retraction of the MLG, and subsequent damage to the helicopter and injury to occupants.

To correct this condition, the EASA AD requires replacing each standard screw with a new screw P/N 1652A0001–01 and re-identifying the S/N of each MLG shock absorber assembly that has the new screw installed, and prohibits installing any affected MLG shock absorber assembly unless the screw has been replaced.

**Comments**

We gave the public the opportunity to participate in developing this final rule, but we did not receive any comments on the NPRM.

**FAA's Determination**

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to our bilateral agreement with the European Union, EASA has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for a minor editorial change to meet current publishing requirements. In the Required Actions paragraph, instances of ''Figure 1 to paragraph (a)'' have been changed to ''Figure 1 to paragraphs (a) and (e)(2).'' This minor editorial change is consistent with the intent of the proposals in the NPRM and will not increase the economic burden on any operator nor increase the scope of this AD.

**Related Service Information**

We reviewed Finmeccanica Bollettino Tecnico No. 139–397, dated April 7, 2016, which contains procedures for replacing the standard screws installed on the left and right MLG assembly and for re-identifying the MLG shock absorber assembly P/N and the MLG assembly S/N.

**Costs of Compliance**

We estimate that this AD affects 111 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD, based on an average labor rate of $85 per work-hour.

Replacing the screws on the left and right MLG assemblies requires about 16

work-hours and $200 for parts, for a total cost of $1,560 per helicopter and $173,160 for the U.S. fleet.

According to Finmeccanica's service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Finmeccanica. Accordingly, we have included all costs in our cost estimate.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2019–12–15 Leonardo S.p.A.:** Amendment 39–19670; FAA–2018–0648; Product Identifier 2017–SW–087–AD.

**(a) Applicability**

This AD applies to Leonardo S.p.A. Model AB139 and AW139 helicopters, certificated in any category, with an Increased Gross Weight 6,800 Kg kit part number (P/N) 4G0000F00111, and with a main landing gear (MLG) assembly with a P/N and serial number (S/N) listed in Figure 1 to paragraphs (a) and (e)(2) of this AD installed.

| P/N | S/N |
|---|---|
| 3G3210V00137 or 1650B1000-01 (left hand) | 00100 through 01003 |
| | 02000 through 02014 |
| 3G3210V00237 or 1650B2000-01 (right hand) | 00100 through 01016 |
| | 02000 through 02017 |

Figure 1 to Paragraphs (a) and (e)(2)

**(b) Unsafe Condition**

This AD defines the unsafe condition as an MLG shock absorber screw that does not meet specifications. This condition could result in failure of the MLG shock absorber, collapse or retraction of the MLG, and subsequent damage to the helicopter.

**(c) Effective Date**

This AD is effective August 2, 2019.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within the following compliance times, replace each screw P/N NAS1351–5H12P installed on an MLG shock absorber with a screw P/N 1652A0001–01. Re-identify the MLG assembly using black permanent ink by marking an ''R'' at the end of the S/N of the MLG assembly and cover with a transparent coating. For purposes of this AD, a ''landing'' is counted any time the helicopter lifts off into the air and then lands again regardless of the duration of the landing and regardless of whether the engine is shut down:

(i) For MLG assemblies with 26,800 or more landings, within 100 hours time-in-service (TIS).

(ii) For MLG assemblies with between 22,000 and 26,799 landings, within 300 hours TIS or before the MLG assembly accumulates 27,200 landings, whichever occurs first.

(iii) For MLG assemblies with less than 22,000 landings, within 1,200 hours TIS or before the MLG assembly accumulates 23,200 landings, whichever occurs first.

(2) After the effective date of this AD, do not install an MLG assembly with a P/N and S/N listed in Figure 1 to paragraphs (a) and (e)(2) of this AD on any helicopter unless the screw has been replaced and the MLG assembly re-identified as described in paragraph (e)(1) of this this AD.

**(f) Special Flight Permits**

Special flight permits are prohibited.

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

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

(1) Finmeccanica Bollettino Tecnico No. 139–397, dated April 7, 2016, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016–0077, dated April 19, 2016. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2018–0648.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 3200, Landing Gear System.

Issued in Fort Worth, Texas, on June 19, 2019.

**James A. Grigg,**

*Acting Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2019–13605 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## 31 CFR Part 510

## Technical Amendments to North Korea Sanctions Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the North Korea Sanctions Regulations to update references to descriptive text that appears in certain entries on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) and the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List).

**DATES:** *Effective:* June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

**SUPPLEMENTARY INFORMATION:**

### Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

### Background

On March 5, 2018, OFAC amended and reissued in their entirety the North Korea Sanctions Regulations, 31 CFR part 510 (the ''Regulations'') (83 FR 9182, March 5, 2018). Since that time, for clarity, OFAC has made two technical changes to certain text that appears on OFAC's website and that is referenced in the Regulations. This rule conforms the corresponding references in the Regulations to accurately reflect the amended website text.

First, this rule updates references to descriptive text that appears in certain entries on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). This descriptive text provides additional information concerning secondary sanctions related to Executive Order 13810 of September 20, 2017 (''Imposing Additional Sanctions With Respect to North Korea'') (82 FR 44705, September 25, 2017) (E.O. 13810). Section 4 of E.O. 13810 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to impose certain sanctions (often referred to as secondary sanctions) on any foreign financial institution determined by the Secretary of the Treasury, in consultation with the Secretary of State, to meet certain specified criteria. With respect to a foreign financial institution determined to meet any of the relevant criteria, the Secretary of the Treasury, in consultation with the Secretary of State, may: (i) Prohibit the opening and prohibit or impose strict conditions on the maintenance of correspondent accounts or payable-through accounts in the United States with respect to such foreign financial institution; or (ii) block all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of such foreign financial institution. These prohibitions are implemented in §§ 510.210 and 510.201(a)(3)(vi) of the Regulations, respectively.

Sections 510.201(a)(3)(vi)(A)(*1*) and 510.210(b)(1) provide that the Secretary of the Treasury, in consultation with the Secretary of State, may impose such sanctions on any foreign financial institution determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction on behalf of (1) any person whose property and interests in property are blocked pursuant to Executive Order 13551 (''Blocking Property of Certain Persons With Respect to North Korea'') (75 FR 53837, September 1, 2010) (E.O. 13551), Executive Order 13687 (''Imposing Additional Sanctions With Respect to North Korea'') (80 FR 819, January 6, 2015) (E.O. 13687), Executive Order 13722 (''Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea'') (81 FR 14943, March 18, 2016) (E.O. 13722), or E.O. 13810, or (2) any person whose property and interests in property are blocked pursuant to Executive Order 13382 (''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'') (70 FR 38567, July 1, 2005) (E.O. 13382) in connection with North Korea-related activities. Note 3 to paragraph (a) of § 510.201 and Note 1 to paragraph (b) of § 510.210 explain that the names of persons listed in or designated or identified pursuant to E.O. 13382 in connection with North Korea-related activities are published in the **Federal Register** and incorporated into OFAC's SDN List with the

identifier ''[NPWMD]'' and descriptive text ''Executive Order 13810 Information: Subject to blocking in connection with North Korea-related activities.''

Since the publication of the Regulations, however, OFAC has revised this descriptive text and included it in each SDN List entry that meets the criteria contained in sections 510.201(a)(3)(vi)(A)(*1*) and 510.210(b)(1) in order to more clearly alert foreign financial institutions to attendant secondary sanctions risks. The revised descriptive text is ''Secondary sanctions risk: North Korea Sanctions Regulations, §§ 510.201 and 510.210.'' On October 4, 2018, by separate action, OFAC incorporated this new descriptive text in the relevant entries on the SDN List of 371 persons whose property and interests in property are blocked pursuant to E.O.s 13551, 13687, 13722, or 13810 and 91 persons whose property and interests in property are blocked pursuant to E.O. 13382.

This rule amends the Regulations to conform corresponding references in the two specified notes to the new descriptive text language. This rule also corrects an incorrect regulatory citation in Note 3 to paragraph (a) of § 510.201.

Second, this rule updates references to the name of one of OFAC's sanctions lists. As noted above, § 510.210 of the Regulations provides for the imposition of strict conditions or prohibitions on the opening or maintaining of correspondent accounts or payable-through accounts in the United States for a foreign financial institution that the Secretary of the Treasury, in consultation with the Secretary of State, determines knowingly engaged in specified activities. When the Regulations were reissued on March 5, 2018, Note 2 to § 510.210 explained that the names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited or for which the maintenance of a correspondent account or payable-through account is subject to one or more strict conditions will be, among other things, added to the ''Correspondent Account or Payable-Through Account Sanctions (CAPTA) List'' on OFAC's website (*www.treasury.gov/ofac*). Section 510.519, which authorizes U.S. financial institutions to engage in certain limited transactions related to closing correspondent accounts for foreign financial institutions on the CAPTA List, also contains a full reference to the ''Correspondent Account or Payable-Through Account Sanctions (CAPTA) List.''

Since March 5, 2018, however, for additional consistency and clarity, OFAC has revised the name of the Correspondent Account or Payable-Through Account Sanctions (CAPTA) List as follows: ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List).'' This rule amends the Regulations to update the two specified references to the CAPTA List to correspond to the revised name.

**Public Participation**

Because the amendment of the Regulations involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

**Paperwork Reduction Act**

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

**List of Subjects in 31 CFR Part 510**

Administrative practice and procedure, Aircraft, Banking, Blocking of assets, CAPTA List, Diplomatic missions, Foreign financial institutions, Foreign trade, Imports, Medical services, Nongovernmental organizations, North Korea, Patents, Secondary sanctions, Services, Telecommunications, United Nations, Vessels, Workers' Party of Korea.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 510 follows:

## PART 510—NORTH KOREA SANCTIONS REGULATIONS

■ 1. The authority citation for part 510 continues to read as follows:

**Authority:** 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–122, 130 Stat. 93 (22 U.S.C. 9201–9255); Pub. L. 115–44, 131 Stat 886 (22 U.S.C. 9201 note); E.O. 13466, 73 FR 36787, June 27, 2008, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, September 1, 2010; E.O. 13570, 76 FR 22291, April 20, 2011; E.O. 13687, 80 FR 819, January 6, 2015; E.O. 13722, 81 FR 14943, March 18, 2016; E.O. 13810, 82 FR 44705, September 25, 2017.

### Subpart B—Prohibitions

■ 2. In § 510.201, revise Note 3 to paragraph (a) to read as follows:

**§ 510.201 Prohibited transactions involving blocked property.**

* * * * *

**Note 3 to paragraph (a):** The names of persons listed in or designated or identified pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810 and whose property and interests in property are blocked pursuant to those orders and who are referenced in paragraph (a) of this section are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''DPRK.'' Those persons are referenced in paragraph (a)(3)(vi)(A)(*1*) of this section, which related to secondary sanctions, and therefore their entries on the SDN List will also include the descriptive text ''Secondary sanctions risk: North Korea Sanctions Regulations sections 510.201 and 510.210.'' Paragraph (a)(3)(vi)(A)(*1*) of this section also references persons listed in or designated or identified pursuant to Executive Order 13382 whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities. Accordingly, the names of such persons, which are published in the **Federal Register** and incorporated into OFAC's SDN List with the identifier ''[NPWMD],'' also will include the descriptive text ''Secondary sanctions risk: North Korea Sanctions Regulations sections 510.201 and 510.210.'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. See § 510.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section. The property and interests in property of persons who meet the definition of the term Government of North Korea, as defined in § 510.311, are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

* * * * *

■ 3. In § 510.210, revise Note 1 to paragraph (b) and Note 2 to § 510.210 to read as follows:

**§ 510.210 Prohibitions or strict conditions with respect to correspondent or payable-through accounts or blocking of certain foreign financial institutions identified by the Secretary of the Treasury.**

* * * * *

**Note 1 to paragraph (b):** The names of persons listed in or designated or identified pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810 and whose property and interests in property are blocked pursuant to those orders and paragraph (a) of this section are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''DPRK.'' Those persons are referenced in paragraph (b)(1) of this section, which relates to secondary sanctions, and therefore their entries on the SDN List will include the descriptive text ''Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210.'' Paragraph (b)(1) of this section also references persons listed in or designated or identified pursuant to Executive Order 13382 whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities. Accordingly, the names of such persons, which are published in the **Federal Register** and incorporated into OFAC's SDN List with the identifier ''[NPWMD],'' also will include the descriptive text ''Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210.'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 510.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section. The property and interests in property of persons who meet the definition of the term Government of North Korea, as defined in § 510.311, are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

* * * * *

**Note 2 to § 510.210:** The names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited or for which the maintenance of a correspondent account or payable-through account is subject to one or more strict conditions pursuant to this section will be added to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List) on OFAC's website (*www.treasury.gov/ofac*), and published in the **Federal Register** along with the applicable prohibition or strict condition(s).

## Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

**§ 510.519 [Amended]**

■ 4. In § 510.519(a), remove ''Correspondent Account or Payable-Through Account Sanctions (CAPTA) List'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)''.

Dated: June 21, 2019.

**Andrea Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2019–13652 Filed 6–26–19; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 1, 26, 80, 81, 83, 89, 100, 117, 151, 154, 155, 156, 161, and 164

### 46 CFR Parts 2, 10, 11, 12, 15, 16, 26, 28, and 162

**[Docket No. USCG–2018–0874]**

## Navigation and Navigable Waters, and Shipping; Technical, Organizational, and Conforming Amendments

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations. This rule will have no substantive effect on the regulated public.

**DATES:** This final rule is effective June 28, 2019.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2018–0874, which is available at *https://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Kate Sergent, Coast Guard; telephone 202–372–3860, email *kate.e.sergent@uscg.mil*.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Discussion of the Rule
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

### I. Abbreviations

CFR Code of Federal Regulations
COLREGS International Regulations for Preventing Collisions at Sea, 1972
DHS Department of Homeland Security
FCC Federal Communications Commission
FR Federal Register
GT Gross tonnage
IMO International Maritime Organization
MMC Merchant mariner credential
OMB Office of Management and Budget
§ Section
STEP Shipboard Technology Evaluation Program
SLRs Special local regulations
STCW Seafarers' Training, Certification and Watchkeeping
U.S.C. United States Code

### II. Regulatory History

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of the United States Code (U.S.C.), Section 553(b)(A), the Coast Guard finds that this final rule is exempt from notice and public comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary for this final rule under 5 U.S.C. 553(b)(B), as this rule consists of only technical and editorial corrections and these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

### III. Basis and Purpose

This final rule, which becomes effective on June 28, 2019, makes technical and editorial corrections throughout titles 33 and 46 of the Code of Federal Regulations (CFR). These changes are necessary to correct errors, change addresses, and make other non-substantive amendments that improve the clarity of the CFR. This rule does not create or change any substantive requirements.

This final rule is issued under the authority of 5 U.S.C. 552(a) and 553; 14 U.S.C. 102 and 503; 33 U.S.C. 151, 499, 521, 2071, and 2735; 46 U.S.C. 2103, 3306, 3703, 5104, 6101, 7701, 70001, 70034, 70041(a), and 70114; and Department of Homeland Security Delegation No. 0170.1.

## IV. Discussion of the Rule

The Coast Guard periodically issues technical, organizational, and conforming amendments to existing regulations in titles 33 and 46 of the CFR. These ''technical amendments'' provide the public with more accurate and current regulatory information, but do not change the effect on the public of any Coast Guard regulations.

*Technical Amendments to Title 33 of the CFR*

This rule amends § 1.08–1(a)(11) by replacing an incorrect cross-reference to ''33 CFR 88.05(h)'' with the correct citation ''33 CFR 83.01(g),'' which contains the requirement that certain vessels carry a copy of the inland navigation rules. The 2014 ''Changes to the Inland Navigation Rules'' (79 FR 37898, July 2, 2014) amended § 88.05 so that it contains the rules for lights on law enforcement vessels. The 2014 ''Changes to Inland Navigation Rules'' also moved the ''Copy of the Rules'' requirement previously housed in § 88.05 to § 83.01(g), which states that operators of self-propelled vessels 12 meters or more in length must carry on board a copy of the inland navigation rules in part 83.

This rule corrects the authority citation for part 26 and also revises § 26.08(a) to reflect the organizational change in office name from Assistant Commandant for ''Marine Safety, Security and Environmental Protection'' to Assistant Commandant for ''Prevention Policy.''

In § 80.750(b) and (f), this rule removes references to La Costa Test Pile North Light and Big Sarasota Pass Light 14, respectively, because these lights no longer exist. The Coast Guard replaces these references with exact coordinates to clarify the demarcation lines for the 72 International Regulations for Preventing Collisions at Sea (COLREGS) navigation rules.

The changes in § 80.753(a) and (d) include edits to the descriptions of the landmarks used in the COLREGS demarcation lines. These changes will align this section's descriptions of the lines with the rest of the section's descriptions by describing each demarcation as a line heading from south to north. In addition, the edits to this section clarify the points of demarcation by adding descriptive words like ''jetty.'' The Coast Guard also replaces a reference to ''Light 7'' in § 80.753(d) to ''Light 3'' because Light 7 was renamed Light 3. The final change in § 80.753(d) replaces the demarcation point, the Anclote River Cut B Range Rear Light, with the exact coordinates of that location on Anclote Key because the Anclote River Cut B Range Rear Light no longer exists for our demarcation purposes.

This rule deletes the demarcation points in § 80.810(c) and (d) because a National Oceanic Atmospheric Administration cartographer notified the Coast Guard that the ''northernmost extremity'' on Crooked Island and Shell Island no longer exist due to water movement over the land. The water moved over the landmasses so that the COLREGS waters in this location are closed off from the inland waters. The Coast Guard is deleting the references to these two demarcation points that no longer exist to provide accurate information to the public and to conform the regulations to fit the geography of the area as it currently exists.

The changes in §§ 81.3, 81.5(a), 81.9, 89.3, 89.5, and 89.9 replace all references to the ''Marine Safety Division'' to reflect an organizational change to its current office name, which is ''Prevention Division.''

In § 83.24(h), this rule adds ''shapes'' to the inland navigation rule for towing vessels to align the regulations with the 72 COLREGS, which is implemented in this part. This section refers the reader to § 83.24(e) and (g) for certain light and shape display requirements and both referenced paragraphs include light and shape display requirements for towing vessels to indicate the presence of a vessel or object. The 72 COLREGS allow exceptions for both lights and shapes display requirements when compliance with the rules is impossible, and this section implements that exception. Although we inadvertently omitted references to the shapes, we have always applied these regulations to both lights and shapes.

In §§ 83.26(f)(1), and 83.27(d)(iv)(1)(B) and (2)(A), this rule replaces ''all around'' with ''all round'' to match the spelling to the 72 COLREGS, which are implemented in these sections.

In § 83.26(f)(ii)(2)(B), this rule updates an incorrect cross-reference to the appropriate paragraph. The cross-reference this rule updates is for the light signal that fishing vessels must display when shooting or hauling their nets, or when their nets come upon an obstruction. These lighting requirements are listed in paragraph (f)(ii)(1) of this section, instead of paragraph (a).

This rule amends § 89.27(a) and (b) and the header to § 89.27 by updating all cross-references to ''Inland Rule 24(i)'' to the correct citation, ''Inland Rule 24(j).'' This edit comes as a result of the 2017 Technical Amendments final rule (82 FR 35073, 35080, July 28, 2017) that changed the citation in 33 CFR 83.24 (Inland Rule 24).

This rule adds subparts A through J to 33 CFR part 100 to organize the permanent and temporary special local regulations (SLRs) by their Coast Guard district. We are adding subparts with the districts' titles to improve the organization and readability of this section. When the Coast Guard issues a permanent SLR within District 17 in 33 CFR part 100, we will add sections to subpart J for District 17 at that time. The following table shows the organizational changes:

TABLE 1—NEW CFR PART 100 SUBPART ORGANIZATION

| CFR subpart | SLR designation |
|---|---|
| A | General. |
| B | 1st district. |
| C | 5th district. |
| D | 7th district. |
| E | 8th district. |
| F | 9th district. |
| G | 11th district. |
| H | 13th district. |
| I | 14th district. |
| J | 17th district. |

Previously, the SLRs' section number was the mechanism that organized the SLRs in part 100 by district number. However, part 100 did not explicitly call attention to the fact that the section number correlated with the Coast Guard district, making it an ineffective organization tool for the public to use. In the ''General'' provisions subpart, this rule also adds § 100.35(d), which contains a description of how 33 CFR part 100 is organized by district.

This rule corrects the names of the drawbridges in §§ 117.149 and 117.163(b) from 3rd Street and 4th Street drawbridges to Third Street and Fourth Street drawbridges.

In § 117.175(b), we put the word ''counties'' in lowercase to fix a capitalization errors.

Also in § 117.193, we change the words ''highway'' and ''bicycle'' to lowercase to fix capitalization errors.

In § 117.523, this rule corrects the name and mile marker for the Barter's Island Bridge on the Back River in Maine from ''Maine Department of Transportation highway bridge, mile 4.6'' to ''Barter's Island Bridge, mile 2.0.''

This rule assigns the content that was in § 117.622 into § 117.621. This rule also reassigns content that was in § 117.621 into § 117.622 and renames the section header of § 117.622 to ''Weymouth Fore River.'' These revisions restore alphabetical order to

part 117 after ''Fore River'' was renamed as ''Weymouth Fore River.''

This rule amends § 117.755 by updating the bridge name from ''Monmouth Country highway bridge'' to its new name ''Sea Bright Bridge.'' In § 117.791(c) this rule updates the name of the ''CSX Transportation bridge'' to its new name, ''Livingston Ave (Amtrak) Bridge.'' In § 117.791(d) this rule updates the name of the ''state highway bridge'' to its new name, ''Troy-Menands Bridge.'' In § 117.791(e), this rule updates the name of the ''highway bridge'' to its new name, ''Troy-Green Bridge.''

In § 151.1021(b)(1), this rule updates the title of the Assistant Commandant for Prevention Policy because the text omitted ''Policy'' from the command's name.

This rule revises §§ 151.1513 and 151.2036 by providing an email address to accommodate email delivery of extension requests for ballast water management systems under those sections.

This rule amends § 151.2005 by removing the definition of ''International Maritime Organization (IMO) ballast water management guidelines'' because it is no longer used in part 151 nor in practice. The Coast Guard stopped using the IMO ballast water standards because the standards were replaced by the International Convention for the Control and Management of Ships' Ballast Water and Sediments on September 8, 2017, and the United States is not a party to the Convention. In order to avoid confusion and conform with the updated standards, we are deleting the IMO ballast water management guidelines definition in this part.

This rule updates a Coast Guard website address in § 151.2005, within the definition of Shipboard Technology Evaluation Program (STEP), where the public can view the STEP guidance and applications.

In § 151.2026(b) we added an email address as an alternate way for the public to submit requests for determinations to the Marine Safety Center.

In § 151.2065, this rule updates the office names for Environmental Standards Division from ''CG–05224'' to ''(CG–OES–3)'' and also updates the title of the Assistant Commandant for Prevention Policy (CG–5P) from its previous title, ''Assistant Commandant for Maritime Safety, Security, and Stewardship (CG–5)'' to conform with organizational name changes.

This rule revises the definition sections in both §§ 154.1020 and 155.1020 by replacing the definition for ''Dispersant Mission Planner 2 or (DMP2)'' with the definition for ''Estimated Dispersant System Potential Calculator (EDSP).'' The Estimated Dispersant System Potential Calculator was developed as revision 1 of the DMP2 because the DMP2 programming environment was outdated and was no longer supported on any system. DMP2 is no longer available for use, and the EDSP is the current program used by the industry. The basic algorithms used in the DMP2 are the same in the EDSP, so there is no change in the public's expectations or requirements. We are updating these definition sections to conform to the technology currently used by industry and accepted by the Coast Guard. For the same reasons, this rule replaces all references to ''Dispersant Mission Planner 2'' or ''DMP2'' with ''Estimated Dispersant System Potential Calculator'' and ''EDSP'' in § 154.1045(i)(2)(ii); Appendix C to part 154, paragraphs 8.2.1.2 and 8.2.3(i); § 155.1050; and Appendix B to part 155, paragraphs 8.2.1.2 and 8.2.3(i).

In § 156.210(b), this rule replaces the out-of-date office contact ''CG–5'' with ''CG–ENG'' because CG–ENG is the correct office for the public to submit requests to use lighter hazardous materials other than oil.

In § 161.2, titled ''Definitions'', this rule inserts the definitions for ''Center'' and ''Published'' that were previously located in a second separate definitions section in § 161.17. We are moving these two definitions into § 161.2 so that all the definitions for this part can be found in the same place. The definitions are unchanged. The Coast Guard also corrects a capitalization error in § 161.2.

In §§ 161.2, 161.12, Note 6 to Table 1 to § 161.12(c), Table 161.70(d), and Table 161.70(f), the Coast Guard is replacing all references to ''sector'' with ''zone'' to avoid confusion with sector commands and conform with the current practice to call these areas ''zones''. In addition, in Table 1 to § 161.12, this rule replaces the reference to the ''Strait of Juan de Fuca'' with ''Salish Sea,'' which is the new name for that body of water.

In § 161.4, this rule provides a web address to access the Vessel Traffic Services User Manual.

In § 161.5(b) we remove the text ''Vessel Traffic Center'' and leave only the acronym, ''VTC'' because we moved the definition and initial introduction to the acronym to § 161.2, which precedes this reference.

This rule corrects a typographical error in line 12 of Table 1 to § 161.12(c) by removing the apostrophe in ''St. Mary's.'' The name of the river, St. Marys River, has been without a possessive apostrophe since 1982.

The Coast Guard deletes § 161.17 and moves the section's definitions for ''Center'' and ''Published'' to § 161.2 where all the other definitions applicable to this part are listed.

The Coast Guard is correcting an erroneous edit made to § 161.55(c)(3) by a technical and conforming amendment final rule in 2014 (79 FR 38421). The 2014 technical amendment final rule unintentionally changed the type of vessel exempted from the regulations from vessels of less than 100 meters to vessels greater than 100 meters in length, while saying the ''changes are editorial and do not alter the VTS Special Area Operating Requirements prescribed in 33 CFR 161.55(c)'' (79 FR 38424). This provision's original purpose was, and is, to exempt smaller vessels from the regulations intended to help the larger commercial vessel industry safely navigate the narrow and tricky waters of Puget Sound. It was never the Coast Guard's intent to exempt larger vessels from the precautions put in place for their benefit. Therefore, the Coast Guard is revising the text in § 161.55(c)(3) from exempting vessels greater than 100 meters in length to how it was written before the 2014 Technical Amendment final rule, in order to exempt only vessels of less than 100 meters from certain requirements in that part. The inaccurately edited rule has not been enforced according to how it was rewritten. Instead, the Coast Guard acknowledged the mistake and continued its exemptions for vessels less than 100 meters only. This clarifying technical amendment will not result in a change in expectations or obligations based on how § 161.55(c)(3) has always been enforced.

In § 164.72(b)(2)(ii)(C), the text ''the ACOE or'' is removed as a source for river current tables because the United States Army Corps of Engineers (ACOE) no longer issues river current tables. The alternate river current issuing authority already listed in this section is ''a river authority.'' We are removing the ACOE as a river authority to reduce confusion. The requirements of the section are unchanged. This rule also corrects a punctuation error in § 164.72(b)(2)(ii)(C).

*Technical Amendments to Title 46 of the CFR*

In § 2.01–7, Table 2.01–7(a), under the fourth column covering ''Vessels inspected and certificated under Subchapter I—Cargo and Miscellaneous Vessels,'' on line (2) entitled ''Motor, seagoing motor vessels ≥300 gross tons'',

the Coast Guard is removing a comma that was erroneously added by a technical amendment so that it is clearer that these regulations apply to the regulated vessels even when they are not engaged in trade. This rule removes the second comma in the following sentence in Table 2.01–7(a): ''All vessels, including recreational vessels, not engaged in trade.'' In 2009, we issued a rule that was intended to only make non-substantive changes related to the definition of ''ferry'' in 46 CFR, but in the process, that technical and conforming amendment rule (74 FR 63617, December 4, 2009) inserted an extra comma in the sentence quoted above. The comma unintentionally altered the meaning of the sentence, so that in both tables instead of covering all vessels ''including recreational vessels not engaged in trade,'' the sentence with two commas now may be read to include a vessel only if it was not engaged in trade—regardless of the nature of the vessel, recreational or commercial. This erroneous comma introduced by the 2009 technical amendment went unnoticed again in 2013, when we included the comma in Table 2.01–7(a) in a final rule titled ''Seagoing Barges'' (78 FR 53285, August 29, 2013). Neither the 2009 technical amendment nor the 2013 ''Seagoing Barges'' final rule mentioned any intention of substantively changing column 4 of Table 2.01.7(a) to cover vessels only when they were engaged in trade, nor did the Coast Guard ever enforce it that way.

This rule updates the delivery mailing addresses for payment by check in § 2.10–20(d)(1)(ii) through (iii) and 2.10–20(d)(2)(ii) through (iii).

In § 10.203(a), this rule deletes paragraph (a), and redesignates paragraphs (b) through (d) as (a) through (c). Section 10.203(a) stated that until April 15, 2014, mariners with a merchant mariner document or similar license with a restriction on it did not have to carry a merchant mariner credential (MMC), as required by this chapter. Since April 15, 2014 has passed, all mariners required to hold a license or endorsement must hold an MMC. As a result, the Coast Guard is deleting the obsolete grandfathering clause in § 10.203(a) to conform to the current regulations and to avoid confusion.

In § 10.209(d), this rule adds a cross-reference that was inadvertently left out of the initial rulemaking. Section 10.209(d) describes the methods of submitting an MMC application and points the public to various sections that describe a complete MMC application. This rule adds § 10.223 to the list of sections that describe a complete MMC package. Section 10.223 contains the requirements for an application to modify or remove limitations on MMC endorsements, such as tonnage limitations or geographical route restrictions. We are adding this section to the list of references describing complete applications to be comprehensive in pointing to all types of complete applications, which was the intent of this section. In the supplemental notice of proposed rulemaking titled ''Consolidation of Merchant Mariner Qualification Credentials'' (72 FR 3605, January 25, 2007), we describe why we did not include the reference originally in § 10.209(d). For that section, we decided to separate the original application requirements from the renewal requirements because ''[w]hen we attempted to list all of the requirements for originals that renewals, duplicates and/or raises in grade are exempted from, we found the maze of cross-references to be needlessly confusing'' (72 FR 3631, January 25, 2007). We unintentionally omitted the reference to § 10.223 for modifying the scope or limitations and adding the reference to § 10.209(d) will not change the requirements for modifying or removing limitations or the scope of a MMC.

This rule amends § 10.221(b) by removing the reference dates, ''Beginning April 15, 2009,'' and ''Until April 15, 2009, proof of citizenship or alien status must be submitted by appearing at a Regional Exam Center'' because these provisions are no longer applicable after the referenced date. What remains in § 10.221(b) after this amendment is the longstanding requirement that proof of citizenship must be submitted to the Transportation Security Administration with the applicant's Transportation Worker Identification Credential application in accordance with 49 CFR 1572.17(a)(11). The requirements of this section remain unchanged by this amendment.

In § 10.229(b), this rule deletes the second and third sentences because they reference what the Coast Guard will issue for duplicate credentials up until April 15, 2014. Because the provision is no longer applicable after the referenced date, the Coast Guard is removing this obsolete provision.

In §§ 10.232(e)(1), 10.232(e)(2)(i), 11.211(c)(2), 11.301(b)(1), 11.430(e), and 11.465(a), this rule removes all references in the text to ''upgrade,'' ''raise-of-grade,'' or ''raise in grade'' and replaces them with the text ''raise of grade'' to standardize the terminology through these sections and eliminate any ambiguity that could result from having three references with an identical meaning. In Table 1 to § 10.239, the Coast Guard is replacing all references to ''§ 12.601(c)'' with ''§ 12.602(a)'' within the ''First aid and CPR'' column to revise an incorrect cross-reference. Section 12.602(a) contains the standards of competence for basic training, including first aid training, that STCW endorsement applicants must meet for the listed STCW endorsements in Table 1 to § 10.239.

This rule removes from title 46 the grandfathering provisions in § 10.301(g)(1), (2), (3), and (5) because the delayed implementation date or final date for using these provisions as alternate means of compliance expired on January 1, 2017. Section 10.301(g)(1) stated that all candidates who apply for a MMC with seagoing service or training performed on or after March 24, 2014 or who apply for the MMC after January 1, 2017 have to comply with the requirements of this section. Since the date for when the section became applicable to all applicants passed on January 1, 2017, the grandfathering provision has not been available. All applicants must meet the requirements of this section and the grandfathering provision is obsolete because any new applicant will not be able to invoke the provision. Enough time has passed that the Coast Guard believes that the provision is no longer applicable to any mariner or Coast Guard-approved courses, programs, or training. To avoid misunderstanding on the requirements of this section, we are removing these obsolete provisions from the regulations.

In § 10.305(a)(2), the Coast Guard is removing the qualifier for ''After January 1, 2017'' because the referenced date has passed and all applicants for STCW endorsements under this part should be in compliance with this section. The grandfathering deadline is no longer relevant to this part since all are required to meet the vision requirements outlined in this section. Additional changes made by this rule to § 10.305(a)(2) include replacing ''meets'' with ''previously met'' because it is unlikely that a mariner meets the vision requirements and suffers vision loss at the same time. The Coast Guard is changing the language to past tense to undo this anomaly and avoid confusion. There is no change in the vision requirements in § 10.305(a)(2) as a result of this technical amendment.

Moreover, in § 10.305(c) this rule replaces an outdated reference to the ''MMC'' with ''medical certificate'' to conform with the National Maritime Center's actual practice to place the

vision waiver limitation on the medical certificate, rather than the MMC. The misalignment between the inaccurate regulation and actual practice caused confusion for the affected population, so we are conforming the text to correctly state that the vision waiver limitation should be placed on the medical certificate.

This rule removes from title 46 the grandfathering provision in § 10.410(f) because the delayed implementation date or final date for using them as means for alternate compliance expired on January 1, 2017. Section 10.410(f) stated that all Coast Guard-approved STCW endorsement courses, programs, and training had to meet the requirements of part 10 by January 1, 2017. This reference date has passed and all courses must be in compliance. These provisions are no longer applicable to any mariner or Coast Guard-approved courses, programs, or training. To avoid misunderstandings on the requirements of this section, we are removing these obsolete provisions from the regulations.

In § 10.402(b), this rule updates the subject office name from ''Office of Vessel Activities (CG–CVC)'' to ''Office of Merchant Mariner Credentialing'' to reflect organizational changes. Within this same section, this rule edits the final sentence to say ''and include the following:'' to start the list of items that must be included in a curriculum package.

This rule corrects a cross-reference in § 11.201(b) by replacing § 11.467(i) with 11.467(h) as the exception to the requirement that mariners must be proficient in the English language. Section 11.467(i) does not exist. The correct paragraph (h) states that applicants for operator of uninspected passenger vessels of less than 100 GRT who speak Spanish, but not English, may operate in the vicinity of Puerto Rico.

This rule removes the grandfathering provisions from § 11.301(g)(1) through (5) because the established date has already passed and all renewals and new candidates for mariner credentials must now meet the requirements of part 11. Paragraphs (g)(1) through (5) in § 11.301 permitted the Coast Guard to issue STCW endorsements that met the older requirements of this part before it was amended on March 24, 2014, until January 1, 2017. Because January 1, 2017, has passed, the Coast Guard can no longer issue the certifications under previous versions of the rules. The grandfathering provisions in § 11.301(g)(1) exempted candidates who started training and sea service before March 24, 2014 from certain requirements in part 11 until January 1, 2017. Paragraph (g)(1) explicitly states that all mariner applications for credentials under part 11 must comply with the requirements of this part after January 1, 2017. Also, this final rule removes the second grandfathering provision in § 11.301(g)(2) that exempted seafarers holding an STCW endorsement prior to March 24, 2014, from having to complete any additional training until January 1, 2017. Because the referenced date has passed, mariners can no longer use this training exemption. The removal of these grandfathering provisions will have no effect on any mariner because, according to the text, all mariners applying for, renewing, or upgrading credentials after January 1, 2017 must comply with the current requirements of part 11.

In §§ 11.305, 11.307, 11.311, and 11.313, this rule replaces all references to ''shiphandling'' with ''ship handling'' to conform to how it is spelled in other regulations and international standards.

In Table 1 to § 11.309(e), this rule replaces the reference to ''A–II/2'' with ''A–II/1'' in the ''Competence'' column heading to correct the location of the standards of competency. Section 11.309 contains the requirements for an STCW endorsement as an Officer in charge of navigational watch on vessels of 500 gross tonnage (GT) or more. The updated STCW table reference, A–II/1, also contains the requirements for this rating.

In Table 1 to § 11.311(d), this rule replaces the reference to ''A–II/3'' with ''A–II/2'' in the ''Competence'' column heading to correct the location of the standards of competency. Section 11.311 contains the requirements for an STCW endorsement as a master of vessels of 500 GT or more and less than 3,000 GT. The updated STCW table reference, A–II/2, also contains the requirements for this rating.

In § 11.315(c) and Table 1 to § 11.315(d), this rule replaces the references to STCW Table ''A–II/3'' with ''A–II/2'' to correctly reference the standards of competency for an STCW endorsement as a master of vessels of less than 500 GT in § 11.315. The updated STCW Table reference, A–II/2, also contains the requirements for this rating.

In § 11.319(c) and Table 1 to § 11.319(d), this rule replaces both STCW table citations ''A–II/3'' with the correct Table ''A–II/1.'' Section 11.319 contains the requirements for an endorsement as an officer in charge of a navigational watch of vessels of less than 500 GT operational level. In § 11.319(a), it states that an ''officer in charge of a navigational watch serving on a seagoing ship of less than 500 GT not engaged on near-coastal voyages shall hold a certificate of competency for ships of 500 GT or more.'' The previous STCW table reference to A–II/3 contains the requirements for officers in charge of navigational watch and for masters on ships of less than 500 GT limited to near-coastal voyages. Since the regulations in § 11.319 are not limited to near coastal voyages, STCW Table A–II/1, which is titled ''Specification of minimum standard of competence for officers in charge of a navigational watch on ships of 500 GT or more,'' contains the correct and intended competencies for this requirement. This correction conforms the section to the regulations as written and consistently interpreted without affecting the mariner's obligations under this section.

Also within § 11.319, this rule fixes two incorrect cross-references in footnotes 2 and 3 to Table 1 to § 11.319(d) to their correct paragraphs within this section. These footnotes reiterate that Table 1 to § 11.319(d) is illustrative and not all-inclusive, but that the mariner must complete the items in the referenced paragraphs of this section as well. There is no change in the obligations of the public by correcting these cross-references.

In the ''Competence'' column heading of Table 1 to § 11.331(e), this rule corrects a reference to the STCW table. This section, § 11.331, is for chief engineer officer competence on ships powered by main propulsion machinery of less than 3,000 kW. The incorrect reference to STCW Table A–III/2 contains the competencies for chief engineer officers on ships powered by main propulsion machinery of 3,000 kW propulsion power or more. The correct STCW table reference is A–III/3, which contains the minimum competencies to qualify as a chief engineer officer on ships powered by main propulsion machinery of less than 3,000 kW. This change aligns the table with the references in the regulatory text.

For similar reasons, this rule also corrects the ''Competence'' column heading of Table 1 to § 11.333(d), to the correct STCW table. Section 11.333 is for second engineer officer competence on ships powered by main propulsion machinery of less than 3,000 kW. The incorrect reference to STCW Table A–III/2 contains the competencies for chief and second engineer officers on ships powered by main propulsion machinery of 3,000 kW propulsion power or more. The correct STCW table reference is A–III/3, which contains the minimum competencies to qualify as a second

engineer officer on ships powered by main propulsion machinery of less than 3,000 kW. This change aligns the table with the STCW references in the regulatory text.

This rule revises § 11.464(g)(1) by replacing an erroneous cross-reference to paragraph (f) with a corrected cross-reference to paragraph (e) as the source of the exception to having a minimum of 30 days of training and observation on towing vessels. Paragraph (f) of this section contains the requirement that companies maintain evidence that the vessel operator is properly qualified, which is not relevant to the 30 days of training minimum mentioned in paragraph(g)(1). Paragraph (e) in § 11.464 contains the requirement that mariners applying for the Master of towing vessels on the Western Rivers endorsement must possess a minimum 90 days of observation and training, instead of the 30 day minimum in paragraph in (g)(1). In the supplemental notice of proposed rulemaking (SNPRM) preceding the final rule that implemented this section, this section (previously § 11.464(i)(1)) correctly cross referenced the western river exception that is currently in paragraph (e) (76 FR 45908, 46010, Aug. 1, 2011). However, the Coast Guard's 2013 final rule that implemented these sections mentions that three paragraphs in § 11.464 of the SNPRM's proposed text were left out of the final rule for more consideration and the cross-reference was not updated accordingly (78 FR 77796, 77829 and 77937, Dec. 24, 2013).

This rule corrects the reference in § 11.480(b)(2) to ''Gulf Intercoastal waterways (GIWW)'' to its accurate reference, ''Gulf Intracoastal waterways (GIWW).''

In § 11.603 titled, ''Requirements for radio officers' endorsements,'' this rule updates the name of licenses issued by the Federal Communications Commission (FCC) for radio telegraph operator licenses because on May 20, 2013, the FCC consolidated the First and Second class Radiotelegraph Operator Certificates into a one single license class called the Radiotelegraph Operator License (T). To conform to the updated FCC license structure, this rule removes the references to ''first or second class,'' so that the section reflects the current name of the same licenses. This rule adds a ''(T)'' to the end of the license name to reflect the FCC's abbreviation for the license name.

This rule corrects a cross-reference to the definition of ''near-coastal voyage'' in § 11.1105(d) from § 11.301(h) to § 10.107. Section 11.301(h) contains regulations for mariners holding both a STCW and national endorsements on small vessels in domestic, near-coastal voyages, but does not contain a definition of near coastal voyages. This technical amendment changes the citation to ''§ 10.107,'' the definition section for subchapter B, which does contain the definition of ''near-coastal voyage.''

This rule amends § 12.603 by removing paragraph (b), which refers to a provision that was applicable only until January 1, 2017. Because the referenced deadline has passed and this provision is no longer applicable to any qualifications for the STCW endorsement as able seafarer-deck, we are removing it to avoid confusion as to its applicability. To account for the deletion of § 12.603(b), this rule also renumbers the subsections and corrects a cross-reference. In the title of Table 1 to § 12.603(e), we update the cross-reference to § 12.603(d) to reflect the renumbering.

This rule removes the grandfathering clauses for STCW rating endorsements located in § 12.603(c)(1) through (4) because all four of the provisions have not been applicable to any merchant mariner since January 1, 2017, according to the regulatory text and practice. This rule also removes § 12.601(c)(1), which states that after January 1, 2017 the merchant mariner applicant must meet the provisions of part 12. Removing these provisions will have no effect on any mariner because all mariners applying for, renewing, or upgrading credentials after January 1, 2017 must comply with the current requirements in part 12. In order to conform to the requirements part 12 of title 46 and to improve the clarity of the regulations, the Coast Guard is removing the out-of-date grandfathering provisions listed in these sections.

Similarly in § 12.607, this rule deletes paragraph (b), which refers to a provision that was applicable only until January 1, 2017. Because the referenced deadline has passed and this provision is no longer applicable to any qualifications for the STCW endorsement for able seafarer-engine, we are removing it to avoid confusion as to its applicability. To account for the deletion of § 12.607(b), this rule also renumbers the subsections and corrects a cross-reference. In the title of Table 1 to § 12.607(e) we update the cross-reference to § 12.607(d) to reflect the renumbering.

In § 12.613(a)(3), the text ''§ 12.601(c)'' is replaced with the text ''§ 12.602'' to correct a longstanding error in the cross-reference. Section 12.601(c) does not address basic training requirements, which is the subject of § 12.613(a)(3). Section 12.602 addresses the standard of competence for basic training.

This rule updates an incorrect cross-reference to subpart J in § 15.530(b)(4)(iv) to subpart I, because the training for non-resident alien crewmembers is contained in subpart I of the referenced subchapter.

In paragraphs (c)(1), (d)(1), and (e)(1) of § 15.860, this rule corrects the spelling of ''and'' and ''or.''

Also in § 15.860, this rule adds a period to the end of each of the following paragraphs: (b)(3), (c)(2), (d)(2), (e)(2), (f)(1), (f)(2), (f)(3), (f)(4), (g), and (h)(1).

In both § 15.860(f) and (h), this rule adds colons to the end of the paragraph to correct missing punctuation.

In § 15.1101(a)(2), this rule adds the missing term ''near coastal'' between ''domestic'' and ''voyages'' to correct an omission of language that was inadvertently left out of this subparagraph. Adding the term aligns the text with the terminology used in the international standards and other regulations within this subchapter, which refer to ''domestic, near-coastal voyages.'' There will not be any change in the obligations of the public by conforming the language to the international standards and regulations.

In the periodic drug testing requirements for § 16.220(a), this rule replaces an incorrect cross-reference to § 10.227(e) with a corrected cross-reference to § 10.227(g). Paragraph (g) is the proper reference here because it contains the provisions for those who are unwilling or unable to pass drug tests for the purpose of renewing a credential. Section 10.227(e) contains the unrelated professional requirements for renewing a credential.

This rule amends the authority citation for part 26 by removing a repealed Title 46 U.S.C. statutory authority and replacing it with the correct Title 46 statutory authorities for regulating uninspected passenger vessels.

In § 28.210(b)(1)(ii), this rule corrects an incorrect cross-reference to another section within this chapter for the courses approved by the Coast Guard for first aid equipment and training.

In §§ 162.060–14(b) and 162.060–42(a)(3), this rule adds the email addresses for the Marine Safety Center as an alternate method of contact.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

*A. Regulatory Planning and Review*

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). This rule involves non-substantive changes and internal agency practices and procedures; it will not impose any additional costs on the public. The benefit of the non-substantive changes is increased clarity of regulations.

*B. Small Entities*

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule is not preceded by a notice of proposed rulemaking. Therefore, it is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act does not apply when notice and comment rulemaking is not required. This rule consists of technical, organizational, and conforming amendments and does not have any substantive effect on the regulated industry or small businesses. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

*D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

*E. Federalism*

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

*F. Unfunded Mandates Reform Act*

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

*G. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

*H. Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

*I. Protection of Children*

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

*J. Indian Tribal Governments*

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

*K. Energy Effects*

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*L. Technical Standards*

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final Record of Environmental Consideration supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. This final rule involves non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations. Therefore, this rule is categorically excluded under paragraph L54 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. Paragraph L54 pertains to regulations which are editorial or procedural.

**List of Subjects**

*33 CFR Part 1*

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

*33 CFR Part 26*

Communications equipment, Marine safety, Radio, Telephone, Vessels.

*33 CFR Part 80*

Navigation (water), Treaties, Waterways.

*33 CFR Part 81*

Navigation (water), Reporting and recordkeeping requirements, Treaties.

*33 CFR Part 83*

Fishing vessels, Navigation (water), Waterways.

*33 CFR Part 89*

Navigation (water), Reporting and recordkeeping requirements, Waterways.

*33 CFR Part 100*

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

*33 CFR Part 117*

Bridges.

*33 CFR Part 151*

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

*33 CFR Part 154*

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

*33 CFR Part 155*

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

*33 CFR Part 156*

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

*33 CFR Part 161*

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

*33 CFR Part 164*

Marine, Navigation (water), Reporting and recordkeeping requirements, Waterways.

*46 CFR Part 2*

Marine safety, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 10*

Penalties, Personally identifiable information, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 11*

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

*46 CFR Part 12*

Penalties, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 15*

Reporting and recordkeeping requirements, Seamen, Vessels.

*46 CFR Part 16*

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

*46 CFR Part 26*

Marine safety, Penalties, Reporting and recordkeeping requirements.

*46 CFR Part 28*

Alaska, Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 162*

Fire prevention, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 26, 80, 81, 83, 89, 100, 117, 151, 154, 155, 156, 161, and 164 and 46 CFR parts 2, 10, 11, 12, 15, 16, 26, 28, and 162 as follows:

**Title 33—Navigation and Navigable Waters**

## PART 1—GENERAL PROVISIONS

### Subpart 1.08—Written Warnings by Coast Guard Boarding Officers

■ 1. The authority citation for subpart 1.08 continues to read as follows:

**Authority:** 14 U.S.C. 633; 49 CFR 1.46(b).

**§ 1.08–1 [Amended]**

■ 2. In § 1.08–1(a)(11), remove the text ''88.05'' and add, in its place, the text ''83.01(g)''.

## PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 3. Revise the authority citation for part 26 to read as follows:

**Authority:** 14 U.S.C. 2, 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1; Rule 1, International Regulations for the Prevention of Collisions at Sea.

**§ 26.08 [Amended]**

■ 4. In § 26.08(a), remove the text ''Marine Safety, Security and Environmental Protection'' and add, in its place, the text ''Prevention Policy''.

## PART 80—COLREGS DEMARCATION LINES

■ 5. The authority citation for part 80 continues to read as follows:

**Authority:** 14 U.S.C. 2; 14 U.S.C. 633; 33 U.S.C. 151(a).

■ 6. In § 80.750, revise paragraphs (b) and (f) to read as follows:

**§ 80.750 Sanibel Island, FL to St. Petersburg, FL.**

* * * * *

(b) A line drawn across the Charlotte Harbor entrance from position latitude 26°42.18′ N, longitude 070°41.2′ W to Port Boca Grande Light.

* * * * *

(f) A line drawn from position latitude 27°17.89′ N, longitude 082°33.55′ W to the southernmost extremity of Lido Key (position latitude 27°17.93′ N, longitude 082°33.99′ W).

* * * * *

■ 7. In § 80.753, revise paragraphs (a) and (d) to read as follows:

**§ 80.753 St. Petersburg, FL to the Anclote, FL.**

(a) A line drawn across Blind Pass, from the seaward extremity of the Long

Key jetty to the seaward extremity of the Treasure Island jetty.

* * * * *

(d) A line drawn from the northernmost extremity of Honeymoon Island to Anclote Anchorage South Entrance Light 3; thence to Anclote Key position latitude 28°10.0′ N longitude 082°50.6′ W; thence a straight line to position latitude 28°11.11′ N, longitude 082°47.91′ W.

**§ 80.810 [Amended]**

■ 8. In § 80.810, remove paragraphs (c) and (d); and redesignate paragraphs (e) through (h) as paragraphs (c) through (f).

## PART 81—72 COLREGS: IMPLEMENTING RULES

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

**Authority:** 33 U.S.C. 1607; E.O. 11964; 49 CFR 1.46.

**§ 81.3 [Amended]**

■ 10. In § 81.3, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

**§ 81.5 [Amended]**

■ 11. In § 81.5(a) introductory text, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

**§ 81.9 [Amended]**

■ 12. In § 81.9 introductory text, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

## PART 83—NAVIGATION RULES

■ 13. The authority citation for part 83 continues to read as follows:

**Authority:** Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

**§ 83.24 [Amended]**

■ 14. In § 83.24(h), after the words ''exhibit the lights'', add the words ''or shapes''.

**§ 83.26 [Amended]**

■ 15. In § 83.26(f)(i), remove the word ''around'' and add, in its place, the word ''round''; in § 83.26(f)(ii)(2)(B), remove the text ''(a)'' and add, in its place, ''(f)(ii)(1).''

**§ 83.27 [Amended]**

■ 16. In § 83.27(d)(iv)(1)(B) and (d)(iv)(2)(A), remove the word ''around'' and add, in its place the word ''round''.

## PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

■ 17. The authority citation for part 89 continues to read as follows:

**Authority:** 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

**§ 89.3 [Amended]**

■ 18. In § 89.3, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

**§ 89.5 [Amended]**

■ 19. In § 89.5(a) introductory text, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

**§ 89.9 [Amended]**

■ 20. In § 89.9 introductory text, remove the words ''Marine Safety'' and add, in their place, the word ''Prevention''.

**§ 89.27 [Amended]**

■ 21. In the section heading to § 89.27 and paragraphs (a) and (b), remove the text ''24(i)'' and add, in its place, the text ''24(j)''.

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

**§§ 100.1 through 100.45 [Designated as Subpart A]**

■ 23. Designate §§ 100.01 through 100.45 as subpart A under the heading ''Subpart A—General''.

■ 24. In § 100.35, add paragraph (d) to read as follows:

**§ 100.35 Special local regulations.**

* * * * *

(d) We have organized the special local regulations by district. Subparts B through J contain special local regulations from the First, Fifth, Seventh, Eighth, Ninth, Eleventh, Thirteenth, Fourteenth, and Seventeenth Districts, respectively.

**§§ 100.50 through 100.99 [Added and Reserved]**

■ 25. Add reserved §§ 100.50 through 100.99 to newly designated subpart A.

**§§ 100.100 through 100.170 [Designated as Subpart B]**

■ 26. Designate §§ 100.100 through 100.170 as subpart B under the heading ''Subpart B—First Coast Guard District''.

**§§ 100.180 through 100.499 [Added and Reserved]**

■ 27. Add reserved §§ 100.180 through 100.499 to newly designated subpart B.

**§ 100.500 [Added and Reserved]**

■ 28. Add reserved § 100.500.

**§§ 100.500 and 100.501 [Designated as Subpart C]**

■ 29. Designate §§ 100.500 and 100.501 as subpart C under the heading ''Subpart C—Fifth Coast Guard District''.

**§§ 100.550 through 100.699 [Added and Reserved]**

■ 30. Add reserved §§ 100.550 through 100.699 to newly designated subpart C.

**§ 100.700 [Added and Reserved]**

■ 31. Add reserved § 100.700.

**§§ 100.700 through 100.740 [Designated as Subpart D]**

■ 32. Designate reserved §§ 100.700 through 100.740 as subpart D under the heading ''Subpart D—Seventh Coast Guard District''.

**§§ 100.750 through 100.799 [Added and Reserved]**

■ 33. Add reserved §§ 100.750 through 100.799 to newly designated subpart D.

**§ 100.800 [Added and Reserved]**

■ 34. Add reserved § 100.800.

**§§ 100.800 and 100.801 [Designated as Subpart E]**

■ 35. Designate §§ 100.800 and 100.801 as subpart E under the heading ''Subpart E—Eighth Coast Guard District''.

**§§ 100.850 through 100.899 [Added and Reserved]**

■ 36. Add reserved §§ 100.850 through 100.899 to newly designated subpart E.

**§ 100.900 [Added and Reserved]**

■ 37. Add reserved § 100.900.

**§§ 100.900 through 100.929 [Designated as Subpart F]**

■ 38. Designate §§ 100.900 through 100.929 as subpart F under the heading ''Subpart F—Ninth Coast Guard District''.

**§§ 100.950 through 100.1099 [Added and Reserved]**

■ 39. Add reserved §§ 100.950 through 100.1099 to newly designated subpart F.

**§ 100.1100 [Added and Reserved]**

■ 40. Add reserved § 100.1100.

**§§ 100.1100 through 100.1105 [Designated as Subpart G]**

■ 41. Designate §§ 100.1100 through 100.1105 as subpart G under the heading ''Subpart G—Eleventh Coast Guard District''.

**§§ 100.1150 through 100.1299 [Added and Reserved]**

■ 42. Add reserved §§ 100.1150 and 100.1299 to newly designated subpart G.

**§ 100.1300 [Added and Reserved]**

■ 43. Add reserved § 100.1300.

**§§ 100.1300 through 100.1309 [Designated as Subpart H]**

■ 44. Designate §§ 100.1300 through 100.1309 as subpart H under the heading ''Subpart H—Thirteenth Coast Guard District''.

**§§ 100.1350 through 100.1399 [Added and Reserved]**

■ 45. Add reserved §§ 100.1350 through 100.1399 to newly designated subpart H.

**§ 100.1400 [Added and Reserved]**

■ 46. Add reserved § 100.1400.

**§§ 100.1400 and 100.1401 [Designated as Subpart I]**

■ 47. Designate §§ 100.1400 and 100.1401 as subpart I under the heading ''Subpart I—Fourteenth Coast Guard District''.

**§§ 100.1450 through 100.1699 [Added and Reserved]**

■ 48. Add reserved §§ 100.1450 through 100.1699 to newly designated subpart I.

■ 48a. Add subpart J, consisting of reserved §§ 100.1700 through 100.1799, to read as follows:

## Subpart J—Seventeenth Coast Guard District

**§§ 100.1700 through 100.1799 [Reserved]**

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 49. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

**§ 117.149 [Amended]**

■ 50. In § 117.149, remove the text ''3rd'' and ''4th'' and add, in their place, the text ''Third'' and ''Fourth'', respectively.

**§ 117.163 [Amended]**

■ 51. In § 117.163(b), remove the text ''3rd'' and add, in its place, the text ''Third''.

**§ 117.175 [Amended]**

■ 52. In § 117.175(b,), remove the word ''Counties'' and add, in its place, the word ''counties''.

**§ 117.193 [Amended]**

■ 53. In § 117.193, remove the words ''Highway and Bicycle'' and add, in their place, the words ''highway and bicycle''.

■ 54. Revise § 117.523 to read as follows:

**§ 117.523 Back River.**

The draw of the Barter's Island Bridge, mile 2.0, between Hodgdon and Barters Island at Boothbay, shall open on signal from June 1 through October 31; except that, from 5 p.m. to 8 a.m., the draw shall be opened on signal if notice was given to the drawtender from 8 a.m. to 5 p.m. From November 1 through May 31 the draw shall open on signal if at least 24 hours notice is given to the drawtender or to the Maine Department of Transportation at Augusta.

■ 55. Revise § 117.621 to read as follows:

**§ 117.621 West Bay**

The draw of the West Bay Bridge, mile 1.2, at Osterville, shall operate as follows:

(a) From November 1 through April 30, the draw shall open on signal if at least a twenty-four hours advance notice is given.

(b) From May 1 through June 15, the draw shall open on signal from 8 a.m. to 6 p.m.

(c) From June 16 through September 30, the draw shall open on signal from 7 a.m. to 9 p.m.

(d) From October 1 through October 31, the draw shall open on signal from 8 a.m. to 6 p.m.

(e) At all other times from May 1 through October 31, the draw shall open on signal if at least a four-hours advance notice is given by calling the number posted at the bridge.

■ 56. Revise § 117.622 to read as follows:

**§ 117.622 Weymouth Fore River.**

The draw of the Quincy Weymouth SR3A bridge, mile 3.5 between Quincy Point and North Weymouth, Massachusetts, shall open on signal, except that:

(a) From 6:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., Monday through Friday, except holidays observed in the locality, the draw need not be opened.

(b) The draw shall open on signal at all times for self-propelled vessels greater than 10,000 gross tons.

(c) From noon to 6 p.m. on Thanksgiving Day, from 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal after at least a two-hour advance notice is given by calling the number posted at the bridge.

**§ 117.755 [Amended]**

■ 57. In § 117.755 introductory text, remove the words ''Monmouth County highway bridge'' and add, in their place, the words ''Sea Bright Bridge''.

**§ 117.791 [Amended]**

■ 58. Amend § 117.791 as follows:

■ a. In paragraph (c), remove the text ''CSX Transportation Bridge'' and add, in its place, the text ''Livingston Ave. (Amtrak) Bridge''.

■ b. In paragraph (d), remove the text ''state highway bridge'' and add, in its place, the text ''Troy-Menands Bridge''.

■ c. In paragraph (e) introductory text, remove the text ''highway bridge'' and add, in its place, the text ''Troy-Green Bridge''.

## PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 59. The authority citation for part 151 continues to read as follows:

**Authority:** 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

**§ 151.1021 [Amended]**

■ 60. In § 151.1021(b)(1), after the word ''Prevention'', add the word ''Policy''.

**§ 151.1513 [Amended]**

■ 61. In § 151.1513, in the second sentence, after the text ''submitted in writing'', add the text ''by email to *environmental_standards@uscg.mil,* or''.

**§ 151.2005 [Amended]**

■ 62. Amend § 151.2005(b) as follows:

■ a. Remove the definition for ''International Maritime Organization (IMO) ballast water management guidelines''; and

■ b. In the definition for ''Shipboard Technology Evaluation Program (STEP)'', remove the text ''*http://www.uscg.mil/environmental_standards/*'' and add, in its place, the text ''*http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/office-oes/*''.

**§ 151.2026 [Amended]**

■ 63. In § 151.2026(b), after the text ''20593–7430'', add the text '', or by email to *msc@uscg.mil*''.

**§ 151.2036 [Amended]**

■ 64. In § 151.2036, in the second sentence, after the text ''submitted in writing'', add the text ''by email to *environmental_standards@uscg.mil,* or''.

■ 65. Amend § 151.2065 by revising the introductory text and paragraph (b) to read as follows:

**§ 151.2065 Equivalent reporting methods for vessels other than those entering the Great Lakes or Hudson River after operating outside the U.S. Exclusive Economic Zone or Canadian equivalent.**

For vessels required to report under § 151.2060(b)(3) of this subpart, the Chief, Environmental Standards Division (CG–OES–3), acting for the Assistant Commandant for Prevention Policy (CG–5P), may, upon receipt of a written request, consider and approve alternative methods of reporting if—

* * * * *

(b) Compliance with § 151.2060 of this subpart is economically or physically impractical. The Chief, Environmental Standards Division (CG–OES–3), will approve or disapprove a request submitted in accordance with this section within 30 days of receipt of the request.

## PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

■ 66. The authority citation for part 154 continues to read as follows:

**Authority:** 33 U.S.C. 1225, 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735. Vapor control recovery provisions of Subpart P are also issued under 42 U.S.C. 7511b(f)(2).

■ 67. In § 154.1020, remove the definition for ''Dispersant Mission Planner 2 or (DMP2)'' and add in alphabetical order a definition for ''Estimated Dispersant System Potential Calculator (EDSP)''.

The addition reads as follows:

**§ 154.1020 Definitions.**

* * * * *

*Estimated Dispersant System Potential Calculator (EDSP)* means an internet-accessible application that estimates EDAC for different dispersant response systems. The NSFCC will use EDSP for evaluating OSRO dispersant classification levels.

* * * * *

**§ 154.1045 [Amended]**

■ 68. In § 154.1045(i)(2)(ii), remove the text ''DMP2'' and add, in its place, the text ''EDSP''.

**Appendix C to Part 154 [Amended]**

■ 69. In Appendix C to part 154, paragraphs 8.2.1.2 and 8.2.3(i), remove the text ''Dispersant Mission Planner 2'' and ''DMP2'' wherever they appear, and add, in their place, the text ''EDSP''.

## PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 70. The authority citation for part 155 continues to read as follows:

**Authority:** 3 U.S.C. 301 through 303; 33 U.S.C. 1225, 1231, 1321(j), 1903(b), 2735; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section 155.1020 also issued under section 316 of Pub. L. 114–120. Section 155.480 also issued under section 4110(b) of Pub. L. 101–380.

■ 71. In § 155.1020, remove the definition for ''Dispersant Mission Planner 2 (DMP2)'' and add in alphabetical order a definition for ''Estimated Dispersant System Potential Calculator (EDSP)'' to read as follows:

**§ 155.1020 Definitions.**

* * * * *

*Estimated Dispersant System Potential Calculator (EDSP)* means an internet-accessible application that estimates EDAC for different dispersant response systems. The NSFCC will use EDSP for evaluating OSRO dispersant classification levels.

* * * * *

**§ 155.1050 [Amended]**

■ 72. In § 155.1050(k)(2)(ii), remove the text ''Dispersant Mission Planner 2'' and add, in its place, the text ''EDSP''.

**Appendix B to Part 155 [Amended]**

■ 73. In Appendix B to part 155, paragraphs 8.2.1.2 and 8.2.3(i), remove the text ''Dispersant Mission Planner 2'' and ''DMP2'' wherever they appear, and add, in their place, the text ''EDSP''.

## PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

■ 74. The authority citation for part 156 continues to read as follows:

**Authority:** 33 U.S.C. 1225, 1231, 1321(j); 46 U.S.C. 3703, 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

**§ 156.210 [Amended]**

■ 75. In § 156.210(b), remove the text ''(CG–5)'' and add, in its place, the text ''(CG–ENG)''.

## PART 161—VESSEL TRAFFIC MANAGEMENT

■ 76. The authority citation for part 161 continues to read as follows:

**Authority:** 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70119; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 77. Amend § 161.2 as follows:

■ a. Remove the word ''sector'' wherever it appears, and add, in its place, the word ''zone'';

■ b. Add definitions in alphabetical order for ''Center'' and ''Published'';

■ c. In the definition of ''Vessel Traffic Service Area or VTS Area'', remove the word ''sectors'' and add, in its place, the word ''zones''; and

■ d. In the introductory text of the definition of ''VTS User'', remove the word ''area'' and add, in its place, the word ''Area''.

The additions read as follows:

**§ 161.2 Definitions.**

* * * * *

*Center* means a Vessel Traffic Center or Vessel Movement Center.

* * * * *

*Published* means available in a widely-distributed and publicly available medium (*e.g.,* VTS User's Manual, ferry schedule, Notice to Mariners).

* * * * *

■ 78. Redesignate the note at the end of the section as Note 1 to § 161.4 and revise it to read as follows:

**§ 161.4 Requirement to carry the rules.**

* * * * *

**Note 1 to § 161.4:** These rules are contained in the applicable U.S. Coast Pilot, the VTS User's Manual which may be obtained by contacting the appropriate VTS or downloaded from the Coast Guard Navigation Center website (*https://www.navcen.uscg.gov*).

**§ 161.5 [Amended]**

■ 79. In § 161.5(b), remove the text ''Vessel Traffic Center (VTC)'' and add, in its place, the text ''VTC''.

**§ 161.12 [Amended]**

■ 80. Amend § 161.12 in Table 1 to § 161.12(c) as follows:

■ a. In entry (10)(ii), in the ''Monitoring area'' column, remove the words ''Strait of Juan de Fuca'' and add, in their place, the words ''Salish Sea'';

■ b. In entry (12), remove the text ''Mary's'' wherever it appears and add, in its place, the text ''Marys''; and
■ c. In Note 6, remove the word ''sector'' and add, in its place, the word ''zone''.

**§ 161.17 [Removed and Reserved]**

■ 81. Remove and reserve § 161.17.

■ 82. Amend § 161.55 by revising paragraph (c)(3) to read as follows:

**§ 161.55 Vessel Traffic Service Puget Sound and the Cooperative Vessel Traffic Service for the Juan de Fuca Region.**

* * * * *

(c) * * *

(3) A vessel of less than 100 meters in length is exempt from the provisions set forth in § 161.13(b)(3) of this part.

* * * * *

**§ 161.70 [Amended]**

■ 83. In entry 4 to the Table to § 161.70(d) and entry 3 to the Table to § 161.70(f), remove the word ''Sector'' and add, in its place, the word ''Zone''.

## PART 164—NAVIGATION SAFETY REGULATIONS

■ 84. The authority citation for part 164 continues to read as follows:

**Authority:** 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.46 also issued under 46 U.S.C. 70114 and Sec. 102 of Pub. L. 107–295. Sec. 164.61 also issued under 46 U.S.C. 6101. Department of Homeland Security Delegation No. 0170.1, para. II (70), (92.a), (92.b), (92.d), (92.f), and (97.j).

■ 85. Amend § 164.72 by revising paragraph (b)(2)(ii)(C) to read as follows:

**§ 164.72 Navigational-safety equipment, charts or maps, and publications required on towing vessels.**

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(C) Tidal-current tables published by private entities using data provided by the NOS, or river-current tables published by a river authority;

* * * * *

# Title 46—Shipping

## PART 2—VESSEL INSPECTIONS

■ 86. The authority citation for part 2 continues to read as follows:

**Authority:** Sec. 622, Pub. L. 111–281; 33 U.S.C. 1231, 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3703; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b); E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105.

### Subpart 2.01—Inspecting and Certificating of Vessels

**§ 2.01–7 [Amended]**

■ 87. Section 2.01–7 is amended in column 4 to Table 2.01–7(a), paragraph (a)(2)(i), by removing the comma after the text ''recreational vessels''.

### Subpart 2.10—Fees

■ 88. Amend 2.10–20 by revising paragraphs (d) introductory text, (d)(1)(ii) and (iii), and (d)(2)(ii) and (iii) to read as follows:

**§ 2.10–20 General requirements.**

* * * * *

(d) Unless otherwise specified or if payment is made through *www.pay.gov,* fees required by this subpart must be submitted using one of the following methods:

(1) * * *

(ii) For payment by check, made payable to U.S. Treasury, with delivery by postal service, USCG Vessel Inspections Fees, P.O. Box 979118, St. Louis, MO 63197–9000.

(iii) For payment by check, made payable to U.S. Treasury, with delivery by overnight courier, USCG Vessel Inspection Fees, Lockbox No. 979118, U.S. Bank Government Lockbox, 1005 Convention Plaza, ATTN: GOVERNMENT LOCKBOX, SL–MOC1 GL, St. Louis, MO 63101.

(2) * * *

(ii) For payment by check, made payable to U.S. Treasury, with delivery by postal service, USCG User Fees, P.O. Box 979125, St. Louis, MO 63197–9000.

(iii) For payment by check, made payable to U.S. Treasury, with delivery by overnight courier, USCG User Fees, Lockbox No. 979125, U.S. Bank Government Lockbox, 1005 Convention Plaza, ATTN: GOVERNMENT LOCKBOX, SL–MOC1 GL, St. Louis, MO 63101.

* * * * *

## PART 10—MERCHANT MARINER CREDENTIAL

■ 89. The authority citation for part 10 continues to read as follows:

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. chapter 71; 46 U.S.C. chapter 73; 46 U.S.C. chapter 75; 46 U.S.C. 2104; 46 U.S.C. 7701, 8903, 8904, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1.

**§ 10.203 [Amended]**

■ 90. Amend § 10.203 as follows:
■ a. Remove paragraph (a); and
■ b. Redesignate paragraphs (b) through (d) as paragraphs (a) through (c).

**§ 10.209 [Amended]**

■ 91. In § 10.209, in paragraphs (d) introductory text and (h), after ''§§ '', add ''10.223,''.

■ 92. Amend § 10.221 by revising paragraph (b) to read as follows:

**§ 10.221 Citizenship.**

* * * * *

(b) Proof of citizenship or alien status must be submitted to the Transportation Security Administration (TSA) with the applicant's TWIC application in accordance with 49 CFR 1572.17(a)(11).

* * * * *

■ 93. Amend § 10.229 by revising paragraph (b) to read as follows:

**§ 10.229 Replacement of lost merchant mariner credentials.**

* * * * *

(b) The duplicate credential will have the same authority, wording, and expiration date as the lost credential.

* * * * *

**§ 10.232 [Amended]**

■ 94. Amend § 10.232 in paragraphs (e)(1) and (e)(2)(i) by removing the text ''raise in grade'' and add, in its place, the text ''raise of grade.

**§ 10.239 [Amended]**

■ 95. In Table 1 to § 10.239, remove the text ''12.601(c)'' wherever it appears, and, in its place, add the text ''12.602(a)''.

**§ 10.305 [Amended]**

■ 96. Amend § 10.305 as follows:

■ a. In paragraph (a)(2), in the first sentence remove the text ''After January 1, 2017, applicants'' and add, in its place, the text ''Applicants'' and in the second sentence remove the text ''meets'' and add, in its place, the text ''previously met''; and

■ b. In paragraph (c), remove the text ''MMC'' and add, in its place, the text ''a medical certificate''.

**§ 10.402 [Amended]**

■ 97. In § 10.402, remove the text ''Vessel Activities (CG–CVC)'' in paragraph (b) introductory text and add, in its place, the text ''Merchant Mariner Credentialing''; and after the text ''and include'', add the text ''the following''.

**§ 10.410 [Amended]**

■ 98. Amend § 10.410 by removing paragraph (f) and redesignating paragraphs (g) and (h) as (f) and (g), respectively.

## PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

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

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

**§ 11.201 [Amended]**

■ 100. In § 11.201(b), revise the citation ''§ 11.467(i)'' to read ''§ 11.467(h)''.

**§ 11.211 [Amended]**

■ 101. In § 11.211(c)(2), remove the text ''raise in grade'' and add, in its place, the text ''raise of grade''.

**§ 11.301 [Amended]**

■ 102. Amend § 11.301 as follows:
■ a. In paragraph (b)(1) remove the text ''upgrade'' and add, in its place, the text ''raise of grade'';
■ b. Remove paragraph (g); and
■ c. Redesignate paragraphs (h) through (j) as paragraphs (g) through (i).

**§ 11.305 [Amended]**

■ 103. In § 11.305(a)(3)(i), remove the word ''shiphandling'', and add, in its place, the words ''ship handling''.

**§ 11.307 [Amended]**

■ 104. In § 11.307(a)(3)(i), remove the word ''shiphandling'', and add, in its place, the words ''ship handling''.

**§ 11.309 [Amended]**

■ 105. In Table 1 to § 11.309(e), remove the text ''A–II/2'' in the third column heading and add, in its place, the text ''A–II/1''.

**§ 11.311 [Amended]**

■ 106. Amend § 11.311 as follows:
■ a. In paragraph (a)(3)(i), remove the word ''shiphandling'', and add, in its place, the words ''ship handling''; and
■ b. In Table 1 to § 11.311(d), remove the text ''A–II/3'' in the third column heading and add, in its place, the text ''A–II/2''.

**§ 11.313 [Amended]**

■ 107. In § 11.313(a)(3)(i), remove the word ''shiphandling'', and add, in its place, the words ''ship handling''.

**§ 11.315 [Amended]**

■ 108. In § 11.315, in paragraph (c), remove the text ''A–II/3'' and add, in its place, the text ''A–II/2'' and in Table 1 to § 11.315(d), third column heading, remove the text ''A–II/3'' and add, in its place, the text ''A–II/2''.

**§ 11.319 [Amended]**

■ 109. Amend § 11.319 as follows:
■ a. In paragraph (c), remove the text ''A–II/3'' and add, in its place, the text ''A–II/1'' and in Table 1 to § 11.315(d), third column heading, remove the text ''A–II/3'' and add, in its place, the text ''A–II/1''.
■ b. In footnote 2 to Table 1 to § 11.319(d), remove the text ''(a)(2)'' and add, in its place, the text ''(a)(3)''; and
■ c. In footnote 3 to Table 1 to § 11.319(d), remove the text ''(a)(3)'' and add, in its place, the text ''(a)(4)''.

**§ 11.331 [Amended]**

■ 110. In Table 1 to § 11.331(e), third column heading, remove the text ''A–III/2'' and add, in its place, the text ''A–III/3''.

**§ 11.333 [Amended]**

■ 111. In Table 1 to § 11.333(d), third column heading, remove the text ''A–III/2'' and add, in its place, the text ''A–III/3''.

**§ 11.430 [Amended]**

■ 112. In § 11.430(e), remove the text ''raise-in-grade'' and add, in its place, the text ''raise of grade''.

**§ 11.464 [Amended]**

■ 113. In § 11.464(g)(1), remove the text ''(f)'', and add, in its place, the text ''(e)''.

**§ 11.465 [Amended]**

■ 114. In § 11.465(a), second sentence, remove the text ''upgrade it'' and add, in its place, the text ''raise of grade''.

**§ 11.480 [Amended]**

■ 115. In § 11.480(b)(2), remove the word ''Intercoastal'' and add, in its place, the word ''Intracoastal''.

**§ 11.603 [Amended]**

■ 116. In § 11.603, remove the text ''first or second class''; and after the text ''radiotelegraph operator license'', add the text '' (T)''.

**§ 11.1105 [Amended]**

■ 117. In § 11.1105(d), remove the text ''11.301(h)'' and add, in its place, the text ''10.107''.

## PART 12—REQUIREMENTS FOR RATING ENDORSEMENTS

■ 118. The authority citation for part 12 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701, and 70105; Department of Homeland Security Delegation No. 0170.1.

**§ 12.601 [Amended]**

■ 119. Amend § 12.601 by removing paragraph (c).

**§ 12.603 [Amended]**

■ 120. Amend § 12.603 as follows:
■ a. Remove paragraph (b);
■ b. Redesignate paragraphs (c) through (e) as paragraphs (b) through (d), respectively;
■ c. In newly redesignated paragraph (d) introductory text, remove the text ''paragraphs (b) and (c)'' and add, in its place, the text ''paragraph (b)''; and
■ d. Revise the heading of Table 1 to § 12.603(e) to read ''Table 1 to § 12.603(d)''.

**§ 12.607 [Amended]**

■ 121. Amend § 12.607 as follows:
■ a. Remove paragraph (b);
■ b. Redesignate paragraphs (c) through (e) as paragraphs (b) through (d), respectively;
■ c. In newly redesignated paragraph (d), remove the text ''paragraphs (b) and (c)'' and add, in its place, the text ''paragraph (b)''; and
■ d. Revise the heading of Table 1 to § 12.607(e) to read ''Table 1 to § 12.607(d)''.

**§ 12.613 [Amended]**

■ 122. In § 12.613(a)(3), remove the text ''§ 12.601(c)'' and add, in its place, the text ''§ 12.602''.

## PART 15—MANNING REQUIREMENTS

■ 123. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and Department of Homeland Security Delegation No. 0170.1.

**§ 15.530 [Amended]**

■ 124. In § 15.530(b)(4)(iv), after the text ''subpart'', remove the text ''J'' and add, in its place, the text ''I''.

■ 125. Amend § 15.860 by revising paragraphs (b)(3), (c)(1) and (2), (d)(1) and (2), (e)(1) and (2), (f), (g), and (h) introductory text and (h)(1) to read as follows:

**§ 15.860 Tankerman.**

* * * * *

(b) * * *

(3) At least two tankerman-engineers must be carried.

(c) * * *

(1) At least two tankerman-PICs or restricted tankerman-PICs must be carried; and

(2) At least two tankerman-engineers must be carried, unless only one

engineer is required, in which case at least one tankerman-engineer must be carried.

(d) * * *

(1) One or two, at least one tankerman-PIC or restricted tankerman-PIC must be carried; or

(2) More than two, at least two tankerman-PICs or restricted tankerman-PICs must be carried.

(e) * * *

(1) One or two, at least one tankerman-PIC, restricted tankerman-PIC, tankerman-PIC (barge), or restricted tankerman-PIC (barge) must be carried; or

(2) More than two, at least two tankerman-PICs, restricted tankerman-PICs, tankerman-PICs (barge), or restricted tankerman-PICs (barge) must be carried.

(f) The following personnel aboard each tankship certified for voyages beyond the boundary line, as described in part 7 of this chapter, must hold valid MMDs or MMCs, endorsed as follows:

(1) The master and chief mate must each hold a tankerman-PIC or restricted tankerman-PIC endorsement.

(2) The chief, first assistant, and cargo engineers must each hold a tankerman-engineer or tankerman-PIC endorsement.

(3) Each credentialed officer acting as the PIC of a transfer of liquid cargo in bulk must hold a tankerman-PIC or restricted tankerman-PIC endorsement.

(4) Each officer or crewmember who is assigned by the PIC duties and responsibilities related to the cargo or cargo-handling equipment during a transfer of liquid cargo in bulk, but is not directly supervised by the PIC, must hold a tankerman-assistant endorsement.

(g) The endorsements required by this section must be for the classification of the liquid cargo in bulk or of the cargo residue being carried.

(h) All individuals serving on tankships certified for voyages beyond the boundary line, as described in part 7 of this chapter, must hold an appropriate STCW endorsement, as follows:

(1) For tankerman-PIC, an STCW endorsement as Advanced Oil Tanker Cargo Operations, Advanced Chemical Tanker Cargo Operations, or Advanced Liquefied Gas Tanker Cargo Operations, as appropriate.

* * * * *

**§ 15.1101 [Amended]**

■ 126. In § 15.1101(a)(2) introductory text, after the text ''domestic'', add the text '', near coastal''.

## PART 16—CHEMICAL TESTING

■ 127. The authority citation for part 16 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; Department of Homeland Security Delegation No. 0170.1.

**§ 16.220 [Amended]**

■ 128. In § 16.220(a), remove the text ''§ 10.227(e)'' and add, in its place, the text ''§ 10.227(g)''.

## PART 26—OPERATIONS

■ 129. Revise the authority citation for part 26 to read as follows:

**Authority:** 46 U.S.C. 3306, 4105, 4106, 6101, 8105; Pub. L. 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

## PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 130. The authority citation for part 28 continues to read as follows:

**Authority:** 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 8103, 10603; Department of Homeland Security Delegation No. 0170.1.

**§ 28.210 [Amended]**

■ 131. In § 28.210(b)(1)(ii), remove the text ''§ 10.205(h)(1)(ii)'' and add, in its place, the text ''§ 11.201(i)''.

## PART 162—ENGINEERING EQUIPMENT

■ 132. The authority citation for part 162 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

### Subpart 162.060—Ballast Water Management Systems

**§ 162.060–14 [Amended]**

■ 133. In § 162.060–14(b), after the text ''Washington, DC 20593–7430'', add the text '', or by email to *msc@uscg.mil*''.

**§ 162.060–42 [Amended]**

■ 134. In § 162.060–42(a)(3), after the text ''Washington, DC 20593–7430'', add the text '', or by email to *msc@uscg.mil*''.

Dated: June 11, 2019.

**M.W. Mumbach,**

*Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.*

[FR Doc. 2019–12561 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

**[Docket No. USCG–2019–0524]**

## Special Local Regulations; Marine Events in the Coast Guard Sector Detroit Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce various special local regulations for annual regattas and marine parades in the Captain of the Port Detroit zone. Enforcement of these regulations is necessary and intended to protect the safety of life on the navigable waters immediately prior to, during, and after these regattas or marine parades. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and after regattas or marine parades.

**DATES:** The regulation in 33 CFR 100.911, Table 1(7), will be enforced from 8 a.m. on July 12, 2019 through 7 p.m. on July 14, 2019. In the case of inclement weather on any of the previous dates, this regulation will also be enforced from 8 a.m. through 7 p.m. on July 15, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Tracy Girard, Prevention Department, telephone (313) 568–9564, email *Tracy.M.Girard@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the following special local regulations listed in 33 CFR part 100, Safety of Life on Navigable Waters, on the following dates and times:

(1) *Bay City River Roar (formerly known as Grand Prix), Bay City, MI.* The special local regulation listed in 33 CFR 100.911, Table 1(7), will be enforced from 8 a.m. on July 12, 2019 through 7 p.m. on July 14, 2019. In the case of inclement weather on any of the previous dates, this safety zone will be enforced from 8 a.m. through 7 p.m. on July 15, 2019.

In accordance with the general regulations in 33 CFR 100.35, the Coast Guard will patrol the regatta area under the direction of a designated Coast Guard patrol commander (PATCOM). The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign ''Coast Guard Patrol Commander.''

Entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the PATCOM. The PATCOM may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

Vessels permitted to enter this regulated area must operate at a no-wake speed and in a manner that will not endanger race participants or any other craft.

The PATCOM may direct the anchoring, mooring, or movement of any vessel within this regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from the area, a Notice of Violation for failure to comply, or both.

If it is deemed necessary for the protection of life and property, the PATCOM may terminate the marine event or the operation of any vessel within the regulated area.

Under the provisions of 33 CFR 100.928, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant for event participants and safety craft. Additionally, vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by the Coast Guard's on-scene representative or by event representatives during the event.

The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The on-scene representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated on scene representative may be contacted via VHF Channel 16.

The rules in this section shall not apply to vessels participating in the event or to government vessels patrolling the regulated area in the performance of their assigned duties.

This document is issued under authority of 33 CFR 100.35 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these special local regulations need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: June 25, 2019.

**Jeffrey W. Novak,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2019–13815 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

**[Docket Number USCG–2019–0107]**

**RIN 1625–AA08**

## Special Local Regulation; Choptank River, Cambridge, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Choptank River. This action is necessary to provide for the safety of life on these waters located at Cambridge, MD, on July 27, 2019, and July 28, 2019, during a high-speed power boat racing event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

**DATES:** This rule is effective from 9:30 a.m. on July 27, 2019 to 6:30 p.m. on July 28, 2019. This rule will be enforced from 9:30 a.m. to 6:30 p.m. on July 27, 2019, and, from 9:30 a.m. to 6:30 p.m. on July 28, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0107 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ron Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
PATCOM Coast Guard Patrol Commander
SNPRM Supplemental notice of proposed rulemaking
§ Section
U.S.C. United States Code

### II. Background Information and Regulatory History

The Coast Guard published an NPRM on March 18, 2019 (84 FR 9724), proposing to establish a special local regulation for the Thunder on the Choptank, on July 27, 2019, and July 28, 2019. The Coast Guard received two comments. The Coast Guard published an SNPRM on May 16, 2019 (84 FR 22079), to amend the proposed special local regulation to increase the size of the regulated area and make minor corrections to the designated spectator area coordinates for the Thunder on the Choptank, on July 27, 2019, and July 28, 2019, and reopen the comment period to account for these changes. The comment period closed June 17, 2019. The Coast Guard received no additional comments during the second request for comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the date of the event, it would be impracticable to make the regulation effective 30 days after publication in the **Federal Register**. Delaying the effective date of this rule is impracticable and contrary to public interest because it would delay the safety measures necessary to respond to potential safety hazards associated with this marine event. Immediate action is needed to protect participants, spectators, and other persons and vessels during the high-speed race event on these navigable waters.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with these power boat races will be a safety concern for anyone intending to operate in or near the race area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of the Choptank River before, during, and after the scheduled event.

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

As noted above, we received two comments to the docket responding to our NPRM published March 18, 2019. Both comments were in support of the Coast Guard's rulemaking. However, one commenter questioned why the regulation was needed, and wondered if instead waterway users could be

directed safely away from the event site or if there could be stated times when waterway users could transit through the regulated area. The COTP Maryland-National Capital Region is issuing this special local regulation to ensure that all vessels are operated within the regulated area at a safe speed that minimizes wake near the event area. A COTP order, by comparison, would apply to only a single vessel. The Coast Guard issues special local regulations under authority of 46 U.S.C. 70041(a), which grants the Commandant authority to issue regulations to promote the safety of life on navigable waters during regattas or marine parades. The Coast Guard issues such regulations in accordance with the Administrative Procedure Act's rulemaking requirements.

Vessel traffic will be able to safely transit the regulated area once the PATCOM deems it safe to do so. Patrol vessels will be present to monitor the event and enforce the special local regulation. In addition, Broadcast Notice to Mariners will also be made for this event, to begin prior to that start of the scheduled event, and to continue to notify the public, until immediately after its completion.

There are no changes in the regulatory text of this rule from the proposed rule in the SNPRM.

This rule establishes a special local regulation to be enforced from 9:30 a.m. to 6:30 p.m. on July 27, 2019, and from 9:30 a.m. to 6:30 on July 28, 2019. The regulated area will cover all navigable waters of the Choptank River and Hambrooks Bay bounded by a line connecting the following coordinates: Commencing at the shoreline at Long Wharf Park, Cambridge, MD, at position latitude 38°34′30″ N, longitude 076°04′16″ W; thence east to latitude 38°34′20″ N, longitude 076°03′46″ W; thence northeast across the Choptank River along the Senator Frederick C. Malkus, Jr. (US–50) Memorial Bridge, at mile 15.5, to latitude 38°35′30″ N, longitude 076°02′52″ W; thence west along the shoreline to latitude 38°35′38″ N, longitude 076°03′09″ W; thence north and west along the shoreline to latitude 38°36′42″ N, longitude 076°04′15″ W; thence southwest across the Choptank River to latitude 38°35′31″ N, longitude 076°04′57″ W; thence west along the Hambrooks Bay breakwall to latitude 38°35′33″ N, longitude 076°05′17″ W; thence south and east along the shoreline to and terminating at the point of origin.

The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after these power boat races, scheduled from 10 a.m. until 6 p.m. on July 27, 2019, and July 28, 2019. Except for participants and vessels already at berth, a vessel or person will be required to get permission from the COTP or PATCOM before entering the regulated area while the rule is being enforced. Vessel operators can request permission to enter and transit through the regulated area by contacting the PATCOM on VHF–FM channel 16. Vessel traffic will be able to safely transit the regulated area once the PATCOM deems it safe to do so. A person or vessel not registered with the event sponsor as a participant or assigned as Official Patrols will be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. If permission is granted by the COTP or PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels will be required to operate at a safe speed that minimizes wake while within the regulated area. Official Patrol vessels will direct spectator vessels while within the regulated area. Vessels will be prohibited from loitering within the navigable channel. Only participant vessels and Official Patrols will be allowed to enter the race area.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, duration and time of year of the racing event, which will impact a small designated area of the Choptank River for 18 total enforcement hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the special local regulation. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the COTP or PATCOM deems it safe to do so.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of a temporary special local regulation for certain navigable waters of the Choptank River. This action is necessary to provide for the safety of life on these waters located at Cambridge, MD, on July 27, 2019, and July 28, 2019, during a high-speed power boat racing event. The temporary regulated area will be enforced for 18 hours during the power boat races. It is categorically excluded from further review under paragraph L61 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Memorandum For the Record for Categorically Excluded Actions supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

For the reasons discussed in the preamble, the Coast Guard amends 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 § 100.501T05–0107 to read as follows:

### § 100.501T05–0107 Special Local Regulation; Choptank River, Cambridge, MD.

(a) *Definitions.* As used in this section:

*Captain of the Port (COTP) Maryland-National Capital Region* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

*Coast Guard Patrol Commander (PATCOM)* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

*Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

*Participants* means all persons and vessels registered with the event sponsor as participating in the Thunder on the Choptank or otherwise designated by the event sponsor as having a function tied to the event.

*Spectators* means all persons and vessels not registered with the event sponsor as participants or assigned as official patrols.

(b) *Regulated Areas.* All coordinates reference Datum NAD 1983. All navigable waters within Choptank River and Hambrooks Bay bounded by a line connecting the following coordinates: Commencing at the shoreline at Long Wharf Park, Cambridge, MD, at position latitude 38°34′30″ N, longitude 076°04′16″ W; thence east to latitude 38°34′20″ N, longitude 076°03′46″ W; thence northeast across the Choptank River along the Senator Frederick C. Malkus, Jr. (US–50) Memorial Bridge, at mile 15.5, to latitude 38°35′30″ N, longitude 076°02′52″ W; thence west along the shoreline to latitude 38°35′38″ N, longitude 076°03′09″ W; thence north and west along the shoreline to latitude 38°36′42″ N, longitude 076°04′15″ W; thence southwest across the Choptank River to latitude 38°35′31″ N, longitude 076°04′57″ W; thence west along the Hambrooks Bay breakwall to latitude 38°35′33″ N, longitude 076°05′17″ W; thence south and east along the shoreline to and terminating at the point of origin. The following locations are within the regulated area:

(1) *Race Area.* Located within the waters of Hambrooks Bay and Choptank River, between Hambrooks Bar and Great Marsh Point, MD.

(2) *Buffer Zone.* All waters within Hambrooks Bay and Choptank River (with the exception of the Race Area designated by the marine event sponsor) bound to the north by the breakwall and continuing along a line drawn from the east end of breakwall located at latitude 38°35′27.6″ N, longitude 076°04′50.1″ W; thence southeast to latitude 38°35′17.7″ N, longitude 076°04′29″ W; thence south to latitude 38°35′01″ N, longitude 076°04′29″ W; thence west to the shoreline at latitude 38°35′01″ N, longitude 076°04′41.3″ W.

(3) *Spectator Area.* All waters of the Choptank River, eastward and outside of Hambrooks Bay breakwall, thence bound by line that commences at latitude 38°35′28″ N, longitude 076°04′50″ W; thence northeast to latitude 38°35′30″ N, longitude 076°04′47″ W; thence southeast to latitude 38°35′23″ N, longitude 076°04′29″ W; thence southwest to latitude 38°35′19″ N, longitude

076°04′31″ W; thence northwest to and terminating at the point of origin.

(c) *Special local regulations.* (1) The COTP Maryland-National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the designated Spectator Area or must pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement periods.* This section will be enforced from 9:30 a.m. to 6:30 p.m. on July 27, 2019, and, from 9:30 a.m. to 6:30 p.m. on July 28, 2019.

Dated: June 21, 2019.

**Joseph B. Loring,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2019–13772 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 100 and 165

**[Docket Number USCG–2018–1076]**

**RIN 1625–AA08; AA00**

## Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adding, deleting, and modifying the special local regulations for annual recurring marine events, safety zones for firework displays, and swim events in the Coast Guard Sector Northern New England Captain of the Port Zone. When enforced, these special local regulations and safety zones will restrict vessels from transiting regulated areas during certain annually recurring events. The special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain marine events.

**DATES:** This rule is effective without actual notice from June 28, 2019. For the purposes of enforcement, actual notice will be used from June 14, 2019 through June 28, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–1076 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Marine Science Technician Thomas Watts, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207–347–5003, email *Thomas.F.Watts@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

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

Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England Captain of the Port (COTP) Zone. The Coast Guard has established special local regulations and safety zones for some of these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from potential hazards. In the past, the Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from regulations associated with these annually recurring events. Events were either added or deleted to the table of annual events based on their likelihood to recur in subsequent years. Additionally, minor changes to existing events such as position, date, or title, were made to ensure the accuracy of event details.

On May 09, 2019 the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone (84 FR 20307). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended on June 10, 2019, we received no comments.

We are issuing this rule under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The comment period for the NPRM associated with the Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events held in the Coast Guard Sector Northern New England Captain of the Port Zone expired on June 10, 2019. The first events are scheduled to occur June 15, 2019. Thus, there is now insufficient time for a 30-

day effective period before the need to enforce safety zones and special local regulations that begin on June 15, 2019. Delaying the enforcement of this safety zone and special local regulations to allow a 30-day effective period will be impractical and contrary to the public interest because it would inhibit the Coast Guard's ability to fulfill its mission to keep the maritime public, ports, and waterways safe.

## III. Legal Authority and Need for Rule

The Coast Guard issues this rulemaking under authority in 33 U.S.C. 1231. This rule updates the tables of annual recurring events in the existing regulation for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include the Local Notice to Mariners, Broadcast Notice to Mariners, and a Notice of Enforcement published in the **Federal Register** at least 30 days prior to the event date. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and, if time permits, a Notice of Enforcement in the **Federal Register**.

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

As noted above, we received no comments on our NPRM published May 10, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Coast Guard amends 33 CFR 100.120 ''Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of three events, deleting two events, and adding on to the TABLE § 100.120. The updates to the TABLE to § 100.120: (1) 5.1 Tall Ships Visiting Portsmouth will become a one day event rather than a four day event; (2) 6.3 Windjammer Days Parade of Ships will become 6.3 Gathering of the Fleet; and (3) updates position for 8.6 Multiple Sclerosis Regatta. The events deleted from the TABLE to § 100.120 will be: (1) 7.7 Yarmouth Clam Festival Paddle Race and (2) 7.8 Maine Windjammer Lighthouse Parade. The event added to the table is the 7.8 Harpswell Lobster Boat Races.

The Coast Guard amends 33 CFR 165.171 ''Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of seven events from the TABLE to § 165.171. This rule proposes the following updates: (1) 7.3 Camden 3rd of July Fireworks will become 7.3 Camden 4th of July Fireworks; (2) 9.1 Windjammer Festival Fireworks will become 9.1 Camden Windjammer Festival Fireworks; (3) updates position of 7.8 Ellis Short Sand Park Trustee Fireworks; (4) updates position of 7.9 Hampton Beach 4th of July Fireworks; (5) updates position of 7.13 Portland Harbor 4th of July Fireworks; (6) updates date of 8.9 Lake Champlain Swimming Race and the safety area around swimmers; and (7) changes name and location of event 8.8 from Challenge Maine Triathlon to Ironman 70.3 Maine.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-day of each regulated area. We are not adding any new special local regulations, rather we are updating existing regulations and removing obsolete events which have not been held for the past three years or which the sponsors indicate they have no intention to continue. Dates and coordinates have been updated to more accurately reflect the event. While we are primarily updating and removing safety zones, t we are adding one safety zone for a swim event. However, this new swim event is only one day long in August and will only impact a small designated area of the waterway for a few hours. Moreover, 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

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

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

### *C. Collection of Information*

This rule 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 rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule 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 rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations for various one day marine events and safety zones for fireworks displays and one day swimming events. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

**List of Subjects**

*33 CFR Part 100*

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

*33 CFR Part 165*

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1231; 33 U.S.C. 1233.

■ 2. In § 100.120, revise Table 1 to read as follows:

**§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone.**

* * * * *

TABLE 1 TO § 100.120

| | |
|---|---|
| 5.0 | May occur May through September |
| 5.1 Tall Ships Visiting Portsmouth | • Event Type: Regatta and Boat Parade.<br>• Date: A multiday event in May.*<br>• Time (Approximate): 9:00 a.m. to 8:00 p.m.<br>• Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83):<br>43°03′11″ N, 070°42′26″ W<br>43°03′18″ N, 070°41′51″ W<br>43°04′42″ N, 070°42′11″ W<br>43°04′28″ N, 070°44′12″ W<br>43°05′36″ N, 070°45′56″ W<br>43°05′29″ N, 070°46′09″ W<br>43°04′19″ N, 070°44′16″ W<br>43°04′22″ N, 070°42′33″ W |
| 6.0 | JUNE |
| 6.1 Charlie Begin Memorial Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event in June.*<br>• Time (Approximate): 10:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83):<br>43°50′04″ N, 069°38′37″ W<br>43°50′54″ N, 069°38′06″ W<br>43°50′49″ N, 069°37′50″ W<br>43°50′00″ N, 069°38′20″ W |
| 6.2 Rockland Harbor Lobster Boat Races | • Event Type: Power Boat Race. |

TABLE 1 TO § 100.120—Continued

| | |
|---|---|
| | • Date: A one day event in June.*<br>• Time (Approximate): 9:00 a.m. to 5:00 p.m.<br>• Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83):<br>44°05′59″ N, 069°04′53″ W<br>44°06′43″ N, 069°05′25″ W<br>44°06′50″ N, 069°05′05″ W<br>44°06′05″ N, 069°04′34″ W |
| 6.3 Gathering of the Fleet | • Event Type: Tall Ship Parade.<br>• Date: A one day event in June.*<br>• Time (Approximate): 12:00 p.m. to 5:00 p.m.<br>• Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83):<br>43°51′02″ N, 069°37′33″ W<br>43°50′47″ N, 069°37′31″ W<br>43°50′23″ N, 069°37′57″ W<br>43°50′01″ N, 069°37′45″ W<br>43°50′01″ N, 069°38′31″ W<br>43°50′25″ N, 069°38′25″ W<br>43°50′49″ N, 069°37′45″ W |
| 6.4 Bass Harbor Blessing of the Fleet Lobster Boat Race | • Event Type: Power Boat Race.<br>• Date: A one day event in June.*<br>• Time (Approximate): 10:00 a.m. to 2:00 p.m.<br>• Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83):<br>44°13′28″ N, 068°21′59″ W<br>44°13′20″ N, 068°21′40″ W<br>44°14′05″ N, 068°20′55″ W<br>44°14′12″ N, 068°21′14″ W |
| 7.0 | JULY |
| 7.1 Burlington 3rd of July Air Show | • Event Type: Air Show.<br>• Date: A one day event held near July 4th.*<br>• Time (Approximate): 8:30 p.m. to 9:00 p.m.<br>• Location: The regulated area includes all waters of Lake Champlain, Burlington, VT within the following points (NAD 83):<br>44°28′51″ N, 073°14′21″ W<br>44°28′57″ N, 073°13′41″ W<br>44°28′05″ N, 073°13′26″ W<br>44°27′59″ N, 073°14′03″ W |
| 7.2 Moosabec Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event held near July 4th.*<br>• Time (Approximate): 10:00 a.m. to 12:30 p.m.<br>• Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83):<br>44°31′21″ N, 067°36′44″ W<br>44°31′36″ N, 067°36′47″ W<br>44°31′44″ N, 067°35′36″ W<br>44°31′29″ N, 067°35′33″ W |
| 7.3 The Great Race | • Event Type: Rowing and Paddling Boat Race.<br>• Date: A one day event in July.*<br>• Time (Approximate): 10:00 a.m. to 12:30 p.m.<br>• Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83):<br>44°47′18″ N, 073°10′27″ W<br>44°47′10″ N, 073°08′51″ W |
| 7.4 Stonington Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event in July.*<br>• Time (Approximate): 8:00 a.m. to 3:30 p.m.<br>• Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83):<br>44°09′06″ N, 068°39′08″ W<br>44°08′60″ N, 068°40′05″ W<br>44°09′06″ N, 068°40′05″ W |

TABLE 1 TO § 100.120—Continued

| | |
|---|---|
| | 44°09′12″ N, 068°39′08″ W |
| 7.5 Mayor's Cup Regatta | • Event Type: Sailboat Parade.<br>• Date: A one day event in July.*<br>• Time (Approximate): 10:00 a.m. to 4:00 p.m.<br>• Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83):<br>44°41′26″ N, 073°23′46″ W<br>44°40′19″ N, 073°24′40″ W<br>44°42′01″ N, 073°25′22″ W |
| 7.6 The Challenge Race | • Event Type: Rowing and Paddling Boat Race.<br>• Date: A one day event in July.*<br>• Time (Approximate): 11:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83):<br>44°12′25″ N, 073°22′32″ W<br>44°12′00″ N, 073°21′42″ W<br>44°12′19″ N, 073°21′25″ W<br>44°13′16″ N, 073°21′36″ W |
| 7.7 Friendship Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event during a weekend between the 15th of July and the 15th of August.*<br>• Time (Approximate): 9:30 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83):<br>43°57′51″ N, 069°20′46″ W<br>43°58′14″ N, 069°19′53″ W<br>43°58′19″ N, 069°20′01″ W<br>43°58′00″ N, 069°20′46″ W |
| 7.8 Harpswell Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event during in July.*<br>• Time (Approximate): 9:30 a.m. to 3:00 pm.<br>• Location: The regulated area includes all waters of Potts Harbor, Maine within the following points (NAD 83):<br>43°44′14″ N, 070°02′14″ W<br>43°44′31″ N, 070°01′47″ W<br>43°44′27″ N, 070°01′40″ W<br>43°44′10″ N, 070°02′08″ W |
| 8.0 | AUGUST |
| 8.1 Eggemoggin Reach Regatta | • Event Type: Wooden Boat Parade.<br>• Date: A one day event on a Saturday between the 15th of July and the 15th of August.*<br>• Time (Approximate): 11:00 a.m. to 7:00 p.m.<br>• Location: The regulated area includes all waters of Eggemoggin Reach and Jericho Bay in the vicinity of Naskeag Harbor, Maine within the following points (NAD 83):<br>44°15′16″ N, 068°36′26″ W<br>44°12′41″ N, 068°29′26″ W<br>44°07′38″ N, 068°31′30″ W<br>44°12′54″ N, 068°33′46″ W |
| 8.2 Southport Rowgatta Rowing and Paddling Boat Race | • Event Type: Rowing and Paddling Boat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 8:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83):<br>43°50′26″ N, 069°39′10″ W<br>43°49′10″ N, 069°38′35″ W<br>43°46′53″ N, 069°39′06″ W<br>43°46′50″ N, 069°39′32″ W<br>43°49′07″ N, 069°41′43″ W<br>43°50′19″ N, 069°41′14″ W<br>43°51′11″ N, 069°40′06″ W |
| 8.3 Winter Harbor Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 9:00 a.m. to 3:00 p.m. |

TABLE 1 TO § 100.120—Continued

| | |
|---|---|
| | • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83):<br>44°22′06″ N, 068°05′13″ W<br>44°23′06″ N, 068°05′08″ W<br>44°23′04″ N, 068°04′37″ W<br>44°22′05″ N, 068°04′44″ W |
| 8.4 Lake Champlain Dragon Boat Festival | • Event Type: Rowing and Paddling Boat Race.<br>• Date: A two day event in August.*<br>• Time (Approximate): 7:00 a.m. to 5:00 p.m.<br>• Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83):<br>44°28′49″ N, 073°13′22″ W<br>44°28′41″ N, 073°13′36″ W<br>44°28′28″ N, 073°13′31″ W<br>44°28′38″ N, 073°13′18″ W |
| 8.5 Merritt Brackett Lobster Boat Races | • Event Type: Power Boat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 10:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83):<br>43°52′16″ N, 069°32′10″ W<br>43°52′41″ N, 069°31′43″ W<br>43°52′35″ N, 069°31′29″ W<br>43°52′09″ N, 069°31′56″ W |
| 8.6 Multiple Sclerosis Regatta | • Event Type: Regatta and Sailboat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 10:00 a.m. to 4:00 p.m.<br>• Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83):<br>43°40′25″ N, 070°14′21″ W<br>43°40′36″ N, 070°13′56″ W<br>43°39′58″ N, 070°13′21″ W<br>43°39′46″ N, 070°13′51″ W |
| 8.7 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races | • Event Type: Power Boat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 10:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Maine State Pier within the following points (NAD 83):<br>43°40′25″ N, 070°14′21″ W<br>43°40′36″ N, 070°13′56″ W<br>43°39′58″ N, 070°13′21″ W<br>43°39′47″ N, 070°13′51″ W |
| 8.8 Long Island Lobster Boat Race | • Event Type: Power Boat Race.<br>• Date: A one day event in August.*<br>• Time (Approximate): 10:00 a.m. to 3:00 p.m.<br>• Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine within the following points (NAD 83):<br>43°41′59″ N, 070°08′59″ W<br>43°42′04″ N, 070°09′10″ W<br>43°41′41″ N, 070°09′38″ W<br>43°41′36″ N, 070°09′30″ W |

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

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

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

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

■ 4. In § 165.171, revise Table 1 to read as follows:

**§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.**

* * * * *

TABLE 1 TO § 165.171

| | |
|---|---|
| 6.0 | JUNE |
| 6.1 Waterfront Days Fireworks | • Event Type: Fireworks Display.<br>• Date: Two night event in June.*<br>• Time (Approximate): 8:00 p.m. to 10:00 p.m.<br>• Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position:<br>44°13′52″ N, 069°46′08″ W (NAD 83) |
| 6.2 LaKermesse Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in June.*<br>• Time (Approximate): 8:00 p.m. to 10:00 p.m.<br>• Location: Biddeford, Maine in approximate position:<br>43°29′37″ N, 070°26′47″ W (NAD 83) |
| 6.3 Windjammer Days Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in June.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position:<br>43°50′38″ N, 069°37′57″ W (NAD 83) |
| 7.0 | JULY |
| 7.1 Vinalhaven 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position:<br>44°02′34″ N, 068°50′26″ W (NAD 83) |
| 7.2 Burlington Independence Day Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 9:00 p.m. to 11:00 p.m.<br>• Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position:<br>44°28′31″ N, 073°13′31″ W (NAD 83) |
| 7.3 Camden 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:00 p.m.<br>• Location: In the vicinity of Camden Harbor, Maine in approximate position:<br>44°12′32″ N, 069°02′58″ W (NAD 83) |
| 7.4 Bangor 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position:<br>44°47′27″ N, 068°46′31″ W (NAD 83) |
| 7.5 Bar Harbor 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position:<br>44°23′31″ N, 068°12′15″ W (NAD 83) |
| 7.6 Boothbay Harbor 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position:<br>43°50′38″ N, 069°37′57″ W (NAD 83) |
| 7.7 Eastport 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 9:00 p.m. to 9:30 p.m.<br>• Location: From the Waterfront Public Pier in Eastport, Maine in approximate position:<br>44°54′25″ N, 066°58′55″ W (NAD 83) |
| 7.8 Ellis Short Sand Park Trustee Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:30 p.m. to 11:00 p.m. |

TABLE 1 TO § 165.171—Continued

| | |
|---|---|
| | • Location: In the vicinity of York Beach, Maine in approximate position:<br>43°10′27″ N, 070°36′26″ W (NAD 83) |
| 7.9 Hampton Beach 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:30 p.m. to 11:00 p.m.<br>• Location: In the vicinity of Hampton Beach, New Hampshire in approximate position:<br>42°54′40″ N, 070°48′31″ W (NAD 83) |
| 7.10 Moosabec 4th of July Committee Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position:<br>44°31′18″ N, 067°36′43″ W (NAD 83) |
| 7.11 Lubec 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of the Lubec Public Boat Launch in approximate position:<br>44°51′52″ N, 066°59′06″ W (NAD 83) |
| 7.12 Main Street Heritage Days 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position:<br>43°54′56″ N, 069°48′16″ W (NAD 83) |
| 7.13 Portland Harbor 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:30 p.m. to 10:30 p.m.<br>• Location: In the vicinity of East End Beach, Portland, Maine in approximate position:<br>43°40′15″ N, 070°14′42″ W (NAD 83) |
| 7.14 St. Albans Day Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 9:00 p.m. to 10:00 p.m.<br>• Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position:<br>44°48′25″ N, 073°08′23″ W (NAD 83) |
| 7.15 Stonington 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position:<br>44°08′57″ N, 068°39′54″ W (NAD 83) |
| 7.16 Southwest Harbor 4th of July Fireworks | • Event Type: Fireworks Display.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: Southwest Harbor, Maine in approximate position:<br>44°16′25″ N, 068°19′21″ W (NAD 83) |
| 7.17 Shelburne Triathlons | • Event Type: Swim Event.<br>• Date: Up to three Saturdays throughout July and August.*<br>• Time (Approximate): 7:00 a.m. to 11:00 a.m.<br>• Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point:<br>44°21′45″ N, 075°15′58″ W (NAD 83) |
| 7.18 St. George Days Fireworks | • Event Type: Fireworks.<br>• Date: One night event in July.*<br>• Time (Approximate): 8:30 p.m. to 10:30 p.m.<br>• Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position:<br>43°57′41‘‘N 069°12′45‘‘W (NAD 83) |
| 7.19 Tri for a Cure Swim Clinics and Triathlon | • Event Type: Swim Event. |

TABLE 1 TO § 165.171—Continued

| | |
|---|---|
| | • Date: A multi-day event held throughout July.*<br>• Time (Approximate): 8:30 a.m. to 11:30 a.m.<br>• Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83):<br>43°39′01″ N, 070°13′32″ W<br>43°39′07″ N, 070°13′29″ W<br>43°39′06″ N, 070°13′41″ W<br>43°39′01″ N, 070°13′36″ W |
| 7.20 Richmond Days Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:00 p.m.<br>• Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position:<br>44°08′42″ N, 068°27′06″ W (NAD 83) |
| 7.21 Colchester Triathlon | • Event Type: Swim Event.<br>• Date: A one day event in July.*<br>• Time (Approximate): 7:00 a.m. to 11:00 a.m.<br>• Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83):<br>44°32′57″ N, 073°12′38″ W<br>44°32′46″ N, 073°13′00″ W<br>44°33′24″ N, 073°11′43″ W<br>44°33′14″ N, 073°11′35″ W |
| 7.22 Peaks to Portland Swim | • Event Type: Swim Event.<br>• Date: A one day event in July.*<br>• Time (Approximate): 5:00 a.m. to 1:00 p.m.<br>• Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83):<br>43°39′20″ N, 070°11′58″ W<br>43°39′45″ N, 070°13′19″ W<br>43°40′11″ N, 070°14′13″ W<br>43°40′08″ N, 070°14′29″ W<br>43°40′00″ N, 070°14′23″ W<br>43°39′34″ N, 070°13′31″ W<br>43°39′13″ N, 070°11′59″ W |
| 7.23 Friendship Days Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position:<br>43°58′23″ N, 069°20′12″ W (NAD 83) |
| 7.24 Bucksport Festival and Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in July.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine, in approximate position:<br>44°34′9‘‘N 068°47′28‘‘W (NAD 83) |
| 7.25 Nubble Light Swim Challenge | • Event Type: Swim Event.<br>• Time (Approximate): 9:00 a.m. to 12:30 p.m.<br>• Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates:<br>43°10′28″ N, 070°36′26″ W<br>43°10′34″ N, 070°36′06″ W<br>43°10′30″ N, 070°35′45″ W<br>43°10′17″ N, 070°35′24″ W<br>43°09′54″ N, 070°35′18″ W<br>43°09′42″ N, 070°35′37″ W<br>43°09′51″ N, 070°37′05″ W |
| 7.26 Paul Coulombe Anniversary Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in July.*<br>• Time: 8:00 p.m. to 11:30 p.m.<br>• Location: In the vicinity of Pratt Island, Southport, ME, in approximate position:<br>43°48′44‘‘N 069°41′11‘‘W (NAD 83) |
| 7.27 Castine 4th of July Fireworks | • Event Type: Fireworks Display. |

TABLE 1 TO § 165.171—Continued

| | |
|---|---|
| | • Date: One night event in July.*<br>• Time (Approximate): 9:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine in approximate position:<br>44°23′10″ N, 068°47′28″ W (NAD 83) |
| 8.0 | AUGUST |
| 8.1 Westerlund's Landing Party Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in August.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position:<br>44°10′29″ N, 069°45′16″ W (NAD 83) |
| 8.2 York Beach Fire Department Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in August.*<br>• Time (Approximate): 8:30 p.m. to 11:30 p.m.<br>• Location: In the vicinity of Short Sand Cove in York, Maine in approximate position:<br>43°10′27″ N, 070°36′25″ W (NAD 83) |
| 8.3 North Hero Air Show | • Event Type: Air Show.<br>• Date: A one day event in August.*<br>• Time (Approximate): 10:00 a.m. to 5:00 p.m.<br>• Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position:<br>44°48′24″ N, 073°17′02″ W<br>44°48′22″ N, 073°16′46″ W<br>44°47′53″ N, 073°16′54″ W<br>44°47′54″ N, 073°17′09″ W |
| 8.4 Islesboro Crossing Swim | • Event Type: Swim Event.<br>• Date: A one day event in August.*<br>• Time: (Approximate): 6:00 a.m. to 11:00 a.m.<br>• Location: West Penobscot Bay from Ducktrap Beach, Lincolnville, ME to Grindel Point, Islesboro, ME, in approximate position:<br>44°17′44″ N, 069°00′11″ W<br>44°16′58″ N, 068°56′35″ W |
| 8.5 Paul Coulombe Party Fireworks | • Event Type: Fireworks Display.<br>• Date: A one day event in August.*<br>• Time (Approximate): 9:00 p.m. to 10:30 p.m.<br>• Location: From a barge in the vicinity of Pratt Island, Southport, Maine in approximate position:<br>43°48′69″ N, 069°41′18″ W (NAD 83) |
| 8.6 Casco Bay Island Swim/Run | • Event Type: Swim/Run Event.<br>• Date: A one day event in August.*<br>• Time (Approximate): 7:30 a.m. to 1:00 p.m.<br>• Location: All waters of Casco Bay, Maine in the vicinity of Casco Bay Island archipelago and within the following coordinates (NAD 83):<br>43°42′47″ N, 070°07′07″ W<br>43°38′09″ N, 070°11′57″ W<br>43°34′57″ N, 070°12′55″ W<br>43°41′31″ N, 070°11′37″ W<br>43°43′25″ N, 070°08′25″ W |
| 8.7 Port Mile Swim | • Event Type: Swim Event.<br>• Date: A one day event August.*<br>• Time (Approximate): 7:00 a.m. to 9:00 a.m.<br>• Location: All waters of Casco Bay, Maine in the vicinity of East End Beach within the following points (NAD 83):<br>43°40′09″ N, 070°14′27″ W<br>43°40′05″ N, 070°14′01″ W<br>43°40′21″ N, 070°14′09″ W |
| 8.8 Ironman 70.3 Maine | • Event Type: Swim Event.<br>• Date: A one day event August.*<br>• Time (Approximate): 6:00 a.m. to 08:30 a.m.<br>• Location: All waters of Saco Bay, Maine in the vicinity of Old Orchard Beach within the following points (NAD 83):<br>43°30′54″ N, 070°22′24″ W<br>43°31′14″ N, 070°22′08″ W<br>43°30′39″ N, 070°21′46″ W |

TABLE 1 TO § 165.171—Continued

| | |
|---|---|
| | 43°31′00″ N, 070°21′30″ W |
| 8.9 Lake Champlain Swimming Race | • Event Type: Swim Event.<br>Date: A one day event in August<br>• Time (Approximate): 9:00 a.m. to 3 p.m.<br>• Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT.<br>44°18′32″ N, 073°20′52″ W<br>44°20′03″ N, 073°16′53″ W |
| 9.0 | SEPTEMBER |
| 9.1 Camden Windjammer Festival Fireworks | • Event Type: Fireworks Display.<br>• Date: A one night event in September.*<br>• Time (Approximate): 8:00 p.m. to 9:30 p.m.<br>• Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position:<br>44°12′18″ N, 069°03′11″ W (NAD 83) |
| 9.2 Eastport Pirate Festival Fireworks | • Event Type: Fireworks Display.<br>• Date: A one night event in September.*<br>• Time (Approximate): 7:00 p.m. to 10:00 p.m.<br>• Location: From the Waterfront Public Pier in Eastport, Maine in approximate position:<br>44°54′17″ N, 066°58′58″ W (NAD 83) |
| 9.3 The Lobsterman Triathlon | • Event Type: Swim Event.<br>• Date: A one day event in September.*<br>• Time (Approximate): 8:00 a.m. to 11:00 a.m.<br>• Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83):<br>43°47′59″ N, 070°06′56″ W<br>43°47′44″ N, 070°06′56″ W<br>43°47′44″ N, 070°07′27″ W<br>43°47′57″ N, 070°07′27″ W |
| 9.4 Eliot Festival Day Fireworks | • Event Type: Fireworks Display.<br>• Date: A one night event in September.*<br>• Time (Approximate): 8:00 p.m. to 10:30 p.m.<br>• Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position:<br>43°08′56″ N, 070°49′52″ W (NAD 83) |

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: June 21, 2019.

**B.J. LeFebvre,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Northern New England.*

[FR Doc. 2019–13635 Filed 6–27–19; 8:45 a.m.]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0535]**

## Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce certain safety zones located in the Federal regulations for Annual Events in the Captain of the Port Buffalo zone. This action is necessary and intended to protect the safety of life and property on navigable waters prior to, during, and immediately after these events. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo.

**DATES:** The regulations in 33 CFR 165.939 as listed in Table 165.939 will be enforced for the events and times as stated in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email LT Sean Dolan, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939 for the following events:

1. *July 3rd Fireworks Spectacular—Under the Gun and Country Swag formerly known as Island Festival Fireworks, Baldwinsville, NY;* The safety zone listed in Table 165.939 as (b)(21) will be enforced within a 420-foot radius of position 43°09′23.4″ N, 076°20′16.6″ W, from 10 p.m. through 11 p.m. on July 3, 2019.

2. *Olcott Fireworks, Olcott, NY;* The safety zone listed in Table 165.939 as (b)(24) will be enforced from 9:45 p.m. through 10:45 p.m. on July 3, 2019. In the case of inclement weather, the zone will be enforced from 9:45 p.m. through 10:45 p.m. on July 12, 2019.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zones during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or a designated representative. Those

seeking permission to enter the safety zones may request permission from the Captain of the Port Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter the safety zones shall obey the directions of the Captain of the Port Buffalo or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice of enforcement he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: June 25, 2019.

**Joseph S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2019–13881 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2019–0372]**

**RIN 1625–AA00**

## Safety Zone, Fourth of July Fireworks Patriots Point, Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Cooper River at Patriot's Point in Charleston, SC. This action is necessary to provide for the safety of the general public, spectators, vessels, and the marine environment from potential hazards during a fireworks display. This rulemaking will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from 7:45 p.m. to 9:15 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0372 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

On April 10, 2019, the Patriots Point Naval and Maritime Museum notified the Coast Guard that it would be conducting a fireworks display from 8 p.m. to 9 p.m. on July 4, 2019. The fireworks will be launched from a barge along the bank of the Cooper River at Patriot's Point in Charleston, SC. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. In response to their request, on June 4, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Fourth of July Fireworks Patriots Point, Charleston, SC'' (84 FR 25723). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 19, 2019, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because we must establish this safety zone by July 4, 2019 to ensure the protection of the general public from the dangers associated with the event.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously U.S.C. 1231) The COTP Charleston has determined that potential hazards associated with the fireworks display will be a safety concern for anyone within 500-yards of the barge from which fireworks will be launched. The purpose of the rule is to ensure the safety of participants, spectators, the general public, vessels and the navigable waters in the safety zone before, during and after the scheduled event.

### IV. Discussion of the Rule

As noted above, we received no comments on our NPRM that published on June 4, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7:45 p.m. to 9:15 p.m. on July 4, 2019. The safety zone will cover certain navigable waters within 500 yards of the fireworks barge located at Patriot's Point on the Cooper River in Charleston, SC. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 p.m. to 9 p.m. fireworks display. No vessel or person will be permitted to enter, transit through, anchor in or remain within the safety zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

### V. Regulatory Analyses

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

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

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

from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone: The safety zone will only be enforced for an hour and a half, and although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, vessel traffic will be able to safely operate in the surrounding area during the enforcement period and the rule would allow vessels to seek permission to enter the zone. Moreover, the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16.

*B. Impact on Small Entities*

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

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only one and a half hours that will prohibit entry within 500 yards of a barge from which fireworks will be launched. It is categorically excluded from further review under paragraph L60(A) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–0372 to read as follows:

**§ 165.T07–0372 Safety Zone; Patriots Point Fireworks, Charleston, SC.**

(a) *Location.* This rule establishes a safety zone on all waters within a 500-yard radius of the barge, from which fireworks will be launched on the bank of the Cooper River at Patriot's Point in Charleston, SC.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the

Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced on July 4, 2019 from 7:45 p.m. until 9:15 p.m.

Dated: June 21, 2019.

**J.W. Reed,**

*Captain, U.S. Coast Guard, Captain of the Port, Charleston.*

[FR Doc. 2019–13769 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0418]**

## Safety Zones; Northern California and Lake Tahoe Area Annual Fourth of July Fireworks Events

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce numerous safety zones within the Captain of the Port San Francisco Zone on specified dates and times in celebration of the Fourth of July. This action is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Our regulation for marine events within Northern California and the Lake Tahoe area identifies the regulated area for these events. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the regulated areas without permission of the Captain of the Port or a designated representative.

**DATES:** The regulations in 33 CFR 165.1191, Table 1, will be enforced for the dates and times identified in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Lieutenant Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zones listed in 33 CFR 165.1191, Table 1, Item numbers 3, 4, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, and 28. Dates, times, and locations are indicated in the table below and will be published in the Local Notice to Mariners at least 20 days prior to the date of each of the events.

3. Fourth of July Fireworks, City of Eureka

| | |
|---|---|
| Sponsor | City of Eureka, CA. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From noon on July 3, 2019 to 9:30 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9:30 p.m. until approximately 10:55 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at Schneider Dock and transit to the display location in Humboldt Bay, CA, at approximate position 40°48.49′ N, 124°10.11′ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

4. Fourth of July Fireworks, Crescent City

| | |
|---|---|
| Sponsor | Crescent City, CA. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 9:30 p.m. until approximately 10:20 p.m. on July 4, 2019. |
| Location | The West Jetty of Crescent City Harbor, Crescent City, CA, at approximate position 41°44′39″ N, 124°11′58″ W. |
| Regulated Area | Crescent City Harbor in the navigable waters within a 700-foot radius of the launch platform located on the West Jetty. |

8. Fourth of July Fireworks, Berkeley Marina

| | |
|---|---|
| Sponsor | Berkeley Marina. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 9 a.m. to 9 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:20 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at Pier 50 in San Francisco, CA and transit to the display location near Berkeley Pier at approximate position 37°51′40″ N, 122°19′19″ W. |
| Regulated Area | 100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

| 9. Fourth of July Fireworks, City of Richmond | |
|---|---|
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 3, 2019. |
| Time | From 9 a.m. to 9 p.m. on July 3, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:20 p.m. on July 3, 2019, the safety zone will encompass all navigable waters within a 560-foot radius of the fireworks barge. |
| Location | The barge will load at Pier 50 in San Francisco and transit to the display location in Richmond Harbor in approximate position 37°54′40″ N, 122°21′05″ W, Richmond, CA. |
| Regulated Area | 100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display. |

| 10. Fourth of July Fireworks, City of Sausalito | |
|---|---|
| Sponsor | City of Sausalito. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 9 a.m. to 9 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:15 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at Pier 50 in San Francisco, CA and transit to the display location 1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant in approximate position 37°51′30.93″ N, 122°28′28″ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

| 11. Fourth of July Fireworks, City of Martinez | |
|---|---|
| Sponsor | City of Martinez. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 9:30 p.m. until approximately 10:20 p.m. on July 4, 2019. |
| Location | The fireworks will be launched from shore along the Carquinez Strait at approximate position 38°01′32″ N, 122°08′24″ W. |
| Regulated Area | The area of navigable waters within a 560-foot radius of the launch platform located near Waterfront Park. |

| 13. Fourth of July Fireworks, City of Pittsburg | |
|---|---|
| Sponsor | City of Pittsburg. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | Approximately 9 p.m. to 10:20 p.m. on July 4, 2019. |
| Location | Suisun Bay, CA. |
| Regulated Area | The area of navigable waters within a 560-foot radius of the launch platform located on the Pittsburg Marina Pier in approximate position 38°02′32″ N, 121°53′19″ W. |

| 14. Delta Independence Day Celebration Fireworks | |
|---|---|
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 8 a.m. to 9 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:20 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at the Dutra Corp Yard in Rio Vista, CA, and transit to the display location in the San Joaquin River, near Mandeville Island, CA, at approximate position 38°03′20.5″ N, 121°32′03″ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

| 15. Fourth of July Fireworks, Tahoe City, CA | |
|---|---|
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 7 a.m. to 9 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:20 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at Kings Beach, CA and transit to the display location off-shore from Common Beach, Tahoe City, CA in approximate position 39°10.04′ N, 120°08.15′ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

| 16. Fourth of July Fireworks, Glenbrook NV | |
|---|---|
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 8 a.m. to 9 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:25 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load in Glenbrook, NV and transit to the display location off-shore Glenbrook Beach, NV in approximate position 39°05′18.40″ N, 119°56′34.67″ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |
| 17. Independence Day Fireworks, Kings Beach, CA | |
| Sponsor | North Tahoe Business Association. |
| Event Description | Fireworks Display. |
| Date | July 3, 2019. |
| Time | From 7 a.m. to 9 p.m. on July 3, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:20 p.m. on July 3, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load in Kings Beach, CA and will transit to the display location off-shore from Kings Beach, CA in approximate position 39°13.98′ N, 120°01.61′ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |
| 18. Lights on the Lake Fourth of July Fireworks, South Lake Tahoe, CA | |
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 7 a.m. on July 1, 2019 to 9:15 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:45 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load in Edgewood, Stateline, NV and transit to the display location off South Lake Tahoe, CA near the Nevada border in approximate position 38°57′56″ N, 119°57′21″ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |
| 19. Red, White, and Tahoe Blue Fireworks, Incline Village, NV | |
| Sponsor | Various Sponsors. |
| Event Description | Fireworks Display. |
| Date | July 4, 2019. |
| Time | From 7:30 a.m. on July 3, 2019 to 9:10 p.m. on July 4, 2019, the barge will load, transit, and stage at the display location. From 9:10 p.m. until approximately 10:30 p.m. on July 4, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at IVGID Boat Launch and transit to the display location 500–1,000 feet off Incline Village, NV in Crystal Bay in approximate position 39°14′13″ N, 119°57′01″ W. |
| Regulated Area | 100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display. |
| 28. Execpro Services Fourth of July Fireworks | |
| Sponsor | Execpro Services Inc. |
| Event Description | Fireworks Display. |
| Date | July 5, 2019. |
| Time | From 6 a.m. on July 3, 2019 to 9 p.m. on July 5, 2019, the barge will load, transit, and stage at the display location. From 9 p.m. until approximately 10:25 p.m. on July 5, 2019, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge. |
| Location | The barge will load at Obexer's Marine and Sand Harbor and transit to the display location off-shore from Incline Village, NV in approximate position 39°13′56″ N, 119°56′24″ W. |
| Regulated Area | 100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display. |

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol defined as a Federal, state, or local law enforcement agency on scene to assist the Coast Guard in enforcing the safety zones. During the enforcement period, if you are the operator of a vessel in one of the safety zones you must comply with

directions from the Patrol Commander or other Official Patrol.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 18, 2019.

**Marie B. Byrd,**

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

[FR Doc. 2019–13795 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0527]**

## Safety Zones; Annual Events in the Captain of the Port Detroit Zone, Fireworks

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a safety zone for an annual marine event in the Captain of the Port Detroit zone. Enforcement of this zone is necessary and intended to protect the safety of life on the navigable waters immediately prior to, during, and immediately after the fireworks display. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels within the safety zone. During the enforcement period, no person or vessel may enter the respective safety zone without permission of the Captain of the Port or his designated representative.

**DATES:** The regulation in 33 CFR 165.941, Table 1(50), will be enforced from 8:30 p.m. through 10 p.m. on July 5, 2019, and in the event of inclement weather from 8:30 p.m. through 10 p.m. on July 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email Allie Lee, Prevention Department, telephone (419) 418–6023, email *Allie.L.Lee@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce Safety Zones; Annual Events in the Captain of the Port Detroit Zone listed in 33 CFR 165.941, LAZ Trommler fireworks, Table 1(50), from 8:30 p.m. through 10 p.m. on July 5, 2019, and in the event of inclement weather from 8:30 p.m. through 10 p.m. on July 6, 2019.

Entry into, transiting, or anchoring within this safety zone during the enforcement period is prohibited unless authorized by the Captain of the Port Detroit or a designated representative.

Vessels that wish to transit through the safety zone may request permission from the Captain of the Port Detroit or his designated representative. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals will be granted on a case by case basis.

This notice of enforcement is issued under authority of 33 CFR 165.941 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the above-specified enforcement periods of this safety zone via VHF Broadcasts and Local Notice to Mariners. If the Captain of the Port determines that this safety zones need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM or by calling (313) 568–9564.

Dated: June 25, 2019.

**Jeffrey W. Novak,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2019–13829 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2019–0371]**

**RIN 1625–AA00**

## Safety Zone, City of North Charleston Fireworks, North Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Cooper River in North Charleston, SC. This action is necessary to provide for the safety of the general public, spectators, vessels, and the marine environment from potential hazards during a fireworks display. This rulemaking will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from 8:45 p.m. to 10:15 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0371 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

On April 23, 2019, the City of North Charleston notified the Coast Guard that it would be conducting a fireworks display from 9 p.m. to 10 p.m. on July 4, 2019. The fireworks are to be launched from a barge along the bank of the Cooper River at River Front Park in North Charleston, SC. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. In response to their request, on June 4, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; City of North Charleston Fireworks, North Charleston, SC'' (84 FR 25721). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 19, 2019, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because we must establish this

safety zone by July 4, 2019 to ensure the protection of the general public from the dangers associated with the event.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously U.S.C. 1231). The COTP Charleston (COTP) has determined that potential hazards associated with the fireworks display will be a safety concern for anyone within 500-yards of the barge launching the fireworks. The purpose of the rule is to ensure the safety of participants, spectators, the general public, vessels and the navigable waters in the safety zone before, during and after the scheduled event.

## IV. Discussion of the Rule

As noted above, we received no comments on our NPRM published June 4, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8:45 p.m. to 10:15 p.m. on July 4, 2019. The safety zone will cover certain navigable waters within 500 yards of the fireworks barge located at River Front Park on the Cooper River in North Charleston, SC. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9 p.m. to 10 p.m. fireworks display. No vessel or person will be permitted to enter, transit through, anchor in or remain within the safety zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone will only be enforced for an hour and a half, and although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, vessel traffic will be able to safely operate in the surrounding area during the enforcement period and the rule would allow vessels to seek permission to enter the zone. Moreover, the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16.

### *B. Impact on Small Entities*

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

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

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

### *C. Collection of Information*

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

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

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

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

### *E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only one and a half hours that will prohibit entry within 500 yards of a barge from which fireworks will be launched. It is categorically excluded from further review under paragraph L60(A) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–0371 to read as follows:

**§ 165.T07–0371 Safety Zone; City of North Charleston Fireworks, North Charleston, SC.**

(a) *Location.* This rule establishes a safety zone on all waters within a 500-yard radius of the barge, from which fireworks will be launched on the bank of the Cooper River at River Front Park in North Charleston, South Carolina.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced on July 4, 2019 from 8:45 p.m. until 10:15 p.m.

Dated: June 21, 2019.

**J.W. Reed,**

*Captain, U.S. Coast Guard, Captain of the Port, Charleston.*

[FR Doc. 2019–13771 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2019–0416]**

**RIN 1625–AA00**

## Safety Zone; Upper Mississippi River, Chester, IL, Thebes, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of the Upper Mississippi River from Chester, IL to Thebes, IL from mile maker 109.9 to 33.0. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by high water. Entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley.

**DATES:** This rule is effective without actual notice from June 28, 2019 through July 2, 2019. For the purposes of enforcement, actual notice will be used from June 2, 2019 through June 28, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0416 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email MST2 Dylan Caikowski, MSU Paducah, U.S. Coast Guard; telephone 270–442–1621 ext. 2120, email *STL-SMB-MSUPaducah-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

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

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30

days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest because immediate action is necessary to respond to the safety hazards associated with high water and flooding on this area of the Mississippi River.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with high water starting June 2, 2019, will be a safety concern for personnel, vessels, and the marine environment. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during high water.

## IV. Discussion of the Rule

This rule establishes a safety zone from June 2, 2019 through July 2, 2019. The rule will be enforced from June 2, 2019 through July 2, 2019 or until the Cape Girardeau river gauge falls below 45 feet, whichever occurs first. The safety zone will cover all navigable waters of the Upper Mississippi River from mile marker (MM) 109.9 to MM 33.0. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during high water. A broadcast notice to mariners will be issued to inform the public when the safety zone is being enforced. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone will only impact a relatively small portion of the waterway for about 30 days, and will only be in effect during the duration of high water.

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

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

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone on the Upper Mississippi River from MM 109.9 to MM 33.0. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental

Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0416 to read as follows:

**§ 165.T08–0416 Safety Zone; Upper Mississippi River, Chester, IL, Thebes, IL.**

(a) *Location.* The safety zone will cover all navigable waters of the Upper Mississippi River from mile marker (MM) 109.9 to MM 33.0.

(b) *Effective period.* This section is effective without actual notice from June 28, 2019 through July 2, 2019. For the purposes of enforcement, actual notice will be used from June 2, 2019 through June 28, 2019.

(c) *Enforcement period.* This section will be enforced from June 2, 2019 through July 2, 2019 or until the Cape Girardeau river gauge falls below 45 feet, whichever occurs first

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

(2) Vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

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

(e) *Information broadcasts.* The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: May 31, 2019.

**M.B. Zamperini,**

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

[FR Doc. 2019–13788 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2019–0436]**

**RIN 1625–AA00**

## Safety Zone; Lakewood Independence Day Fireworks; Lake Erie, Lakewood, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 420-foot radius of the launch site located at position 41°29′50″ N, 081°47′52″ W at Lakewood Park, Lakewood, OH. This safety zone is needed to restrict vessels from a portion of Lake Erie during the Lakewood Independence Day fireworks display. The temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessel or person into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 9:45 p.m. through 10:45 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0436 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Ryan Junod, Chief Waterways Management Division, U.S. Coast Guard; telephone 216–937–0124, email *D09-SMB-MSUCleveland-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the rule's objectives of protecting safety of life on the navigable waters in the vicinity of the fireworks display.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Buffalo determined that a fireworks display presents significant risks to the public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable

waters within the safety zone while the fireworks display takes place.

## IV. Discussion of the Rule

This rule establishes a safety zone from 9:45 p.m. through 10:45 p.m. on July 4, 2019. The safety zone will cover all navigable waters of Lake Erie, Lakewood, OH contained within 420 feet of the fireworks launch site located at: 41°29′50″ N, 081°47′52″ W.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks event takes place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the Captain of the Port Buffalo or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the conclusion that this rule is not a significant regulatory action. 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 safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

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

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 1 hour that will prohibit entry within 420 feet of position 41°29′50″ N, 081°47′52″ W, Lakewood, OH. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters.

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

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

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

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

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

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0436 to read as follows:

**§ 165.T09–0436 Safety Zone; Lakewood Independence Day Fireworks; Lake Erie, Lakewood, OH.**

(a) *Location.* The safety zone will encompass all waters of Lake Erie in Lakewood, OH contained within a 420 foot radius of the fireworks launch site located at position 41°29′50″ N, 081°47′52″ W (NAD 83).

(b) *Enforcement period.* The regulation in this section will be enforced from 9:45 p.m. through 10:45 p.m. on July 4, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or a designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or their designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who is designated by the Captain of the Port Buffalo to act on their behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or an on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or an on-scene representative.

Dated: June 25, 2019.

**Joseph S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2019–13879 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0492]**

**RIN 1625–AA00**

## Safety Zone; San Francisco Waterfront Celebration Fireworks Display; San Francisco Bay, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones in the navigable waters of the San Francisco Bay near Aquatic Park in support of the San Francisco Waterfront Celebration on July 4, 2019. These safety zones are necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or a designated representative.

**DATES:** This rule is effective from 9 a.m. on July 3, 2019 to 10:30 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0492 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

COTP Captain of the Port San Francisco
CFR Code of Federal Regulations
DHS Department of Homeland Security
§ Section
U.S.C. United States Code

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Since the Coast Guard received notice of this event on April 24, 2019, notice and comment procedures would be impracticable in this instance.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For similar reasons as stated above, notice and comment procedures would be impractical in this instance due to the short notice provided for this event.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with the San Francisco Waterfront Celebration Fireworks Display on July 4, 2019, will be a safety concern for anyone within a 100-foot radius of the fireworks barges during loading, staging, and transit, and anyone within a 700-foot radius of the fireworks barges starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, safety zones are needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks barges during the fireworks display.

### IV. Discussion of the Rule

This rule establishes safety zones from 9 a.m. on July 3, 2019 until 10:30 p.m. on July 4, 2019 during the loading, staging, and transit of the four fireworks barges, until approximately 30 minutes after completion of the fireworks display. From 9 a.m. on July 3, 2019 to 9 p.m. on July 4, 2019, during the loading, staging, and transit of the fireworks barges until 30 minutes prior to the start of the fireworks display, the

safety zones will encompass the navigable waters around and under the four fireworks barges, from surface to bottom, within a circle formed by connecting all points 100 feet out from each of the fireworks barges. Loading the pyrotechnics onto the fireworks barges is scheduled from 9 a.m. on July 3, 2019 to 7:30 p.m. on July 4, 2019, at Pier 50 in San Francisco, CA. From 7:30 p.m. to 8:15 p.m. on July 4, 2019, the fireworks barges will be towed from Pier 50 to the two display locations, where they will remain until the conclusion of the fireworks display.

At 9 p.m. on July 4, 2019, 30 minutes prior to the commencement of the 30-minute San Francisco Waterfront Celebration Fireworks Display, the safety zones will increase in size and encompass the navigable waters around and under the fireworks barges, from surface to bottom, within the circles formed by connecting all points 700 feet from the circle centers at approximate positions 37°48′49″ N, 122°24′46″ W (NAD 83) and 37°48′45″ N, 122°25′39″ W (NAD 83). The safety zones will terminate at 10:30 p.m. on July 4, 2019.

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

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

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

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

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

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security

Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones of limited size and duration. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–981 to read as follows:

### § 165.T11–981 Safety Zone; San Francisco Waterfront Celebration Fireworks Display; San Francisco Bay, San Francisco, CA.

(a) *Location.* The following areas are safety zones: from 9 a.m. on July 3, 2019 until 9 p.m. on July 4, 2019 the safety zones will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the circles formed by connecting all points 100 feet out from the fireworks barges during the loading and staging at Pier 50 in San Francisco, CA as well as during transit to and arrival at the display locations in San Francisco, CA. Between 9 p.m. on July 4, 2019 and 10:30 p.m. on July 4, 2019, the safety zones will expand to all navigable waters, from surface to bottom, within the circles formed by connecting all points 700 feet out from the fireworks barges in approximate positions 37°48′49″ N, 122°24′46″ W (NAD 83) and 37°48′45″ N, 122°25′39″ W (NAD 83).

(b) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zones.

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

(2) The safety zones are closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

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

(d) *Enforcement period.* The zones described in paragraph (a) of this section will be enforced from 9 a.m. on July 3, 2019 until 10:30 p.m. on July 4, 2019. The Captain of the Port San Francisco will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners in accordance with § 165.7.

Dated: June 18, 2019.

**Marie B. Byrd,**

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

[FR Doc. 2019–13816 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0519]**

## Safety Zone; City of Port Aransas Fourth of July Fireworks Display

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone for Port Aransas 4th of July Fireworks Display on July 4, 2019, to provide for the safety of persons, vessels, and the marine environment on navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District identifies the safety zone for this event in Port Aransas, TX. During the enforcement periods, entry into this zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

**DATES:** The regulations in 33 CFR 165.801, Table 4, Line 3, will be enforced from 8:30 p.m. through 9:15 p.m. on July 4, 2019, unless the event is postponed because of adverse weather, in which case this rule will be enforced from 8:30 p.m. through 9:15 p.m. on July 5, 2019 and July 6, 2019.

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

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone in 33 CFR 165.801, Table 4, Line 3, for the City of Port Aransas Fourth of July Fireworks Display from 8:30 p.m. through 9:15 p.m. on July 4, 2019, with a rain date set for July 5 and 6, 2019. This action is being taken to provide for the safety of persons, vessels, and the marine environment on navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District, § 165.801, specifies the location of the safety zone for the Port Aransas Fourth of July Fireworks Display, which encompasses portions of Corpus Christi Ship Channel, Port Aransas, TX. As reflected in §§ 165.23 and 165.801(a), if you are the operator of a vessel in the regulated area you must comply with directions from the Captain of the Port Sector Corpus Christi (COTP) or any

designated representative. Persons or vessels desiring to enter the zonemust request permission from the COTP or a designated representative. They can be reached on VHF FM channel 16 or by telephone at (361) 939–0450.

If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. In addition to this notice of enforcement in the **Federal Register**, the COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), Marine Safety Information Broadcasts (MSIBs), and/or through other means of public notice as appropriate at least 24 hours in advance of each enforcement.

Dated: June 20, 2019.

**E.J. Gaynor,**

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

[FR Doc. 2019–13798 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2019–0338]**

**RIN 1625–AA00**

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Delaware River near Pleasant Hill Park in Philadelphia, PA, from 9:15 p.m. to 10 p.m. on July 4, 2019, during the One River Alliance Fireworks Display. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the boating public during the event. This regulation prohibits persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port (COTP) Delaware Bay or a designated representative.

**DATES:** This rule is effective from 9:15 p.m. through 10 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0338 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Thomas Welker, U.S. Coast Guard Sector Delaware Bay, Waterways Management Division: telephone (215) 271–4814, email *Thomas.j.welker@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

Pyrotechnico Fireworks notified the Coast Guard that it will be conducting a fireworks display near Pleasant Hill Park in Philadelphia, PA, from 9:15 p.m. to 10 p.m. on July 4, 2019. The display will be launched from a barge in the Delaware River. In response, on May 30, 2019, the Coast Guard published a notice of proposed (NPRM) titled Safety Zone; Fireworks Display, Delaware River, Philadelphia, PA, 84 FR 25022. There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 10, 2019, we received one comment.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest. The rule needs to be in place by July 4, 2019, to mitigate the potential safety hazards associated with a fireworks display in this location.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Delaware Bay (COTP) has determined that potential hazards associated with the fireworks to be used in this July 4, 2019, display will be a safety concern for anyone within a 200-yard radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

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

As noted above, we received one comment on our NPRM published May 30, 2019. The comment was supportive of the establishment of a safety zone for the fireworks display. Thus, there are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary safety zone on the waters of the Delaware River near Pleasant Hill Park in Philadelphia, PA, during a fireworks display scheduled to take place between 9:15 p.m. and 10 p.m. on July 4, 2019. The fireworks will be set off from a barge in the river, which will be anchored at approximate position latitude 40°02′22.54″ N, longitude 074°59′22.03″ W. The safety zone will extend 200 yards around the barge. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP Delaware Bay or a designated representative. If the COTP Delaware Bay or a designated representative grants authorization to enter, transit through, anchor in, or remain within the safety zone, all persons and vessels receiving such authorization must comply with the instructions of the COTP Delaware Bay or a designated representative. The Coast Guard will provide public notice of the safety zone by Local Notice to Mariners and Broadcast Notice to Mariners.

### V. Regulatory Analyses

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

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

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

The impact of this rule is not significant for the following reasons: (1)

The enforcement period will last less than one hour when vessel traffic is usually low; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Delaware Bay or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP Delaware Bay; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*B. Impact on Small Entities*

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

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

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), 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 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 rule involves a temporary safety zone that prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable water in the Delaware River, during a fireworks display lasting approximately one hour. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C. 70034, 70051; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0338 to read as follows:

### § 165.T05–0338 Safety Zone; Fireworks, Delaware River, Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All waters of Delaware River off Philadelphia, PA within 200 yards of the barge anchored in approximate position latitude 40°02′22.54″ N longitude 074°59′22.03″ W.

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

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

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

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

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

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

(e) *Enforcement period.* This zone will be enforced from approximately 9:15 p.m. to 10 p.m. on July 4, 2019.

Dated: June 24, 2019.

**Scott E. Anderson,**

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

[FR Doc. 2019–13770 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0393]**

**RIN 1625–AA00**

## Safety Zone: City of Benicia Fourth of July Fireworks Display, Carquinez Strait, Benicia, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of the Carquinez Strait near Benicia, CA in support of the Benicia Fourth of July Fireworks Display on July 4, 2019. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons and vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port San Francisco or a designated representative.

**DATES:** This rule is effective from 9:15 p.m. through 10:35 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0393 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Acronyms

COTP Captain of the Port San Francisco
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
§ Section
U.S.C. United States Code

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Since the Coast Guard received final details of this event on April 18, 2019, notice and comment procedures would be impracticable in this instance.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For similar reasons as stated above, notice and comment procedures would be impractical in this instance due to the short notice provided for this event.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the Benicia Fourth of July Fireworks Display on July 4, 2019, will be a safety concern for anyone within a 420-foot radius of the fireworks firing site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters around the safety zone during the fireworks display.

### IV. Discussion of the Rule

This rule establishes a temporary safety zone around the fireworks firing site for the Benicia Fourth of July Fireworks Display. At 9:15 p.m. on July 4, 2019, 30 minutes prior to the commencement of the 20-minute fireworks display, the safety zone will encompass the navigable waters of the Carquinez Strait, from surface to bottom, within a circle formed by connecting all points 420 feet out from the fireworks firing site located on the Benicia 1st Street public pier at approximate position 38°02′40″ N, 122°09′55″ W (NAD 83). The safety zone will terminate at approximately 10:35 p.m. on July 4, 2019.

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

### V. Regulatory Analyses

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

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

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will

not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

*B. Impact on Small Entities*

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

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

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

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

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

**Authority:** 46 U.S.C 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–975 to read as follows:

### § 165.T11–975 Safety Zone; City of Benicia 4th of July Fireworks Display, Carquinez Strait, Benicia, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Carquinez Strait near Benicia, CA, from surface to bottom, within a circle formed by connecting all points 420 feet out from the fireworks firing site on the Benicia 1st Street public pier at approximate position 38°02′40″ N, 122°09′55″ W (NAD 83).

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

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

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

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

(d) *Effective period.* The zone described in paragraph (a) of this section will be effective and enforced from 9:15 p.m. until approximately 10:35 p.m. on July 4, 2019. The Captain of the Port San Francisco will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with § 165.7.

Dated: June 6, 2019.

**Marie B. Byrd,**

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

[FR Doc. 2019–13852 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2019–0379]**

**RIN 1625–AA00**

## Safety Zone; Vallejo Independence Day Fireworks Display; Mare Island Strait, Vallejo, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of Mare Island Strait near the Vallejo Ferry Terminal in support of the Vallejo Independence Day Fireworks Display on July 4, 2019. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or a designated representative.

**DATES:** This rule is effective from 8 a.m. to 10:18 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0379 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

COTP Captain of the Port San Francisco
CFR Code of Federal Regulations
DHS Department of Homeland Security
§ Section
U.S.C. United States Code

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Since the Coast Guard received notice of this event on May 1, 2019, notice and comment procedures would be impracticable in this instance.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For similar reasons as stated above, notice and comment procedures would be impractical in this instance due to the short notice provided for this event.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the Vallejo Independence Day Fireworks Display on July 4, 2019, will be a safety concern for anyone within a 100-foot radius of the fireworks barge during loading, staging, and transit, and anyone within a 420-foot radius of the fireworks barge starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, a safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks barge during the fireworks display.

### IV. Discussion of the Rule

This rule establishes a safety zone from 8 a.m. until 10:18 p.m. on July 4, 2019 during the loading, staging, and transit of the fireworks barge, until approximately 30 minutes after completion of the fireworks display. From 8 a.m. to 9 p.m. on July 4, 2019, during the loading, staging, and transit of the fireworks barge until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge. Loading the pyrotechnics onto the fireworks barge is scheduled from 8 a.m. to 4 p.m. on July 4, 2019, at the Mare Island Waterfront in Vallejo, CA. From 4 p.m. until 8:50 p.m. on July 4, 2019, the barge will remain at the Mare Island Waterfront. From 8:50 p.m. to 9 p.m. on July 4, 2019, the fireworks barge will be towed from the Mare Island Waterfront to the display location, where it will remain until the conclusion of the fireworks display.

At 9 p.m. on July 4, 2019, 30 minutes prior to the commencement of the 18-minute Vallejo Independence Day Fireworks Display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 420 feet from the circle center at approximate position 38°06′03″ N, 122°16′00″ W (NAD 83). The safety zone will terminate at 10:18 p.m. on July 4, 2019.

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

of participants, spectators, and transiting vessels.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

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

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

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

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### *G. Protest Activities*

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

## List of Subjects in 33 CFR Part 165

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

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

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

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

**Authority:** 46 U.S.C 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–978 to read as follows:

### § 165.T11–978 Safety Zone; Vallejo Independence Day Fireworks Display, Mare Island Strait, Vallejo, CA.

(a) *Location.* The following area is a safety zone: from 8 a.m. on July 4, 2019 until 9 p.m. on July 4, 2019 the safety zone will encompass all navigable waters of Mare Island Strait, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading and staging at the Mare Island Waterfront as well as during transit to and arrival at the display location in Vallejo, CA. Between 9 p.m. on July 4, 2019 until 10:18 p.m. on July 4, 2019, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connecting all points 420 feet out from the fireworks barge in approximate position 38°06′03″ N, 122°16′00″ W (NAD 83).

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

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

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

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

(d) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 8 a.m. on July 4, 2019 until 10:18 p.m. on July 4, 2019. The Captain of the Port San Francisco will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners in accordance with § 165.7.

Dated: June 18, 2019.

**Marie B. Byrd,**

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

[FR Doc. 2019–13794 Filed 6–27–19; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2016–0619; FRL–9995–36–Region 6]**

## Air Plan Approval; Oklahoma; Regional Haze Five-Year Progress Report

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a revision to a State Implementation Plan (SIP) submitted by the Governor of Oklahoma through the Oklahoma Department of Environmental Quality (ODEQ) on September 28, 2016. The SIP revision addresses requirements of federal regulations that direct the State to submit a periodic report describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the existing implementation plan.

**DATES:** This rule is effective July 29, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2016–0619. All documents listed in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Dallas, TX 75270.

**FOR FURTHER INFORMATION CONTACT:** Clovis Steib, EPA Region 6 Office, Regional Haze & $SO_2$ Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, (214) 665–7566, *steib.clovis@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Bill Deese at 214–665–7253.

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

### I. Background

In a notice of proposed rulemaking (NPRM) published on March 28, 2019 (84 FR 11711), EPA proposed to approve Oklahoma's (the State's) Regional Haze Five Year Progress Report.[1] On September 28, 2016, Oklahoma submitted its progress report in the form of a SIP revision under 40 CFR 51.308, which, among other things, detailed the progress made in the first planning period toward implementation of the long-term strategy (LTS) outlined in the State's regional haze plan. The progress report also included a summary of the visibility improvement measured at the Wichita Mountains Wilderness Area (WMWA), the only Class I area within Oklahoma, an assessment of whether Class I areas outside of the State are potentially impacted by emissions from Oklahoma, and a determination of the adequacy of the existing implementation plan. The details of Oklahoma's submittal and the rationale for EPA's action are further explained in the NPRM. EPA did not receive any relevant adverse comments on the proposed action. We received one comment letter from the Texas Commission on Environmental Quality (TCEQ) that discussed issues outside the scope of this particular rule making.[2]

### II. Final Action

EPA is approving Oklahoma's regional haze five-year progress report SIP revision, finding it meets the applicable regional haze requirements under the CAA and set forth in 40 CFR 51.308(g), (h) and (i). Because the SIP

[1] Oklahoma's submitted report can be found at *www.regulations.gov;* Docket EPA–R06–OAR–2016–0619–0002.

[2] The TCEQ submitted a letter commenting on the remanded 2016 Federal Implementation Plan (FIP) for Texas regarding regional haze reasonable progress, urging EPA to repeal the FIP in its entirety; as well as act on and approve the State's own 2014 Regional Haze Five-Year Progress Report and finalize any action resulting from the additional comment period on the 2017 FIP for the State regarding regional haze Best Available Retrofit Technology (BART). This letter can be found at *www.regulations.gov;* Docket EPA–R06–OAR–2016–0619–0004. EPA is addressing regional haze requirements for Texas in another action; see Dockets EPA–R06–OAR–2014–0754 and EPA–R06–OAR–2016–0611.

and Federal Implementation Plan (FIP) [3] will ensure the control of $SO_2$ and $NO_X$ emissions reductions relied upon by Oklahoma and other states in setting their reasonable progress goals, EPA concurs with the State's finding that there is no need for revision of the existing implementation plan to achieve the reasonable progress goals for the Class I areas in Oklahoma and in nearby states impacted by Oklahoma sources.

## III. 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. Accordingly, this action approves a State's determination that their current regional haze plan is meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the 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 August 27, 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 52

Environmental protection, Air pollution control, Best Available Retrofit Technology, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

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

Dated: June 24, 2019.

**David Gray,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart LL—Oklahoma

■ 2. In § 52.1920, under paragraph (e), the first table titled ''EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP'' is amended by adding an entry at the end to read as follows:

**§ 52.1920 Identification of plan.**

* * * * *

(e) * * *

[3] As discussed in the NPRM, EPA issued a FIP, promulgating revised $SO_2$ Best Available Retrofit Technology (BART) emission limits on six-coal-fired EGUs located at three facilities. (See 76 FR 81728 (December 28, 2011), codified at 40 CFR 52.1923) The FIP affects two units at each of two facilities owned and operated by Oklahoma Gas and Electric Company (OG&E): Muskogee Generating Station in Muskogee County, and Sooner Generating Station in Noble County. The FIP also initially applied to two units at American Electric Power/Public Service Company of Oklahoma's (AEP/PSO's) Northeastern Power Station in Rogers County, but those requirements have since been removed from the FIP after EPA approval of a SIP revision addressing these two units.

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * * | * | * | * * | * |
| Oklahoma Regional Haze 5-Year Progress Report. | Statewide ..... | Submitted 9/28/16 .. | 6/28/19, [Insert **Federal Register** citation]. | |

[FR Doc. 2019–13738 Filed 6–27–19; 8:45 am]
**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2017–0625; FRL–9995–59–Region 4]**

### Air Plan Approval; KY; Attainment Plan for Jefferson County $SO_2$ Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions, submitted under a cover letter dated June 23, 2017, by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality on behalf of the Louisville Metro Air Pollution Control District (LMAPCD or District or Jefferson County) to EPA, for attaining the 1-hour sulfur dioxide ($SO_2$) primary national ambient air quality standard (NAAQS or standard) for the Jefferson County $SO_2$ nonattainment area (hereafter referred to as the ''Jefferson County nonattainment area,'' ''nonattainment area'' or ''Area''). The Jefferson County nonattainment area is comprised of a portion of Jefferson County in Kentucky surrounding the Louisville Gas and Electric Mill Creek Electric Generating Station (hereafter referred to as ''Mill Creek'' or ''LG&E''). This plan (hereafter called a ''nonattainment plan'' or ''SIP'' or ''attainment SIP'') includes Kentucky's attainment demonstration and other elements required under the Clean Air Act (CAA or Act). In addition to an attainment demonstration, the plan addresses the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emissions inventories, enforceable emissions limitations and control measures, nonattainment new source review (NNSR) and contingency measures. EPA concludes that Kentucky has appropriately demonstrated that the nonattainment plan provisions provide for attainment of the 2010 1-hour primary $SO_2$ NAAQS in the Jefferson County nonattainment area and that the nonattainment plan meets the other applicable requirements under the CAA.

**DATES:** This rule is effective July 29, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0625. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**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. Mr. Wong can be reached via telephone at (404) 562–8726 or via electronic mail at *wong.richard@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Background and Purpose
II. Response to Comments
III. Incorporation by Reference
IV. Final Action
V. Statutory and Executive Order Reviews

#### I. Background and Purpose

On June 22, 2010, EPA promulgated a new 1-hour primary $SO_2$ NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a) and (b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 $SO_2$ NAAQS, including the Jefferson County nonattainment area within the Commonwealth of Kentucky. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These ''round one'' area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the $SO_2$ NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015, in this case. These SIPs are required to demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018, in accordance with CAA sections 191–192.

Section 172(c) of part D of the CAA lists the required components of a nonattainment plan submittal. The base year emissions inventory (section 172(c)(3)) is required to show a ''comprehensive, accurate, current inventory'' of all relevant pollutants in the nonattainment area. The nonattainment plan must identify and quantify any expected emissions from the construction of new sources to account for emissions in the area that might affect RFP toward attainment, or that might interfere with attainment and maintenance of the NAAQS, and it must provide for a NNSR program (section 172(c)(5)). The attainment demonstration must include a modeling

analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for RFP and expeditious attainment of the NAAQS (section 172(c)(2), (4), (6), and (7)). The nonattainment plan must include an analysis and provide for implementation of the RACM considered, including RACT (section 172(c)(1)). Finally, the nonattainment plan must provide for contingency measures (section 172(c)(9)) to be implemented either in the case that RFP toward attainment is not made, or in the case that the area fails to attain the NAAQS by the attainment date.

On April 23, 2014, EPA issued a guidance document entitled, ''Guidance for 1-Hour $SO_2$ Nonattainment Area SIP Submissions.'' This guidance provides recommendations for the development of $SO_2$ nonattainment SIPs to satisfy CAA requirements (*see, e.g.,* sections 172, 191, and 192). An attainment demonstration must also meet the requirements of 40 CFR part 51, subparts F and G, and 40 CFR part 51, appendix W (the *Guideline on Air Quality Models;* ''the *Guideline*'' or ''Appendix W''), and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The guidance also discusses criteria EPA expects to use in assessing whether emission limits with longer averaging times of up to 30 days ensure attainment of the $SO_2$ NAAQS.

For a number of areas, including the Jefferson County nonattainment area, EPA published a document on March 18, 2016, that certain states had failed to submit the required $SO_2$ nonattainment plan by the submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions, and for EPA to promulgate a federal implementation plan (FIP) under section 110(c) of the CAA. In response to the requirement for $SO_2$ nonattainment planning submittals, Kentucky submitted SIP revisions for the Jefferson County nonattainment area on June 23, 2017. Pursuant to Kentucky's June 23, 2017, attainment SIP revisions and EPA's subsequent completeness determination letter dated October 10, 2017, the sanctions under section 179(a) were not (and will not be) imposed as a result of Kentucky's having missed the April 4, 2015, submission deadline. Furthermore, with this current action issuing final approval of Kentucky's SIP revisions, EPA's FIP obligation under CAA section 110(c) no longer applies, and therefore no FIP will be imposed to address $SO_2$ nonattainment planning requirements for the Jefferson County nonattainment area.

On November 9, 2018 (83 FR 56002) (hereafter NPRM), EPA proposed to approve Kentucky's June 23, 2017, SIP revisions which included the nonattainment plan, and $SO_2$ attainment demonstration, among other $SO_2$ nonattainment planning requirements. The Commonwealth's SIP revisions included all the specific attainment elements mentioned above, including new $SO_2$ emission limits found to be comparably stringent to a 1-hour critical emissions value that would ensure attainment of the primary $SO_2$ NAAQS. Specifically, Kentucky's June 23, 2017, SIP revisions include enforceable $SO_2$ emission limits for Mill Creek and compliance parameters (monitoring and reporting) established at Plant-wide Specific conditions S1-Standards, S2-Monitoring and Record Keeping and S3-Reporting established in title V permit 145–97–TV(R3). Please refer to EPA's proposed approval notice which contains a detailed discussion of the CAA requirements applicable to $SO_2$ nonattainment SIPs, along with a comprehensive analysis and rationale for its proposed approval of the Commonwealth's attainment SIP. *See* 83 FR at 56003–14.

Comments on EPA's November 9, 2018, proposed rulemaking were due on or before December 10, 2018. EPA received two sets of relevant comments on the proposed approval of Kentucky's SIP revisions for the Jefferson County nonattainment area. These comments are available in the docket for this final rulemaking action. EPA's summary of the relevant comments and EPA's responses are provided below.

The remainder of this preamble summarizes EPA's final approval of Kentucky's SIP revisions and attainment demonstration for the Jefferson County nonattainment area and contains EPA's response to public comments.

## II. Response to Comments

EPA received two sets of comments which are included in the docket for this final rulemaking. Generally, the comments related to the following topics: (1) The use of a longer-term average in emissions limits; (2) the modeling's treatment of the Kosmos Cement Facility (a source that is outside the nonattainment area and also hereafter referred to as Kosmos); and (3) other comments related to the timing and development of the emissions inventory.

*Comment 1:* A Commenter has made several comments related to the use of the 30-day rolling average $SO_2$ emission limit for the attainment demonstration. Some of the comments can be viewed as general to the use of a longer-term average limit, which are being responded to here, and some are more specific to the specific permit limit for the Mill Creek facility, which will be addressed in a following comment response. Regarding the general use of a longer-term average limit, the Commenter asserts that the 720-hour rolling emissions standard that the proposed approval purports to justify is unlawful and jeopardizes the public health and that a 720-hour averaging period is an inadequate proxy for the 1-hour standard required under the CAA because very brief spikes in $SO_2$ emissions pose serious health harms. The Commenter also cites to the Sierra Club's Petition To The EPA Administrator To Object To Issuance Of The Revised Title V Operating Permit For The Mill Creek Power Plant In Louisville, Kentucky (June 2, 2017) (Docket ID # EPA–R04–OAR–2017–0625–0009) (hereafter ''Title V Petition''), and Sierra Club comments to LMAPCD re: Notice of Action on a Title V Operating Permit O–0127–16–V: LG&E Mill Creek Generating Station (Jan. 25, 2017) (Docket ID # EPA–R04–OAR–2017–0625–0011) (hereafter ''Permit Comments''). In these documents, Sierra Club provided information about health effects of $SO_2$ exposure and also explained its position that the 1-hour $SO_2$ NAAQS requires short-term limits to effectively protect human health.[1]

*Response 1:* EPA appreciates the Commenter's concerns about the appropriateness of approving attainment plans with emission limitations that apply over a longer period than the 1-hour form of the 2010 $SO_2$ NAAQS. However, as EPA explained in the

[1] EPA included the Title V Petition, which included attachments such as the Permit comments, in this docket. The Commenter has referenced the petition and certain attachments in its comments on the November 9, 2018, NPRM. EPA is responding to the issues raised in the Title V Petition because the Commenter referenced it in its comments submitted in this matter. In this action, the EPA is addressing the issues raised in the Title V Petition that raise substantive and technical concerns regarding the adequacy of the SIP limits at Mill Creek and other aspects of the SIP to satisfy SIP approval criteria. EPA considers these issues to be appropriately addressed in this rulemaking, which acts on the SIP submission, rather than in an action on the Title V Petition. Action on the Title V permit or Petition may address other issues raised in that petition, such as whether the permit terms properly reflect requirements that apply to sources in order to assure compliance with the applicable requirements of the Clean Air Act, including the applicable implementation plan; as well as whether the state followed the proper procedures in issuing the permit. In this final action, EPA is not addressing those types of issues or taking any action on the Title V Petition.

November 9, 2018, NPRM, and as is further explained below, EPA believes that long-term averaging periods can be appropriate for purposes of attainment planning for the $SO_2$ NAAQS. EPA also acknowledges the Commenter's concerns regarding health effects of $SO_2$ exposure. EPA agrees that the NAAQS is crucial for protecting public health around $SO_2$ emission sources. As such, EPA established the 1-hour $SO_2$ NAAQS based on such health effects information and will continue to implement the NAAQS to protect public health and welfare based on the authority granted to EPA in the CAA. However, EPA disagrees with the Commenter's implication that the protection against short term $SO_2$ concentrations, which EPA sought by establishing this 1-hour NAAQS, cannot be achieved with, for example, comparably stringent 30-day average emission limits in appropriate cases.

The following explanation of EPA's guidance with respect to longer-term average limits was provided in its November 9, 2018, NPRM. EPA's ''Guidance for 1-hour $SO_2$ Nonattainment Area SIP Submissions,'' (April 2014 guidance) recommends that the emission limits be expressed as short-term average limits (*e.g.,* addressing emissions averaged over one or three hours), but also describes the option to utilize emission limitations with longer averaging times of up to 30 days, so long as the state meets various suggested criteria. See EPA's April 2014 guidance, pp. 22 to 39. The guidance recommends that the longer-term average limit should be set at an adjusted level that reflects a stringency comparable to the 1-hour average limit at the critical emission value (CEV) shown to provide for attainment that the plan otherwise would have set.

EPA's April 2014 guidance provides an extensive discussion of EPA's rationale for concluding that appropriately set comparably stringent limitations based on averaging times as long as 30 days can be found to provide for attainment of the 2010 primary $SO_2$ NAAQS. In evaluating this option, EPA considered the nature of the standard, conducted detailed analyses of the impact of the use of 30-day average limits on the prospects for attaining the standard, and carefully reviewed how best to achieve an appropriate balance among the various factors that warrant consideration in judging whether a state's attainment plan provides for attainment. April 2014 guidance at pp. 22 to 39; and also at Appendices B, C, and D.

As specified in 40 CFR 50.17(b), the 1-hour primary $SO_2$ NAAQS is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb. In a year with 365 days of valid monitoring data, the 99th percentile would be the fourth highest daily maximum 1-hour value. The 2010 $SO_2$ NAAQS, including this form of determining compliance with the standard, was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Nat'l Envt'l Dev. Ass'n's Clean Air Project* v. *EPA,* 686 F.3d 803 (D.C. Cir. 2012). Because the standard has this form, a single exceedance of the level of the standard (75 ppb) does not constitute a violation of the standard. Instead, at issue is whether a source operating in compliance with a properly set longer-term average could cause exceedances, and if so the resulting frequency and magnitude of such exceedances. What matters is whether EPA can have reasonable confidence that a properly set longer-term average limit will provide that the 3-year average of the annual fourth highest daily maximum 1-hour value will be at or below 75 ppb. A synopsis of EPA's review of how to judge whether such plans provide for attainment, based on modeling of projected allowable emissions and considering the form of the NAAQS for determining attainment at monitoring sites, follows.

For $SO_2$ attainment plans based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum emission rate that would be modeled to result in attainment is labeled the CEV. The modeling process for identifying the CEV considers the numerous variables that affect ambient concentrations of $SO_2$, such as meteorological data, background concentrations, and topography. In the standard approach, the state would then provide for attainment by setting a continuously applicable 1-hour emission limitation at the CEV.

EPA recognizes that some sources may have highly variable emissions that can make it extremely difficult to ensure in practice that emissions for any given hour do not exceed the CEV. EPA also acknowledges the concern that longer-term emission limits can allow short periods with emissions above the CEV, which, if coincident with meteorological conditions conducive to high $SO_2$ concentrations, could create the possibility of an exceedance of the NAAQS level occurring on a day when an exceedance would not have occurred if emissions were continuously controlled at the level corresponding to the CEV. However, for several reasons, EPA believes that the approach recommended in its April 2014 guidance document suitably addresses this concern.

First, from a practical perspective, EPA expects the actual emission profile of a source subject to an appropriately set longer-term average limit to be similar to the emission profile of a source subject to an analogous 1-hour average limit. EPA expects this similarity because it has recommended that the longer-term average limit be set at a level that is comparably stringent to the otherwise applicable 1-hour limit (reflecting a downward adjustment from the CEV) and that takes the source's emissions profile into account. As a general matter, EPA would expect that any emission limit with an averaging time longer than 1-hour would need to reflect a downward adjustment to compensate for the loss of stringency inherent in applying a longer-term average limit. This expectation is based on the idea that a limit based on the 30-day average of emissions, for example, at a given level is likely to be a less stringent limit than a 1-hour limit at the same level, since the control level needed to meet a 1-hour limit every hour is likely to be greater than the control level needed to achieve the same limit on a 30-day average basis. EPA's approach for downward adjustment is to account for the expected variability in emissions over the averaging period (up to 30 days) to achieve comparable stringency to the emissions and expected air quality impacts for a 1-hour period. As a result, EPA expects either form of emission limit to yield comparable air quality and protect the NAAQS.

Second, from a more theoretical perspective, EPA has compared the likely air quality with a source having maximum allowable emissions under an appropriately set longer-term limit, as compared to the likely air quality with the source having maximum allowable emissions under the comparable 1-hour limit. In this comparison, in the 1-hour average limit scenario, the source is presumed always to emit at the CEV, and in the longer-term average limit scenario, the source is presumed occasionally to emit more than the CEV but, on average, to emit well below the CEV. In an average year, compliance with the 1-hour limit is expected to result in three exceedance days (*i.e.,* three days with maximum hourly values above 75 ppb) and a fourth day with a maximum hourly value at 75 ppb. By comparison, with the source complying with a longer-term limit, it is possible that additional exceedances of the NAAQS level would occur that would

not occur in the 1-hour limit scenario (if emissions exceed the CEV at times when meteorology is conducive to poor air quality). However, this comparison must also factor in the likelihood that exceedances that would be expected in the 1-hour limit scenario would not occur in the longer-term limit scenario. This result arises because the longer-term limit requires lower emissions most of the time (because the limit is set below the CEV), so a source complying with an appropriately set longer-term limit is likely to have lower emissions at critical times than would be the case if the source were emitting as allowed with a 1-hour limit.

As described in Appendix B of EPA's April 2014 guidance, EPA conducted a statistical analysis of various scenarios using actual plant data. In doing so, EPA found that the requirement for lower average emissions is highly likely to yield better air quality than is required with a comparably stringent 1-hour limit. Based on analyses described in Appendix B, EPA expects that an emission profile with maximum allowable emissions under an appropriately set comparably stringent 30-day average limit is likely to have the net effect of having a lower number of exceedances of the NAAQS level and better air quality than an emission profile with maximum allowable emissions under a 1-hour emission limit at the CEV. This result provides a compelling policy rationale for allowing the use of a longer averaging period, in appropriate circumstances where the facts indicate this result can be expected to occur.

The question then becomes whether this approach—which is likely to produce a lower net number of overall exceedances of 75 ppb even though it may produce some unmodeled exceedances on occasions when emissions are above the CEV—meets the requirement in sections 110(a) and 172(c) for state implementation plans to provide for attainment of the NAAQS. For $SO_2$, as for other pollutants, it is generally impossible to design a nonattainment plan in the present that will guarantee that attainment will occur in the future. A variety of factors can cause a well-designed attainment plan to fail and unexpectedly not result in attainment, for example if meteorology occurs that is more conducive to poor air quality than was anticipated in the plan. Therefore, in determining whether a plan meets the requirement to provide for attainment, EPA's task is commonly to judge not whether the plan provides absolute certainty that attainment will in fact occur, but rather whether the plan provides an adequate level of confidence of prospective NAAQS attainment. From this perspective, in evaluating use of a longer-term limit up to 30-days, EPA must weigh the likely net effect on air quality. Such an evaluation must consider the risk that occasions with meteorology conducive to high concentrations will have elevated emissions leading to exceedances of the NAAQS level that would not otherwise have occurred and must also weigh the likelihood that the requirement for lower emissions on average will result in days not having exceedances that would have been expected with emissions at the critical emission value. Additional policy considerations, such as in this case the desirability of accommodating real world emissions variability without significant risk of violations, are also appropriate factors for EPA to weigh in judging whether a plan provides a reasonable degree of confidence that the plan will lead to attainment. Based on these considerations, especially given the high likelihood that a continuously enforceable limit, averaged over a period as long as 30 days, determined in accordance with EPA's April 2014 guidance, will result in attainment, EPA believes as a general matter that such limits, if appropriately determined, can reasonably be considered to provide for attainment of the 2010 $SO_2$ NAAQS.

EPA's April 2014 guidance offers specific recommendations for determining an appropriate longer-term average limit. The recommended method starts with determination of the 1-hour emission limit that would provide for attainment (*i.e.,* the critical emission value), and applies an adjustment factor to determine the (lower) level of the longer-term average emission limit that would be estimated to have a stringency comparable to the otherwise necessary 1-hour emission limit. The recommended method involves using these data to compute a complete set of emission averages, computed according to the averaging time and averaging procedures of the prospective emission limitation. In this recommended method, the ratio of the 99th percentile among these longer-term averages to the 99th percentile of the 1-hour values represents an adjustment factor that may be multiplied by the candidate 1-hour emission limit (*i.e.,* the critical emission value) to determine a longer-term average emission limit that may be considered comparably stringent. The April 2014 guidance also addresses a variety of related topics, such as the potential utility of setting supplemental emission limits, such as mass-based limits, to reduce the likelihood and/or magnitude of elevated emission levels that might occur under the longer-term emission rate limit.

The Commenter objected in principle to EPA's proposed approval of the use of longer-term average limits in the Commonwealth's attainment plan, but the Commenter does not provide any critique of the specific elements of the above rationale for EPA's proposed views. Nor does the Commenter explain why EPA should revise its views as to the suitability of longer-term average limits in principle as appropriate elements of attainment plans, subject to case-specific reviews as to whether the specific limits in specific cases satisfy EPA's recommended criteria and whether, as a result, the specific plans may be considered to provide for attainment. Therefore, EPA continues to believe in principle that longer-term average limits, such as the 30-day limits applicable here, if appropriately determined, are a suitable element of an attainment plan that may be judged to provide for attainment.

In this action, EPA is not changing its position regarding the sufficiency in meeting the NAAQS of the 1-hour emissions limitations to which other facilities are subject; EPA is merely reaffirming that properly set longer-term average limits can also provide for attainment, and concluding that the Commonwealth's limits, including 30-day average limits for Mill Creek, in fact provide for attainment of the 1-hour $SO_2$ standard.

*Comment 2:* In addition to general concern with the use of a longer-term average for compliance with the 2010 1-hour $SO_2$ standard (see Comment 1), the Commenter expresses specific concerns with how the emissions limits were established for Mill Creek. Those specific comments can be subdivided into the following topics: (a) Mill Creek's emissions are not steady-state enough to make the 720-hour limit interchangeable with a 1-hour standard; (b) the 0.20 lb/MMBtu [pounds per one million British Thermal Units] 720-hour average emission limit for Mill Creek is too lax, as it was calculated opaquely and based on a 1-hour CEV that LMAPCD and an independent expert found to be too high to meet the NAAQS; (c) the adjustment factors to establish the longer-term limit were inappropriately based on operations of Mill Creek before the controls were installed (2009–2013 operations, instead of 2014–2016 for the installation of the controls—in the Commenter's opinion, the limits were based on variability of facility operations that are no longer valid (since new controls are in place));

and (d) the data used to demonstrate that emissions would rarely be above the CEV (limits established using 2009–2013 operations) were from April 2016-March 2018, after the new controls became operational. In the Commenter's opinion, the demonstration that those limits are effective is invalid since the demonstration is based on operations that were not used to set the limits in the first place.

*Response 2:* For clarity, EPA will respond separately to each of the above 4 subdivided comments.

*Response 2a:* EPA does not agree with the Commenter that it is necessary to have steady state emissions in order to establish a longer-term emission limit that will demonstrate attainment with a 1-hour NAAQS. The Commenter implies that unless emissions are steady state, a 720-hour limit is not ''interchangeable'' with a 1-hour limit. EPA disagrees. EPA's policy is designed to address situations with variable emissions, and to offer the option for agencies to adopt a longer-term limit that is ''interchangeable'' with a 1-hour limit in the sense of providing comparable assurances that the standard will be attained, notwithstanding this accommodation of variable emissions. As we explained in our April 2014 guidance, as a general matter, EPA would expect that any emission limit with an averaging time longer than 1-hour would need to reflect a downward adjustment to compensate for the loss of stringency inherent in applying a longer-term average limit. This is why the April 2014 guidance describes a procedure for establishing a longer-term limit that is designed to have comparably stringency to a 1-hour average limit at the CEV. In the case of Mill Creek, the 1-hour CEV is 0.29 lb/MMBtu, but the proposed 720-hour limit is well below this value at 0.20 lb/MMBtu.

The Commenter also referenced pages of the Title V Petition with a chart described as depicting Mill Creek's $SO_2$ emissions for nine months in 2016 and concludes that this chart shows that a 30-day average for Mill Creek smooths out instances of excessive 1-hour emissions, which the Commenter contends are relatively frequent and substantial. The Commenter's chart on page 5 of the Title V Petition largely relies on emissions prior to the installation of the improved flue gas desulfurization (FGD) controls and therefore does not reliably depict the potential of Mill Creek, in compliance with its limit, to emit above the CEV. As further explained in Response 2d below, EPA performed an analysis of 3–1/2 years of post-control upgrade emissions and found emissions periods above the CEV to be rare.

*Response 2b:* EPA disagrees with the Commenter that the 0.20 lb/MMBtu emission limit is too ''lax.'' First, the Commenter asserts that the limit was calculated opaquely. As described in detail in EPA's November 9, 2018, NPRM (see 83 FR 56010–11), LMAPCD and the Commonwealth performed modeling to determine an appropriate CEV for each unit, which demonstrates compliance with the 1-hour $SO_2$ NAAQS. After this, an adjustment factor was calculated and used to determine the appropriate 720-hour emission limit of 0.20 lb/MMBtu. As explained in the NPRM, Kentucky used the procedures in EPA's guidance to determine a compliance ratio (adjustment factor) of 0.69, which when multiplied by 0.29 lbs/MMBTU yields a 30-day average limit of 0.20 lbs/MMBTU. The detailed calculations yielding this adjustment factor were provided in a spreadsheet that Kentucky included as an appendix to the June 23, 2017 attainment SIP (see Appendix 4), as well as in the supporting documents of EPA's November 9, 2018, NPRM (*See* Docket ID: EPA–R04–OAR–2017–0625).

Second, the Commenter asserts that the limit was based on a CEV that was too high to satisfy the NAAQS. EPA disagrees with the Commenter's assertion that the CEV in the modeling performed by LMAPCD and the Commonwealth are too high to demonstrate compliance with the NAAQS. As discussed below, EPA continues to believe that the modeling provided in Kentucky's 2017 attainment demonstration is acceptable and appropriate for demonstrating that Mill Creek's emissions limit will provide for attainment of the NAAQS.

The Commenter cited to an independent expert report and previous comments by LMAPCD, which were included in the Title V Petition. EPA has evaluated the independent expert report and has found aspects of the modeling that deviate from EPA's recommended procedures in the Modeling Guidance for $SO_2$ Nonattainment Areas (Nonattainment Modeling Guidance),[2] the Guideline on Air Quality Models (Guideline) in 40 CFR part 51, Appendix W, and common modeling practices. These deviations from EPA's recommended procedures create uncertainty in the results and the conclusions presented in the report. Areas where the modeling deviates from EPA's recommended procedures include: (1) Three years (2010–2012) of meteorology data were used to perform the modeling, whereas Kentucky's SIP attainment modeling used five years of meteorology (2011–2015) as recommended in Section 7.2 of the Nonattainment Modeling Guidance and Section 8.4 of the Guideline to ensure that worst-case meteorological conditions are adequately represented in the model results; (2) actual stack heights of 182.9 meters (600 feet) for Mill Creek's boilers were used in the modeling, whereas the Commonwealth's attainment SIP modeling more appropriately used the Good Engineering Practice (GEP) stack heights of 142.88 meters (469 feet) that were determined in accordance provisions of EPA's stack height regulations in 40 CFR 51.100; (3) an older version of the AERMOD modeling system (version 12345) was used, whereas the attainment SIP modeling used the most recent version of AERMOD (version 15181) that was available at the time the attainment demonstration (developed in 2016–2107); and (4) flagpole heights of 1.5 meters were used for all modeled receptors to reflect a representative inhalation level, whereas the Commonwealth's SIP attainment modeling followed common AERMOD modeling practice of placing receptors at ground level, which EPA believes is more appropriate.

The Commenter asserts that LMAPCD previously recognized that the 720-hour emission limit of 0.20 lb/MMBtu was too high, citing to the Title V Petition. It appears that the Commenter is referencing a discussion on pages 8–9 that references an October 12, 2015 letter from LG&E to LMAPCD.[3] The letter states LG&E's understanding, based on information and data provided by LMAPCD to LG&E, that the modeled CEV translates to a one-hour limit of 0.24 lbs/MMBtu (and a 0.17 lbs/MMBtu 30-day limit). EPA is uncertain of the basis of this limit, and the information and data referred to in this letter. It appears that Commenter is referencing this limit to suggest that LMAPCD, at one time, contemplated a more stringent limit, but LMAPCD is making no such contention in the context of the attainment SIP that EPA is approving today. To the extent that LMAPCD previously considered a different limit, it is not uncommon for state and local technical analyses to evolve during the development of plans and permitting such changes do not, standing alone, lend support to a contention that the state or local final plan is inadequate.

[2] Appendix A of EPA's April 23, 2014, ''Guidance for 1-Hour $SO_2$ Nonattainment Area SIP Submissions.

[3] Docket ID #EPA–R04–OAR–2017–0625–0011; Exh. B2.

Regardless, as discussed in the NPRM and the Responses to Comment 2, EPA has evaluated the 0.20 lb/MMBtu 30-day rolling average limit and is determining that the limit is sufficient to demonstrate attainment of the standard.

*Response 2c:* The commenter correctly notes that the adjustment factor was determined based on the emissions data from the years 2009–2013. Furthermore, the commenter correctly observes that this period precedes the upgrades in the Mill Creek control systems needed to comply with the SIP limits, and the Commenter accurately notes statements in the April 2014 guidance indicating that installation of control equipment is prone to increase the variability of emissions.

For this attainment SIP, as for most SIP submittals addressing a need for additional emission control, the adequacy of the SIP depends on the adequacy of the projection of the future. At issue here in particular is the adequacy of the projection of future variability of emissions at Mill Creek. The April 2014 guidance addresses a number of factors to be considered in order to make the best feasible projection of the variability of emissions once the SIP is implemented. The November 9, 2018, NPRM (*See* 83 FR 56010) addresses how EPA weighed these factors. Kentucky preferred to use data from Mill Creek to evaluate Mill Creek emissions variability, and the data from 2009 to 2013 were the most robust data available for a period with stable operation (*i.e.,* for a period without changes in the applicable control system or instability associated with the startup of the improved control system). The period from 2014 to 2016 included some operations before the control upgrades [4] and some post-upgrade, so that use of these data could be more of an assessment of the variability between the existing and improved control systems rather than an assessment of variability of emissions within the improved control system. Furthermore, the national average data provided in Appendix D of the April 2014 guidance suggest that plants that already have controls comparable to those being required for Mill Creek have variability comparable to the variability projected for Mill Creek. That is, if Kentucky had chosen to project variability at Mill Creek based on variability of another already well controlled plant, it likely would have found a similar adjustment factor as it found with the pre-upgrade emissions data for pre-upgrade Mill Creek emissions data. Consequently, EPA continues to believe that these data were the best data available at the time to estimate the variability of the emissions to be expected at Mill Creek and calculate the adjustment factor needed to establish a longer-term emission limit.

An additional pertinent factor is that during 2009 to 2013, Mill Creek did have existing wet-FGD scrubbers. The typical effect of control on variability can be inferred from Appendix D of the April 2014 guidance, showing national average adjustment factors for uncontrolled facilities and for facilities with a few types of control. EPA would expect that upgrading a control would have less effect on variability than installing a fully new control system. Therefore, EPA would expect Mill Creek to experience less change in variability than facilities that went from no control to full control; indeed, EPA believes that the 2009 to 2013 data should be reasonably indicative of variability following implementation of the control upgrades.

Nevertheless, additional data are now available for a period after the completion of the control upgrades at Mill Creek. EPA analyzed these data, to obtain further insight into how well Kentucky's assessment served as a forecast of post-control emissions variability. For each unit, this analysis used emissions data after completion of the control upgrade until the end of 2018, which at the time of the analysis was the most recent available data. (Specifically, the first data point was taken 30 days after completion of the upgrade, to avoid being influenced by any potential instability in operation of the newly upgraded equipment.) On average, these data sets comprise 3-1/2 years for each unit, which is less than the 5 years that Kentucky analyzed but sufficient to likely be adequately robust. In addition, while this analysis generally used hourly emissions data reported to EPA for emissions trading program purposes, EPA excluded a handful of data points reflecting data substitution, where missing parameter data result in the reporting of extreme emission rates.[5] EPA analyzed these data in accordance with the data handling procedures that it understands that Kentucky will be using to assess compliance with these limits. The results of this analysis, as expected, indicated that the upgrading of control systems had only a relatively modest effect on variability. A spreadsheet providing the full details of EPA's analysis is included in the docket for this rulemaking (*See* Docket ID: EPA–R04–OAR–2017–0625).[6]

The modeling provided by Kentucky showed a modeled design value somewhat below the NAAQS, specifically at 190.1 micrograms per cubic meter ($\mu g/m^3$) as compared to the NAAQS at 196.4 $\mu g/m^3$. Thus, even if a modestly lower adjustment factor were applied (suggesting that a modestly higher hourly limit would correspond to a 30-day average limit of 0.20 lb/MMBtu), the plan would still provide for attainment.

In summary, Kentucky used the most appropriate data available at the time it was preparing the attainment SIP. Kentucky applied an adjustment factor slightly more restrictive than the pertinent national average adjustment factor provided in EPA's guidance, suggesting that development of an adjustment factor based on data from another plant would have yielded a similar adjustment factor. The fact that the facility had existing wet-FGD scrubbers during the period Kentucky analyzed would be expected to improve its suitability for assessing variability following implementation of the SIP. The plan provides a modest margin for uncertainties for example in the appropriate adjustment factor. For this set of reasons, EPA concludes that, notwithstanding the upgrade of emission controls since the time used for determining an adjustment factor, Kentucky has applied an adjustment factor that is likely to be sufficiently reliable to warrant a conclusion that the adjusted limit Kentucky established is comparably stringent to the modeled 1-hour CEV and therefore provides for attainment of the 1-hour $SO_2$ standard.

*Response 2d:* Contrary to the Commenter's stated view, EPA believes that our own analysis of the post-upgrade 2016–2018 data, as summarized in the EPA's November 9, 2018, NPRM is valid. At issue here is whether the establishment of a 30-day average limit is likely to provide a sufficient constraint on 1-hour emission levels for EPA to anticipate that occasions of emissions above the CEV will be infrequent. The best data for assessing the likely frequency of 1-hour emissions higher than the CEV during periods of compliance with the longer-term limit are data during periods of compliance with the longer-term limit. Thus, EPA's

[4] In this notice, the phrase ''control upgrades'' refers to the replacement of existing wet FGD systems operating at 90% control efficiency with the new wet FGD system operating at 98 percent efficiency for all four Mill Creek units.

[5] This analysis excluded $SO_2$ emissions data with Code 12, ''Maximum or Minimum Value from Default or Span Record.''

[6] *See* Mill Creek Analysis revised.xlsx in the Docket for this final rulemaking (Docket ID: EPA–R04–OAR–2017–0625).

analysis, using recent data during which the facility met the longer-term limit, provides the most valid assessment of the pertinent question, and indeed provides a substantially more valid analysis than would have been obtained following the commenter's suggestion to use data from a period with routine long-term average values above the 30-day average limit.

Regardless of whether the Commenter agrees with how the 720-hour permit limit was set, the analysis of the newer emissions data demonstrates, based on the current operation after the control upgrades, that the frequency of time the emissions are over the CEV is expected to be minimal. In addition to the analysis of post-control data that was summarized in EPA's November 9, 2018, NPRM, the Agency has further evaluated the data with the addition of the most recent 9 months of emissions data. In summary, EPA has now looked at post-upgrade data through December 2018.[7] This analysis confirms our belief as proposed that the frequency of time that emissions are over the CEV is minimal.[8] In this current analysis, during periods that the units met the 30-day average limit of 0.20 lb/MMBtu, the frequencies with which emissions from Unit 1, Unit 2, Unit 3, and Unit 4 were higher than the 1-hour critical emission rate were 0.1 percent, 0.2 percent, 0.1 percent, and 0.5 percent, respectively. This analysis supports EPA's conclusion that the 30-day average limit of 0.20 lb/MMBtu in title V permit 145–97–TV(R3) for EGU U1, U2, U3 and U4 for Mill Creek is sufficient to demonstrate attainment without additional conditions to limit the frequency of elevated emissions or the imposition of shorter-term averaging periods (*e.g.,* 24 hours).

*Comment 3:* A Commenter expresses concern about EPA's November 9, 2018, NPRM and the treatment of emissions from Kosmos in relation to the attainment demonstration for the Jefferson County nonattainment area. Generally, the Commenter believes that Kosmos should be considered a source to evaluate for an emission limit as part of the SIP, and not treated as either a ''nearby'' source or an ''other'' source considered in the background. Specifically, the Commenter claims that considering Kosmos as a background source is unsound and unlawful, in conflict with EPA's guidance at 40 CFR part 51 Appendix W. The Commenter references air dispersion modeling performed by LMAPCD to site a monitor in the vicinity of Kosmos (proposed Kosmosdale monitor) using the AERMOD model to support its claim that Kosmos should be explicitly modeled to have its emissions impact characterized. The Commenter indicates that the results of this modeling appear to show violations of the 1-hour $SO_2$ NAAQS both inside and outside the nonattainment area boundary and appear to show that Kosmos causes a significant concentration gradient inside the nonattainment area, which is demonstrated using either normalized or not normalized emissions.

*Response 3:* Since EPA continues to believe that Kentucky's attainment modeling is appropriate, in which Kosmos' emissions impacts are adequately represented by modeling accounting for Kosmos as a background source, the Agency does not agree with the Commenter's assertion that Kosmos should be evaluated for an emissions limit to be included in the SIP or treated as a ''nearby source,'' as defined in Section 8.3.1 of EPA's Guideline on Air Quality Models contained in 40 CFR part 51, Appendix W (Appendix W). EPA's rationale for finding that Kentucky's treatment of Kosmos as an ''other source'' and addressing its impacts with a representative ambient background concentration to be appropriate is fully discussed in Section IV.B.5 of EPA's November 9, 2018, NPRM. The following discussion briefly summarizes EPA's independent analysis, presented in the November 9, 2018, NPRM, that was done to assess the Commonwealth's conclusion that the Green Valley background monitor adequately represents background concentrations of $SO_2$ within this nonattainment area, and any impact from Kosmos. In accordance with Section 8.3.1.a.i of Appendix W, EPA evaluated whether Kosmos would cause a significant concentration gradient in the vicinity of the Mill Creek source. EPA applied the rule of thumb criterion discussed in Section 8.3.3.b.ii of Appendix W, which provides that the magnitude of a concentration gradient will be greatest in the proximity of the source and will generally not be significant at distances greater than 10 times the height of the stack(s) at that source without consideration of terrain influences. The height of the cement kiln stack at Kosmos is 75 feet (approximately 23 meters), and there are no significant terrain features located near Kosmos or within the nonattainment area boundary. Therefore, concentration gradients should be comparatively modest beyond 230 meters from the stack. The closest edge of the nonattainment boundary is approximately 480 meters from the stack, which is more than twice the distance of this general rule of thumb. Therefore, EPA determined that the $SO_2$ emissions from Kosmos would not result in a significant concentration gradient within the nonattainment area boundary and therefore can be treated as an ''other source'' in the attainment demonstration modeling. EPA also evaluated whether the Green Valley background monitor data is appropriate to represent the potential $SO_2$ concentration impacts from Kosmos within the nonattainment area. Based upon an assessment of wind patterns in the Louisville area, the $SO_2$ emissions sources in the vicinity of the Green Valley monitor, and comparing those sources to the Kosmos source, EPA determined that the Green Valley monitor reasonably indicates the impact of Kosmos on the nonattainment area.[9]

Additionally, EPA considered whether Kosmos should be evaluated for an emission limit to include in the SIP as recommended by the Commenter, and ultimately concluded that the Commonwealth's treatment of Kosmos is acceptable and Kosmos did not need to be a ''Source Subject to SIP Emissions Limit Evaluation for Compliance with Ambient Standards'' as specified in Table 8–1 of Appendix W. $SO_2$ is a source-oriented pollutant and concentrations are often due to a single large industrial source or group of sources with localized impacts that usually have a limited number of sources affecting areas of air quality which are relatively well defined. Emissions control measures for such sources result in swift and dramatic improvement in air quality. In 2013, EPA designated those areas that were determined to be impacting or contributing to a violation at an ambient air quality monitor (known as round 1 designations). At the time of designations for Jefferson County, Kentucky, it was determined that Mill Creek was the primary cause and contributor to the violation at the Watson Lane monitor (AQS ID: 21–111–

[7] For Units 1, 2, and 3, the facility met the new limit for the entire period after completion of the control upgrade. For these units, EPA did not examine the first 30 days after the upgrade, to disregard any instability of operation, but EPA examined the full period from 30 days after upgrade through December 31, 2018. For Unit 4, the unit did not meet the new limit until a corresponding limit under the Mercury and Air Toxics Standards took effect, on April 16, 2016. Therefore, for this analysis for Unit 4, EPA examined the data from April 16, 2016 to December 31, 2018.

[8] *See* Mill Creek Analysis revised.xlsx in the Docket for this final rulemaking (Docket ID: EPA–R04–OAR–2017–0625).

[9] The complete details of this analysis are presented in Section IV.B.5 of EPA's NPRM (83 FR 56012).

0051) based on best available ambient air quality data, emissions and other information that informed EPA's final designation of nonattainment around the Mill Creek facility and the Watson Lane monitor. EPA considered evidence of source-receptor relationships between specific emissions sources and high $SO_2$ values at violating monitors in determining the appropriate contributing areas and the appropriate extent of the nonattainment area boundary in round 1 designations. This included assessing meteorological data nearest to the then violating Watson Lane monitor to determine which wind vectors were associated with 1-hour $SO_2$ concentrations exceeding the NAAQS level. Mill Creek was the largest $SO_2$ emission source near the Watson Lane monitor, located approximately 1.5 kilometers (km) southwest of the monitor. EPA's review of meteorological data as well as emission data indicated that the majority of the NAAQS level-exceeding hours at the monitor occurred during times when the wind blew from the direction of Mill Creek (*i.e.,* from southwest of the monitor) supporting EPA's conclusion that Mill Creek was likely causing the monitored violations. Therefore, EPA established the boundary around Mill Creek and the Watson Lane monitor based on technical evidence that Mill Creek was causing violations of the $SO_2$ standard at the monitor. EPA considered jurisdictional boundaries for the purposes of providing a clearly defined legal boundary and to help identify the areas appropriate for carrying out the air quality planning and enforcement functions for nonattainment areas. Kosmos was not the focal point for round 1 designations. In EPA's round 1 designation Technical Support Document (TSD) for Kentucky, EPA explained that areas and sources that we were not then yet prepared to conclude are contributing to the monitored violations were not being included in initial nonattainment areas. EPA did not receive any additional information or comments during the 30-day public comment period for the 2013 round 1 designations asserting that Kosmos was causing or contributing to the violation at the monitor, nor did any petitioner timely challenge the designation for the portion of Jefferson County. That opportunity to bring such a challenge has long since passed. *See* EPA's response to Comment #6.

Mill Creek is the only $SO_2$ emitting major point source in the nonattainment area and the only emission source explicitly modeled in the attainment modeling analysis submitted by the Commonwealth for the Jefferson County nonattainment area. All minor area sources and other major point sources (located outside the nonattainment area boundary) were accounted for with the background concentration as discussed in Section IV.B.5. of the November 9, 2018, NPRM. Decreasing trends in Mill Creek $SO_2$ emissions and ambient monitor concentrations in the nonattainment area at the Watson Lane monitor since 2013 support the Commonwealth's focus on Mill Creek. From 2013 to 2017, actual $SO_2$ emissions from Mill Creek reported in EPA's Clean Air Market program database decreased from 28,150 tons per year (tpy) to 3,040 tpy due to the new Mill Creek emissions controls, while the Watson Lane ambient monitor design concentrations decreased from 148.6 ppb to 13.7 ppb during the same 5-year period. Despite the Mill Creek and Kosmos sources being in close proximity to each other, the nature of each source and their specific locations provide for distinct spatial patterns of modeled concentration impacts from Mill Creek's emissions, which are emitted from relatively tall stacks (469 feet) [10] and Kosmos' emissions, which are emitted from a relatively short stack (75 feet). The modeling to site the Kosmos monitor conducted by LMAPCD and referenced by the Commenter (in which both Kosmos and Mill Creek were modeled with allowable emissions to find the area of maximum impact from Kosmos' emissions), shows that the highest modeled concentrations were observed outside the nonattainment area southwest of Kosmos' property boundary (in the opposite direction from the nonattainment area and the Watson Lane monitor).[11] In contrast, in the attainment SIP modeling provided by the Commonwealth, where only Mill Creek emissions were explicitly modeled and other sources, including Kosmos, were addressed in the background concentration, the maximum area of impact from Mill Creek's emissions in the nonattainment area is located near the Watson Lane monitor. The results of these modeling analyses show that Mill Creek and Kosmos have different areas of impact and that Kentucky's decision to only evaluate the Mill Creek sources for control to bring the Jefferson County nonattainment area back into attainment with the 1-hour $SO_2$ NAAQS is appropriate.

The Commonwealth's attainment SIP demonstrates that the emissions limits for Mill Creek provides modeled and monitored attainment for the area and appropriately accounts for the contribution of Kosmos and other sources consistent with EPA's Guidelines and governing regulations (as discussed in the November 9, 2018, NPRM and supported by additional analysis by EPA within that proposal). $SO_2$ control measures are by definition based on what is directly and quantifiably necessary to attain the $SO_2$ NAAQS and it would be unlikely for an area to implement the necessary emission controls yet fail to attain the NAAQS. Attainment plans for $SO_2$ must meet the applicable requirements of the CAA, and specifically CAA sections 110, 172, 191, and 192. As EPA has explained in the April 2014 guidance and in numerous proposed and final SIP rulemakings implementing the $SO_2$ NAAQS, a key element in an approvable SIP is the required modeling demonstration showing that the remedial control measures and strategy are adequate to bring a previously or currently violating area into attainment. The Commonwealth's attainment SIP required Mill Creek, the primary $SO_2$ source in the area, to implement a control strategy in accordance with the CAA and EPA's technical guidance and included a modeled demonstration of attainment by the statutory attainment deadline. During round 1 designations EPA determined Mill Creek to be the primary source of violations at the Watson Lane monitor. The Commonwealth's attainment plan addressed the violations of the 2010 standard through the implementation of an emission reduction control strategy for Mill Creek, the primary $SO_2$ source determined to cause measured violations at the ambient air monitor that demonstrated modeled attainment of the 2010 standard. The plan accounted for other sources outside the nonattainment area, including emissions from Kosmos, in the background concentrations. As EPA explained in the November 9, 2018, NPRM and as determined through the modeled attainment demonstration submitted by Kentucky, the evaluation of controls for other sources within or outside the nonattainment area is not necessary to show compliance with 2010 standard. Therefore, in the context of considering the approvability of Commonwealth's attainment SIP including the adequacy of control

[10] The actual stack heights at Mill Creek range from 600–610 feet. However, the GEP stack heights for each stack that were used in the modeling are 469 feet.

[11] As presented in the LMAPCD's 2017 Network Plan, the Kosmosdale monitor is proposed to be installed southwest of Kosmos within the area of maximum impact.

measures to provide for modeled attainment of the air quality standard under sections 172 and 192, EPA believes it is reasonable to focus on the modeled results that specifically account for those control measures at Mill Creek and their resulting reductions in $SO_2$ emissions that demonstrate attainment in the Jefferson County nonattainment area. For the reasons described in the November 9, 2018, NPRM and elsewhere in this rule, EPA has concluded that the Commonwealth's $SO_2$ attainment plan meets the requirement in CAA sections 172(c) and 192(a), and 40 CFR 51.112, to include a modeling demonstration that the Mill Creek control measures included in the plan provide for attainment for the Jefferson County Area.

EPA notes that the LMAPCD's modeling referenced by the Commenter, and which was not submitted by Kentucky to support its attainment demonstration, was conducted for a different purpose than for informing the attainment SIP demonstration. Namely, it was performed to determine the best location to site a new ambient air monitor to characterize future maximum concentrations near the Kosmos facility and used Kosmos' permitted allowable emissions following procedures provided in EPA's $SO_2$ Designations Monitoring Technical Assistance Document (TAD).[12] As referenced by the Commenter, LMAPCD presented the results of modeling with both absolute and normalized concentrations. EPA disagrees with the Commenters assertion that LMAPCD's absolute and normalized modeling results show that Kosmos causes a significant concentration gradient inside the nonattainment area. For purposes of attainment demonstrations, modeling with allowable emissions is the type of modeling expected under Appendix W for sources being evaluated for new SIP emissions limitations and the new allowable level typically reflects a reduction in emissions from past actual emissions. As explained above and in the response to Comment 6, EPA is concluding that Kosmos is not such a source. Assuming for argument that Kosmos could not be adequately characterized as an ''other source,'' Section 8.2.2.b. and Table 8–1 in Appendix W provide that for ''nearby sources'' emissions reflective of actual operation over the most recent two years shall be used in cumulative impact modeling for attainment demonstrations or for evaluating whether nearby sources cause a significant concentration gradient in the area. LMAPCD's modeling referenced by the Commenter was performed using Kosmos' allowable emissions without accounting for recent actual operation, so it is not appropriate to assess concentration gradients or contribution to the nonattainment area since it does not reflect actual operations. EPA concludes that for the SIP attainment demonstration, Kosmos is adequately represented by background emissions in Kentucky's modeling analysis as an ''other source.'' As such, we reject the Commenter's view that the more conservative modeling using Kosmos' allowable emissions that is not required by EPA's rules for ''nearby sources'' must be viewed as a better and preferred characterization of impacts from Kosmos as an ''other source.''

Furthermore, the monitoring data trends during the time period corroborate the existence of the substantial air quality benefits from the significant $SO_2$ reductions from Mill Creek facility. In addition to the modeling demonstrating attainment of the $SO_2$ standard, actual monitored 99th percentile of 1-hour daily maximum concentrations at the Watson Lane monitor do not show violations of the NAAQS. Based on technical and policy considerations, EPA believes that the Kosmos facility was adequately accounted for in the attainment demonstration modeling and was not required to be evaluated for additional controls.

*Comment 4:* A Commenter indicates that EPA's November 9, 2018, NPRM suggests that there is no need for an Agreed Board Order (ABO) to characterize air quality in the vicinity of Kosmos if EPA believes that the potential impacts of Kosmos are characterized by a distant monitor. Additionally, the Commenter argues that there is no logical reason for LMAPCD and the state to enter into the agreement if the option of including Kosmos as an ''other,'' or background, source was available for SIP approval.

*Response 4:* EPA does not believe that it is appropriate to draw this conclusion from the November 9, 2018, NPRM (or this final rule). The more appropriate conclusion to draw is that, for the purpose of attainment demonstration modeling for the Jefferson County nonattainment area, it is appropriate to consider Kosmos a background source. *See* EPA's response to Comment 3 above for EPA's response related to treating Kosmos as a background source. Although EPA believes for the purpose of attainment modeling for the Jefferson County nonattainment area it is appropriate to consider Kosmos a background source, the Agency also supports the efforts of Kentucky and LMAPCD to further characterize air quality in the area[13] near Kosmos in order to continue to verify that there are no violations of 2010 1-hour $SO_2$ NAAQS in either the Jefferson County nonattainment area or in other areas potentially impacted by Kosmos' emissions. As was mentioned in EPA's November 9, 2018, NPRM, LMAPCD and Kosmos have entered into an ABO to evaluate the ambient concentrations of $SO_2$ in the vicinity of Kosmos. That evaluation is ongoing and is separate from this action. Today's SIP approval action, however, should not be interpreted as precluding that evaluation from continuing, nor should it be interpreted as providing a conclusion regarding current $SO_2$ air quality outside the Jefferson County nonattainment area and, specifically, in the vicinity of the Kosmos facility.

EPA also notes that, if additional characterization of ambient concentrations of $SO_2$ in the vicinity of Kosmos raises concerns with continued NAAQS attainment or maintenance in either the Jefferson County area or other areas, the Commonwealth and LMAPCD have the authority to remedy any potential violation of a NAAQS through SIP-approved and statutory provisions.[14]

*Comment 5:* A Commenter asserts that treatment of Kosmos as a background source undermines the modeling that was used to site the Kosmos monitor and implies that the significant concentration gradient shown in the 2017 Network Plan's modeling is fictitious. The Commenter noted that

[12] ''$SO_2$ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document,'' U.S. EPA Office of Air and Radiation, Office of Air Quality Planning and Standards, Air Quality Assessment Division, February 2016 Draft.

[13] Pursuant to the CAA, the Administrator also has the authority to address any potential or actual violation of a health-based standard either by revising an area's designation for a particular standard, requiring a state to revise its SIP if EPA determines the plan to be inadequate to attain or maintain a standard, or to work collaboratively with state to remedy any violation of a standard. The statute authorizes the Administrator to remedy a potential violation of any health-based standard including the 2010 $SO_2$ NAAQS regardless of whether those potential violations are determined to be within an existing attainment area or are within close proximity of a nonattainment area.

[14] LMAPCD Regulation 3.01—''Ambient Air Quality Standards,'' section 4—*General Prohibition* and section 5—*Methods of Measurement.* Commonwealth of Kentucky 401 Kentucky Administrative Regulation (KAR), Chapter 50 Division for Air Quality; General Administrative Procedures—50:050 *Monitoring;* Chapter 53—Ambient Air Quality—53:005 *General Provisions.* Kentucky Revised Statutes (KRS) Title XVIII—Public Health Chapter 224 Environmental Protection—Subchapter 20—Air Quality (KRS 224.20–110).

EPA approved the 2017 Network Plan and asserts that EPA must either determine that the concentration gradient is significant and Kosmos should be explicitly modeled (which the Commenter claims was EPA's position as of June 2018) or determine that the AERMOD model does not simulate impacts from sources with short releases such as Kosmos Cement and disregard all regulatory modeling conducted for such sources.

*Response 5:* As presented in the LMAPCD's 2017 Network Plan, modeling was performed using Kosmos' permitted maximum allowable emissions and operations in order to determine the best location to site a new ambient air quality monitor to characterize the future maximum 1-hour $SO_2$ concentrations near the Kosmos facility. This was done in accordance with the $SO_2$ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document (TAD) which recommends the use of modeling to determine suitable monitor placement characterizing areas of maximum $SO_2$ concentrations. Specifically, for these purposes, the $SO_2$ NAAQS Designations Source-Oriented Monitoring TAD references the $SO_2$ NAAQS Designations Modeling TAD which in Section 5 discusses the use of allowable or potential-to-emit emissions when actual emissions are unavailable. LMAPCD appropriately followed these modeling procedures for siting a new ambient air monitor. However, as discussed in EPA's response to Comment #3, since LMAPCD's modeling was performed with maximum allowable emissions and operations and does not incorporate actual operation of the Kosmos facility, it was not performed as prescribed in Section 8.2.2.b., and Table 8–1 in Appendix W for evaluating Kosmos' concentration gradient or contribution to concentrations within the nonattainment as a nearby source.

With respect to the Commenter's suggestion that EPA must either determine that Kosmos must be explicitly modeled or determine that AERMOD is not adequate to simulate impacts from short stack releases, EPA does not agree that this action poses this dilemma. As EPA has explained, the SIP modeling appropriately treats Kosmos as a background source. Further, EPA is making no determination on the adequacy of AERMOD, generally, in the context of this action. Rather the only determination EPA is making regarding AERMOD in this action concerns its evaluation of the appropriateness of Kentucky's use of AERMOD in its attainment demonstration modeling, which EPA is concluding is appropriate.

*Comment 6:* A Commenter questions EPA's designation process for the 2010 $SO_2$ NAAQS. Specifically, the Commenter claims EPA has erroneously designated Kosmos' area as attaining the NAAQS and that Kosmos should therefore be considered a source to evaluate for an emissions limit as part of a SIP, rather than a nearby source or an ''other'' or background source.

*Response 6:* First, for the reasons previously explained, EPA concludes that it was not necessary to evaluate Kosmos for an emission limit to include in the SIP, and that Kentucky has appropriately characterized Kosmos' emissions impacts in the nonattainment area. See EPA's response to Comment #3. Second, EPA believes that the Commenter's reference to EPA's round 3 $SO_2$ designations signed on December 21, 2017 (83 FR 1098), is outside the scope of this action to approve the nonattainment planning SIP for the Jefferson County nonattainment area. In proposing to approve the SIP addressed in this action, EPA did not reopen either of the designations addressing Jefferson County, Kentucky, and this final action has no final effect on those designations. EPA also notes that no petitioner timely challenged the designation for Kosmos' area, and that the opportunity to bring such a challenge has long since passed. However, for informational purposes EPA notes that, generally, designations are based on the best ambient air quality data available at the time of designation to determine if an area meets or does not meet the standard. EPA's attainment/unclassifiable designation for the remaining portion of Jefferson County, in which the Kosmos facility resides, was finalized in January 2018 and became effective on April 9, 2018. *See* 83 FR 1098 (January 8, 2018). EPA provided a 30-day public comment period (although not required by section 107(d) of the CAA) on the Agency's intended designations published in a notice of availability requesting public comments from interested parties, other than the states, territories and tribes on September 5, 2017. *See* 82 FR 41903. Additionally, interested parties who had submitted comments had an opportunity to file a petition for judicial review within 60-days after the publication date of the final rule for EPA's designations. EPA received no comments on its intended attainment/unclassifiable designation for the remaining portion of Jefferson County, Kentucky nor did the Agency receive a petition for judicial review challenging the final attainment/unclassifiable designation for the remaining portion of Jefferson County, Kentucky.

*Comment 7:* A Commenter claims that EPA reversed its position on how to treat Kosmos from the time that EPA provided the Commonwealth preliminary comments on its submission when it was under review at the state level and prior to formal submission to EPA. The Commenter points to Louisville's March 17, 2017, prehearing SIP submittal and EPA's April 18, 2017 [15] letter commenting on this prehearing submittal where EPA recommended treatment of Kosmos as a nearby source. The Commenter suggests that these previous preliminary comments show that EPA's November 9, 2018, NPRM to approve Kentucky's treatment of Kosmos as a background source constitutes an arbitrary and capricious shift in position and is not supported by the record.

*Response 7:* First, it is not uncommon during continuing discussions with states for EPA's positions on the manner in which states address attainment planning to evolve as technical information continues to be developed and submitted to EPA, evaluated by Agency staff, and refined. This is exactly what happened in this case, and EPA rejects the assertion that the fact of such evolution alone shows that our final approval is arbitrary and capricious. In Section IV.B.5 of the November 9, 2018 NPRM, EPA detailed its analysis of the appropriateness of treatment of Kosmos as an ''other source'' and addressing its impacts with a representative ambient background concentration. *See* also EPA's response to Comment #3 on the rationale for the treatment of Kosmos. The Commenter did not express any technical concerns with this analysis in the November 9, 2018, NPRM. EPA believes the record supports EPA's determination that the Commonwealth's treatment of Kosmos as an ''other source'' is appropriate and does not agree that its earlier comments on the Commonwealth's preliminary submittal show that its current approach is arbitrary and capricious and not supported by the record.

*Comment 8:* A Commenter asserts that EPA is establishing the monitor as a means of compliance with the attainment demonstration and expresses concerns about this assumption.

*Response 8:* EPA disagrees with the Commenter's characterization of the role of the Kosmosdale monitor. EPA concludes in this rulemaking that Kentucky's plan provides for attainment

[15] The Commenter included a date of April 18, 2018, for an EPA letter. However, based on the context of its use, EPA believes the Commenter is referring to an April 18, 2017 EPA letter, which was also referenced in footnote 22 of the November 9, 2018, NPRM.

in the established nonattainment area, and at the same time EPA supports Kentucky's efforts to pursue additional monitoring information to characterize air quality outside the nonattainment area in the vicinity of the Kosmos facility. EPA notes that its evaluation of the Commonwealth's SIP revision is based on the CAA requirements for attainment planning and on established guidance related to attainment plans. As outlined in EPA's November 9, 2018, NPRM, the Agency's proposed approval of the $SO_2$ attainment SIP is solely based on the Agency's determination that the plan complies with the nonattainment planning requirements of section 172(c) of the CAA for demonstrating attainment. LMAPCD's board order does not supplement the Commonwealth's attainment SIP nor did the Commonwealth request the order be incorporated into the SIP. As indicated in EPA's April 18, 2017, comment letter, EPA and the Commonwealth and LMAPCD have discussed appropriate consideration of Kosmos. This is reflected in the discussion in Section IV.B.5 of the November 9, 2018, NPRM regarding the appropriate treatment of Kosmos in the attainment demonstration modeling.

*Comment 9:* A Commenter expresses concerns with connecting the timing of the deployment of the monitor near Kosmos with the attainment demonstration for the Jefferson County nonattainment area and notes that the monitoring plan is not contingent on the SIP submittal.

*Response 9:* EPA agrees with the Commenter that the ambient air monitoring network plan is not contingent on a SIP submittal. The network plan is a separate regulatory planning process. On February 1, 2018, EPA approved siting the Kosmosdale monitor (AQS ID: 21–111–0065) to characterize the maximum ambient 1-hour $SO_2$ concentration near Kosmos as part of the 2017 Kentucky Ambient Air Monitoring Network Plan.

*Comment 10:* Based on a Commenter's review of EPA's November 9, 2018, NPRM, the Commenter asserts that EPA is in agreement or has otherwise made certain determinations that Kosmos does not constitute a source causing or contributing to 1-hour $SO_2$ NAAQS violation inside the nonattainment area or otherwise constitutes a source for which consideration of $SO_2$ emissions limitations or other controls are necessary in order for the Jefferson County nonattainment area to attain the 1-hour $SO_2$ NAAQS and that therefore, source-specific modeling of Kosmos emissions is not necessary under the 2014 $SO_2$ Nonattainment Guidance. Further, the Commenter claims that EPA had determined that Kosmos' emissions are adequately represented by ambient monitoring data from the Watson Lane monitor and that therefore, Kosmos should not be considered a ''nearby'' source for the purposes of modeling the Mill Creek Generating Station emissions under 40 CFR part 51, Appendix W. The Commenter also states that EPA concluded that $SO_2$ emissions from Kosmos would likely not result in a significant concentration gradient within the nonattainment area boundary.

*Response 10:* EPA has in fact concluded that Kentucky's SIP adequately shows that the nonattainment area will meet the NAAQS throughout the area's boundaries, notwithstanding emissions from Kosmos. However, EPA also believes that Kentucky has good reasons to establish a monitor near Kosmos to better characterize the ambient concentrations of $SO_2$ in the vicinity of the facility, in order to better understand air quality in the vicinity of Kosmos. In the separate action to approve Kentucky's monitoring network, which is a separate regulatory process and is not being re-opened or reevaluated in this SIP approval action, EPA supported Kentucky's choice. As explained in EPA's November 9, 2018, NPRM, and above in EPA's response to Comment #3, EPA observes that the analysis supplementing the Commonwealth's modeling analysis determined that the $SO_2$ emission from Kosmos would not result in a significant concentration gradient in the nonattainment area. As a result, Kosmos' emissions were not further characterized for purposes of consideration for SIP emission limits to demonstrate attainment for the nonattainment area or as a nearby source. See EPA's response to Comment #3. A conclusion that Kosmos should not be considered a ''nearby'' source or considered for a SIP emission limit for the purpose of modeling the Mill Creek Generating Station and the associated nonattainment area in no way indicates that it is unreasonable for Kentucky to choose to monitor air quality in the more immediate vicinity of from Kosmos.

Lastly, EPA does not agree with the Commenter that EPA determined that Kosmos' impacts are represented by ambient monitoring data at the Watson Lane monitor at all locations. EPA's supplemented background analysis in the November 9, 2018, NPRM supports the Commonwealth's conclusion that the Green Valley background monitor, located 27 km north of the nonattainment area in Indiana, adequately represents background concentrations of $SO_2$ within this nonattainment area, including the impact from Kosmos. EPA also evaluated whether Green Valley background monitor data is adequately representative of potential $SO_2$ concentration impacts from Kosmos within the Jefferson County nonattainment area based on an assessment of wind patterns in the Louisville area, the $SO_2$ emissions sources in the vicinity of the Green Valley monitor and comparing those sources to the Kosmos source. EPA's rationale for finding Kentucky's treatment of Kosmos as an ''other source'' and addressing it's impacts with a representative ambient background concentration is fully discussed in Section IV.B.5 of EPA's November 9, 2018, NPRM. EPA's November 9, 2018, NPRM did not indicate that Kosmos' impacts closer to the facility are represented by ambient air quality data from the Watson Lane monitor.

*Comment 11a:* A Commenter requests that EPA delete footnote number 22 because the Commenter states that the ABO referenced in footnote 22 is not necessary for EPA's approval of the SIP. The Commenter agrees with EPA that Kosmos is appropriately considered as a background source and no emissions limits or other controls are necessary under the SIP to bring the Jefferson County nonattainment area into attainment.

*Response 11a:* EPA included footnote number 22 to acknowledge information provided as part of the record respecting the attainment SIP and does not believe there is any need to delete this footnote. *See* EPA's November 9, 2018, NPRM, and EPA's response to Comment #3 for more information on the treatment of Kosmos in the attainment demonstration. *See* also EPA's response to Comment #8 as it pertains to the relevance of EPA's footnote regarding the ABO. The Agency also supports the efforts of Kentucky and LMAPCD to further characterize air quality in the area near Kosmos in order to continue to verify that there are no violations of 2010 1-hour $SO_2$ NAAQS in the vicinity of Kosmos.

*Comment 11b:* Additionally, a Commenter requests that EPA delete footnote number 22 because of the Commenter's assertion that the ABO between Kosmos and LMAPCD is not necessary because current monitoring data (presumably at the Watson Lane monitor) is attaining the NAAQS, and thus, in the Commenter's opinion the premise on which the ABO was based

is no longer valid. The Commenter mentions that the ABO is ''subject to change'' and claims that the ABO will need to be revisited by LMAPCD and Kosmos and revised as necessary and appropriate.

*Response 11b:* EPA does not agree with the Commenter that footnote 22 should be deleted. EPA understands that there is continued dialog between the LMAPCD (in consultation with Kentucky) and Kosmos regarding the ABO and the status of installation and operation of the Kosmosdale $SO_2$ monitor which is approved in the ambient air monitoring network plan to characterize the impact of $SO_2$ emissions from the facility to the area surrounding the facility. EPA encourages this continued dialog and does not intend through this action to indicate that $SO_2$ air quality in the vicinity of Kosmos should not be further evaluated for purposes of verifying that there are no violations of 2010 1-hour $SO_2$ NAAQS in either the Jefferson County nonattainment area or in other areas potentially impacted by Kosmos' emissions. *See* EPA's response to Comment #4.

*Comment 11c:* A Commenter claims that footnote number 22 inaccurately summarizes the ABO and asserts that the ABO does not require Kosmos to ''deploy'' a monitor but instead only allows monitoring to continue until the end of [a] three-year monitoring period if a cost agreement and access agreement can be finalized and further only requires action by Kosmos if necessary to meet the $SO_2$ NAAQS. The Commenter concludes that the ABO is not necessary for the SIP approval and thus the footnote should be deleted.

*Response 11c:* EPA acknowledges that the ABO does not require Kosmos to deploy an $SO_2$ ambient air monitor; monitoring will be performed by LMAPCD. The ABO establishes an agreement between Kosmos and LMAPCD regarding access and cost responsibility of the monitoring. As prescribed in the ABO and approved by EPA in the Kentucky Ambient Air Monitoring Network plan, which is not being re-opened in this SIP approval action nor related to EPA's approval of the attainment SIP, LMAPCD will operate the air monitoring site as a State and Local Air Monitoring Station (SLAMS) to monitor $SO_2$ and meteorological data to obtain 3 years of quality-assured data. See EPA's response to Comment #8.

*Comment 12:* A Commenter claims that EPA's November 9, 2018, NPRM fails to meet the CAA's statutory deadline to issue a Federal Implementation Plan (FIP) and that EPA must issue a FIP and must impose sanctions on Kentucky for failing to submit a lawful SIP.

*Response 12:* EPA acknowledges that it did not approve a SIP revision or promulgate a FIP for the Jefferson County area by the statutory deadline under CAA 110(c)(1)(A). However, with this final action to approve Kentucky's attainment SIP, EPA is discharging the statutory obligation under CAA section 110(k)(2) to act on the SIP, and such approval terminates our FIP obligation under section 110(c)(1)(A) for the Jefferson County Area. Regarding sanctions under CAA section 179, as noted in EPA's November 9, 2018, NPRM, the Commonwealth provided the required attainment SIP submittal for the Jefferson County Area to address $SO_2$ nonattainment planning requirements on June 23, 2017. EPA subsequently determined the attainment SIP submittal complete on October 10, 2017, and thus that Kentucky corrected the deficiency that was the basis of EPA's March 18, 2016, finding for the Area. Because this deficiency has been corrected, section 179 sanctions are no longer applicable, and no section 179 sanctions clock was actually running or past due at the time the Commenter submitted its objections. A copy of EPA's completeness determination letter is provided in the docket for this rulemaking.

*Comment 13:* A Commenter asserts that the projected 2018 attainment year inventory is set artificially high and suggests that the limits should be set based on certain scrubber efficiency (*i.e.,* 89 percent). The Commenter also refers to the RACT/RACM portion of the November 9, 2018, NPRM and indicates a discrepancy related to the emissions for post-level control. Specifically, the Commenter argues that EPA states that the scrubber improvement is a removal rate of 98 percent, compared to 90 percent before the upgrades, which would equate to a post-control level of 6,000 tpy, not the projected 13,940 tpy.

*Response 13:* EPA disagrees with the Commenter that the projected emission inventory is artificially high. The projected 2018 $SO_2$ emissions for Mill Creek are considered conservative based on the source's expected levels or potential to emit beyond the October 4, 2018, attainment date. The projected emission inventory is an estimate of emissions from all $SO_2$ emission sources determined to have an impact on the affected nonattainment area for the year in which the area is expected to attain the standard, consistent with the attainment demonstration for the affected area. This inventory should reflect projected emissions for the attainment year for all $SO_2$ sources in the nonattainment area, taking into account emission changes that are expected after the base year. The projected inventory is not an exact measurement for post-control actual emissions and there is no one prescribed method for developing the inventory. Mill Creek's 2011 base year emissions for all four units was 29,944 tpy (*see* Table 3 in the November 9, 2018, NPRM). LMAPCD derived the 13,490 tpy projected post-construction potential (projected inventory) by converting the 30-day 0.20 lb/MMBtu emission rate to tpy (by multiplying the permitted rate in lb/MMBtu times the nominal heat capacity for each unit and the total calendar year hours). Kentucky also subtracted Mill Creek's 2011 base year emissions to show the contemporaneous $SO_2$ decreases for each unit at Mill Creek. The 0.20 lb/MMBtu emission rate is based on the FGD $SO_2$ scrubber upgrades installed at Mill Creek and demonstrates modeled attainment of the 2010 standard. According to 40 CFR 51.ll0(a), a control strategy must be selected that provides the degree of emission reductions necessary for attainment and maintenance of the NAAQS. EPA believes the projected inventory is an appropriate estimation of the expected improvement in emissions within the Jefferson County nonattainment area due to the adoption and implementation of upgraded $SO_2$ scrubber control measures at Mill Creek. Furthermore, the Commenter's post-control calculation of 6,000 tpy is based on applying a reduction factor to the 2011 actual emissions rather than the uncontrolled potential to emit.

EPA also disagrees with the Commenter's assertion that the November 9, 2018, NPRM suggests the $SO_2$ removal efficiency at Mill Creek only achieved 89 percent since 2014 emission levels (*see* footnote No. 23 in the November 9, 2018, NPRM). The Commenter appears to confuse actual and allowable emissions and the application of control efficiencies and emission reductions regarding the change in emissions for Mill Creek post control. EPA acknowledges that the reduction in actual emissions since 2014 mathematically equates to an 89 percent reduction in $SO_2$ emissions but the Agency's purpose for footnote #24 (*See* 83 FR 56002 at 56013) was to show the decrease in actual emissions since 2014 and not to make a definitive determination of the efficiency of the $SO_2$ scrubbers since installation of upgrades at Mill Creek. Additionally, EPA notes that the reduction in actual

emissions discussed in the November 9, 2018, NPRM is considered a snapshot of the level of actual emissions since the installation of controls and is not considered a definitive indication of the $SO_2$ removal capability of the scrubber upgrades.

EPA notes that since completion of the control installations at Mill Creek in 2016, the facility's actual $SO_2$ emissions have decreased from 28,149 tons in 2014 to 3,040 tons in 2017. EPA believes the control strategy implemented at Mill Creek provides for the attainment of the standard, which is supported by the modeled attainment demonstration, and the steady decline in actual annual $SO_2$ emissions since controls were installed in 2016. The 2015–2017 design value is the latest three year average available and Watson Lane monitor has a reading of 31 ppb, well below the 75 ppb $SO_2$ standard.

## III. Incorporation by Reference

In this rule, EPA is finalizing rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into the Jefferson County portion of the Kentucky SIP, a $SO_2$ emission limit and specified compliance conditions established in title V permit 145–97–TV(R3) for each coal-fired emissions unit at the LG&E Mill Creek Generating station in Jefferson County nonattainment area. Specifically, EPA is incorporating into the Jefferson County portion of the Kentucky SIP Plant-wide Specific conditions S1-Standards, S2-Monitoring and Record Keeping and S3-Reporting in title V permit 145–97–TV(R3) for EGU U1, U2, U3 and U4. These conditions include a 0.20 lb/MMBtu 30-day $SO_2$ emission limit for each EGU, U1, U2, U3 and U4, and associated operating and compliance conditions (monitoring, recordkeeping and reporting) for these units and are the basis for the attainment demonstration. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[16]

## IV. Final Action

EPA is approving Kentucky's $SO_2$ nonattainment SIP submissions, which the Commonwealth submitted to EPA through a letter dated June 23, 2017, for attaining the 2010 1-hour $SO_2$ NAAQS for the Jefferson County nonattainment area and for meeting other nonattainment area planning requirements. EPA has determined that Kentucky's nonattainment SIPs meet the applicable requirements of sections 110, 172, 191 and 192 of the CAA and nonattainment regulatory requirements at 40 CFR part 51. Kentucky's June 23, 2017, SIP revisions include an attainment demonstration for the Jefferson County nonattainment area and other nonattainment requirements for RFP, RACT/RACM, NNSR, base-year and projection-year emission inventories, enforceable emission limits and control measures and compliance parameters, and contingency measures. Additionally, EPA is approving into the Jefferson County portion of the Kentucky SIP, Mill Creek's enforceable $SO_2$ emission limits and compliance parameters (monitoring, recordkeeping and reporting) established at Plant-wide Specific condition S1-Standards, S2-Monitoring and Record Keeping and S3-Reporting established in title V permit 145–97–TV(R3).

## 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 approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this

[16] *See* 62 FR 27968 (May 22, 1997).

action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 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* CAA section 307(b)(2).

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

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

Dated: May 28, 2019.

**Mary S. Walker,**

*Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart S—Kentucky

■ 2. Section 52.920 is amended by:

■ a. Adding, in paragraph (d), the entry ''Louisville Gas and Electric Mill Creek Electric Generating Station'' at the end of the table; and

■ b. Adding, in paragraph (e), the entries ''2010 1-hour $SO_2$ Attainment Demonstration for the Jefferson County Area,'' ''2010 1-hour $SO_2$ Jefferson County Nonattainment Plan for 172(c)(3) 2011 Base-Year Emissions Inventory'', and ''2010 1-hour $SO_2$ Jefferson County Nonattainment Plan for 172(c)(5) New Source Review Requirements'' at the end of the table.

The additions read as follows:

**§ 52.920 Identification of plan.**

* * * * *

(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

| Name of source | Permit No. | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * * | * | * | * * | * |
| Louisville Gas and Electric Mill Creek Electric Generating Station. | 145–97–TV(R3) | 6/23/2017 | 6/28/2019 [Insert citation of publication]. | Plant-wide Specific condition S1-Standards, S2-Monitoring and Record Keeping and S3-Reporting in title V permit 145–97–TV(R3) for EGU U1, U2, U3 and U4. |

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

| Name of non-regulatory SIP provision | Applicable geographic or non-attainment area | State submittal date/effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * * | * | * | * * | * |
| 2010 1-hour $SO_2$ Attainment Demonstration for the Jefferson County Area. | Jefferson County | 6/23/2017 | 6/28/2019 [Insert citation of publication]. | |
| 2010 1-hour $SO_2$ Jefferson County Nonattainment Plan for 172(c)(3) 2011 Base-Year Emissions Inventory. | Jefferson County | 6/23/2017 | 6/28/2019 [Insert citation of publication]. | |
| 2010 1-hour $SO_2$ Jefferson County Nonattainment Plan for 172(c)(5) New Source Review Requirements. | Jefferson County | 6/23/2017 | 6/28/2019 [Insert citation of publication]. | |

[FR Doc. 2019–13736 Filed 6–27–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2009–0493; FRL–9985–41]**

### Ethiprole; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of the insecticide ethiprole in or on coffee, green bean. Bayer CropScience LP requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective June 28, 2019. Objections and requests for

hearings must be received on or before August 27, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0493, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Michael L. Goodis, P.E., Director, Registration Division (750P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0493 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 27, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0493, by one of the following methods:

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

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

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 24, 2018 (83 FR 53594) (FRL–9983–46), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E8586) by Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709–2014. The petition requested that 40 CFR 180.652 be amended by establishing tolerances for residues of the insecticide ethiprole, 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-(ethylsulfinyl)-1*H*-pyrazole-3-carbonitrile, in or on coffee (green beans) and roasted coffee and instant coffee at 0.1 parts per million (ppm). That document referenced a summary of the petition prepared by Bayer CropScience LP, the registrant, which is available in the docket, *http://www.regulations.gov.* These tolerances were requested to cover residues of ethiprole in or on coffee resulting from uses of this pesticide on coffee outside the United States. There is no current U.S. registration for use of ethiprole on coffee. The only comment submitted to this docket supported this rulemaking.

Based upon review of the data supporting the petition, EPA has concluded that tolerances are not needed for the processed coffee commodities since available data demonstrate that residues of ethiprole did not concentrate in these processed commodities.

## III. Aggregate Risk Assessment and Determination of Safety

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

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

EPA's assessment of exposures and risks associated with ethiprole follows.

*A. Toxicological Profile*

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

Ethiprole has a low acute toxicity via the oral, dermal, and inhalation routes of exposure, and is not a skin sensitizer nor a skin or eye irritant. In the mammalian toxicology database, the critical effects of ethiprole are liver toxicity and thyroid toxicity. The rat was the most sensitive species overall after administration of ethiprole. Evidence of hepatotoxicity is seen in the rat, dog, and mouse and was manifested as increased liver weight and hepatocellular hypertrophy and changes in clinical chemistry such as increased alanine transaminase and alkaline phosphates activities; increased cholesterol and triglycerides levels; and increased total protein concentration. Thyroid toxicity was observed in the rat and was manifested as increased thyroid weight, thyroid follicular hypertrophy along with higher TSH plasma levels, and reduced T4 (thyroxine) plasma levels. Mechanism studies of thyroid toxicity suggested that ethiprole acts by disrupting thyroid hormone homeostasis and indirectly influences the thyroid by inducing the hepatic microsomal enzyme T4- glucuronyl transferase.

Ethiprole is neither a reproductive nor a developmental toxicant. Although no teratogenic effects were observed in the existing database, there is uncertainty regarding the potential impact of ethiprole on thyroid hormone homeostasis in the developing organism.

In the acute neurotoxicity study, clinical signs showed consistent effects that might be anticipated for a chemical interacting with neurotransmitter chloride channels, including low arousal levels, increased eye closure, increased incidence of body tremors, and decreased rearing counts in females at the mid dose. However, no neurotoxicity effects were noted in the subchronic neurotoxicity study up to and including the highest dose of 400 ppm (33.0 mg/kg/day). There were no effects on neuropathology in any of the studies.

Based on a battery of mutagenicity studies, ethiprole is not considered to be genotoxic. In accordance with the *EPA's Final Guidelines for Carcinogen Risk Assessment* (March 2005), ethiprole is classified as ''Suggestive Evidence of Carcinogenicity, but Not Sufficient to Assess Human Carcinogenicity Potential'' based on increased incidences of hepatocellular adenomas in females at the highest dose tested in the carcinogenicity study in mice. While the evidence from animal data is suggestive of carcinogenicity, a cancer risk to humans from dietary exposure to ethiprole is of low concern, and a nonlinear approach is appropriate for assessing potential cancer risk based on the following weight-of-evidence considerations:

1. The liver tumors in mice were benign with no progression to malignancy;

2. The thyroid tumors in rats were also benign (with no progression to malignancy), and the increase in the tumor incidences at the high dose did not reach statistical significance when compared to controls;

3. In both species (mice and rats), tumors were observed only at the high dose level (*i.e.,* there was a lack of evidence of a dose-response relationship);

4. There is no concern for mutagenicity/genotoxicity;

5. The no-observed-adverse-effect level (NOAEL) of 0.85 milligrams/kilograms/day (mg/kg/day) used for deriving the cRfD is approximately 86-fold lower than the dose (73 mg/kg/day) that induced benign tumors in mice; and

6. The reduction of the Food Quality Protection Act Safety Factor (FQPA SF) to 1x yields a chronic Population Adjusted Dose (cPAD) of 0.03 mg/kg/day. The Agency has determined that the cPAD will adequately account for all chronic effects, including carcinogenicity, likely to result from exposure to ethiprole.

More detailed information on the studies received and the nature of the adverse effects caused by ethiprole as well as the NOAEL and the LOAEL from the toxicological studies can be found in the document entitled, ''Ethiprole: Human Health Risk Assessment for a Proposed Tolerance without U.S. Registration in/on Imported Coffee, Green Bean,'' dated April 29, 2019, by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2009–0493. Double-click on the document to view the referenced information.

*B. Toxicological Points of Departure/Levels of Concern*

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

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

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

| Exposure/scenario | Point of departure and uncertainty/ safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute Dietary (All populations) | NOAEL = 35 mg/kg/ day.<br>$UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x<br>Combined UFs = 100x | Acute RfD = 0.35 mg/kg/day.<br>aPAD = 0.35 mg/kg/ day | Acute Neurotoxicity in Rats Study.<br>LOAEL = 250 mg/kg/day based on decreased locomotor activity and functional observational battery (FOB) findings in both sexes on the day of treatment. |
| Chronic Dietary (All populations). | NOAEL = 0.85 mg/ kg/day.<br>$UF_A$ = 3x<br>$UF_H$ = 10x<br>FQPA SF = 1x<br>Combined UFs = 30x | Chronic RfD = 0.03 mg/kg/day.<br>cPAD = 0.03 mg/kg/ day | Combined Chronic/Carcinogenicity Oral (Dietary) Toxicity in Rats.<br>LOAEL = 3.21/4.40 mg/kg/day M/F based on observed effects in the thyroid and/or liver (histopathologic changes, increased organ weights, and/or altered thyroid hormone or bilirubin levels). |
| Cancer Dietary (Oral, Dermal, Inhalation). | Classification: ''Suggestive Evidence of Carcinogenicity, but Not Sufficient to Assess Human Carcinogenicity Potential'' Quantification using a cancer potency factor is not needed; a nonlinear approach based on the cRfD is protective of potential cancer risk. | | |

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

More detailed information on the toxicological endpoints for ethiprole can be found in the document entitled, ''Ethiprole: Human Health Risk Assessment for a Proposed Tolerance without U.S. Registration in/on Imported Coffee, Green Bean,'' dated April 29, 2019, by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2009–0493. Double-click on the document to view the referenced information.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ethiprole, EPA considered exposure under the petitioned-for tolerances as well as all existing ethiprole tolerances in 40 CFR 180.652 as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In estimating acute dietary (food and drinking water) exposure, EPA used food consumption information from the Dietary Exposure Evaluation Model—Food Commodity Intake Database (DEEM–FCID™, Version 3.18), which incorporates 2003–2008 consumption data from the United States Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). An unrefined, acute dietary exposure assessment was conducted assuming tolerance-level residues and assuming 100 percent crop treated (PCT).

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used DEEM–FCID™, Version 3.18, which incorporates 2003–2008 consumption data from the USDA's NHANES/WWEIA. An unrefined chronic dietary risk analysis was conducted assuming tolerance-level residues and 100 PCT.

iii. *Cancer.* As explained in unit III.A., quantification of risk using a non-linear approach (*i.e.,* a cPAD) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to ethiprole. No separate exposure assessment pertaining to cancer risk was performed for ethiprole; rather, EPA relied on the chronic exposure assessment described in this Unit for assessing the risk of all chronic effects, including cancer.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue information in the dietary assessment for ethiprole. Tolerance-level residues and/or 100% CT were assumed for all food commodities.

More detailed information on the acute and chronic dietary (food only) exposure and risk assessment for ethiprole can be found in the document entitled, ''Ethiprole: Human Health Risk Assessment for a Proposed Tolerance without U.S. Registration in/on Imported Coffee, Green Bean,'' dated April 29, 2019, by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2009–0493. Double-click on the document to view the referenced information.

2. *Dietary exposure from drinking water.* Ethiprole and its degradates were not considered for drinking water assessment because ethiprole is not registered for use in the U.S.; therefore, exposure to residues of ethiprole in drinking water is not expected.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Ethiprole is not registered for any specific use patterns that would result in residential exposure.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

substances that have a common mechanism of toxicity.'' EPA has not made a common mechanism of toxicity finding as to ethiprole and any other substances, and ethiprole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action; therefore, EPA has not assumed that ethiprole has a common mechanism of toxicity with other substances.

For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity, and to evaluate the cumulative effects of such chemicals, *see* the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/.*

*D. Safety Factor for Infants and Children*

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

2. *Prenatal and postnatal sensitivity.* Although no teratogenic effects were observed in the existing toxicology database, there is uncertainty regarding the potential impact of ethiprole on thyroid hormone homeostasis in the developing organism. Observations demonstrated that thyroid hormones were affected in several studies throughout the ethiprole database. Thyroid hormones may play a critical role in the development of the nervous system.

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

i. The toxicology database for ethiprole is complete for establishing tolerances without U.S. registration purposes. Previously the Agency determined that a CTA is required based on the weight-of-evidence. Subsequently, the registrant submitted a request for a CTA waiver. Based on a weight-of-evidence approach that considered the relatively low exposure to the highest exposed populations and the fact that had the 10x been retained, the exposure levels would still result in estimated risks below the levels of concern, the Agency concludes that a CTA in pregnant animals, fetuses, postnatal animals, and adult animals is not required for ethiprole at this time.

ii. In mammals, no neurotoxic effects were observed during the subchronic neurotoxicity study in which adverse effects of increased thyroid and liver weights were observed in males and females, respectively. The acute neurotoxicity study showed decreased locomotor activity (both sexes, day 1) and the FOB findings in both sexes on the day of treatment (4 hours after dosing). The FOB findings included increased tremors (females), decreased grooming (both sexes), decreased arousal alert (females), increased number of animals for which no assessment of gait was possible (females), increased eye closure (females), increased standing/sitting hunched (females), decreased activity and rearing counts (females), increased hindlimb and forelimb grip strength (males), decreased splay (females, day 1), and increased splay (males, day 8). The similarity in the NOAELs from the acute neurotoxicity and subchronic neurotoxicity studies are consistent with the metabolism data that suggesting that ethiprole is not accumulated in the system. Therefore, a developmental neurotoxicity (DNT) study is not required for ethiprole.

iii. There is no evidence that ethiprole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure database for ethiprole. The dietary assessment is based on high end assumptions, assuming tolerance-level residues and 100 PCT. The assessment will not underestimate the exposure and risk posed by ethiprole.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). Since there are no registered or proposed uses of ethiprole that result in residential exposure, the acute and chronic aggregate exposure and risk assessments are equal to the acute and chronic dietary exposure and risk estimates (food only), respectively. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions described in this Unit for dietary and non-dietary acute exposures, EPA has concluded that acute dietary exposure to ethiprole from food only will utilize <1% of the aPAD for the general U.S. population. The most highly-exposed population subgroup, all infants (<1 year old), utilized 2.1% of the aPAD.

2. *Chronic risk.* Using the exposure assumptions described in this Unit for chronic exposure, EPA has concluded that chronic dietary exposure to ethiprole from food only will utilize 2.0% of the cPAD for the general U.S. population. The most highly-exposed population subgroup, all infants (<1 year old), utilized 5.7% of the cPAD. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of ethiprole is not expected.

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

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, ethiprole is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic

dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for ethiprole.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA concluded that the nonlinear approach for assessing potential cancer risk from exposure to ethiprole is appropriate. As noted in this Unit, the chronic risk aggregate exposure to ethiprole is below the Agency's level of concern; therefore, the Agency concludes that there is not a cancer risk of concern from exposure to ethiprole.

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

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

The HPLC/MS–MS enforcement method, Method 01128, is acceptable for determination of residues of ethiprole and its sulfone metabolite RPA 097973 for data collection in plant commodities. The GC–ECD method (Report No. B003572) is suitable for determining residues of parent ethiprole and RPA in milk, eggs and tissues. The FDA multiresidue method testing study for ethiprole is adequate and indicates that PAM multiresidue methods are not suitable for enforcing tolerances for residues of ethiprole.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. Codex has not established maximum residue limits (MRLs) for residues of ethiprole in coffee commodities; therefore, there are no harmonization issues at this time.

## V. Conclusion

Therefore, a tolerance is established for residues of the insecticide ethiprole, 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-(ethylsulfinyl)-1*H*-pyrazole-3-carbonitrile, including its metabolites and degradates, in or on coffee, green bean at 0.1 ppm. EPA is also amending the footnote in the table in paragraph (a) to accommodate the coffee commodity.

## VI. Statutory and Executive Order Reviews

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

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

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

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

## VII. Congressional Review Act

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

## List of Subjects in 40 CFR Part 180

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

Dated: June 19, 2019.

**Michael Goodis,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. In § 180.652, revise paragraph (a) to read as follows:

**§ 180.652 Ethiprole; tolerances for residues.**

*(a) General.* Tolerances are established for residues of ethiprole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only ethiprole, 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-(ethylsulfinyl)-1*H*-pyrazole-3-carbonitrile.

TABLE 1 TO PARAGRAPH (a)

| Commodity | Parts per million |
|---|---|
| Coffee, green bean [1] | 0.1 |
| Rice, grain [1] | 1.7 |
| Tea, dried [1] | 30 |

[1] There are no U.S. registrations for this commodity as of June 28, 2019.

* * * * *

[FR Doc. 2019–13546 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2018–0002; FRL–9994–51]**

## Mefentrifluconazole; Pesticide Tolerances

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

**ACTION:** Final rule.

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

**DATES:** This regulation is effective June 28, 2019. Objections and requests for hearings must be received on or before August 27, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0002, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0002 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 27, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0002, by one of the following methods:

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

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

### II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 18, 2018 (83 FR 23247) (FRL–9976–87), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8612) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528. The petition requested to establish tolerances in 40 CFR part 180 for residues of the fungicide mefentrifluconazole (BAS 750 F); 2-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-1-(1*H*-1,2,4-triazole-1-yl)propan-2-ol] in or on the following raw agricultural commodities: almond, hulls at 4 parts per million (ppm); barley, hay at 15 ppm; barley, straw at 30 ppm; cattle, fat at 0.3 ppm;

cattle, kidney at 0.2 ppm; cattle, liver at 0.5 ppm; cattle, meat at 0.09 ppm; cattle, muscle at 0.04 ppm; cereal grains crop group 15, except wheat and corn at 3 ppm; cherry subgroup 12–12A at 4 ppm; citrus, oil at 30 ppm; corn, aspirated grain fractions at 0.3 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 9 ppm; corn, sweet, forage at 6 ppm; corn, sweet, grain at 0.02 ppm; corn, sweet, stover at 6 ppm; foliage of legume vegetables, except soybean, crop subgroup 7A at 20 ppm; forages of cereal grains, crop group 16 at 4 ppm; goat, fat at 0.3 ppm; goat, kidney at 0.2 ppm; goat, liver at 0.5 ppm; goat, meat at 0.09 ppm; goat, muscle at 0.04 ppm; grape, raisin at 4 ppm; grapefruit subgroup 10–10C at 1 ppm; horse, fat at 0.3 ppm; horse, kidney at 0.2 ppm; horse, liver at 0.5 ppm; horse, meat at 0.09 ppm; horse, muscle at 0.04 ppm; legume vegetables (succulent or dried) crop group 6, except lentil at 0.1 ppm; lemon/lime subgroup 10–10B at 2 ppm; lentil, dry at 2 ppm; milk at 0.03 ppm; orange subgroup 10–10A at 1 ppm; peach subgroup 12–12B at 2 ppm; peanut at 0.01 ppm; peanut, hay at 30 ppm; plum prune, fresh at 4 ppm; plum subgroup 12–12C at 2 ppm; pome fruit crop group 11–10 at 1.5 ppm; poultry, eggs at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, liver at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, muscle at 0.01 ppm; poultry, skin at 0.01 ppm; rapeseed subgroup 20A at 1 ppm; rice, straw at 9 ppm; sheep, fat at 0.3 ppm; sheep, kidney at 0.2 ppm; sheep, liver at 0.5 ppm; sheep, meat at 0.09 ppm; sheep, muscle at 0.04 ppm; small fruit vine climbing, except fuzzy kiwifruit subgroup 13–07F at 1.5 ppm; sorghum, stover at 9 ppm; soybean, aspirated grain fractions at 5 ppm; soybean, forage at 4 ppm; soybean, hay at 15 ppm; soybean, seed at 0.3 ppm; sugar beet at 0.6 ppm; sugar beet, top at 9 ppm; swine, fat at 0.01 ppm; swine, liver at 0.01 ppm; swine, meat at 0.01 ppm; swine, skin at 0.01 ppm; tree nut crop group 14–12 at 0.06 ppm; tuberous and corm vegetables subgroup 1C at 0.02 ppm; wheat, aspirated grain fractions at 20 ppm; wheat, grain at 0.4 ppm; wheat, hay at 8 ppm; and wheat, straw at 30 ppm. That document referenced a summary of the petition prepared by BASF, the registrant, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing; however, they were not related to mefentrifluconazole.

Following revisions to that petition, EPA published another notice of filing, which supersedes the May 18, 2018 document. That document was published in the **Federal Register** of March 18, 2019 (84 FR 9735) (FRL–9989–90). The tolerances requested were the same, except for the following: (1) The new petition sought two new tolerances, one for residues on corn, pop, grain at 0.01 ppm and one for residues on grain, cereal, forage, fodder, and straw, group 16, stover at 9 ppm; and (2) the new petition dropped the request for the separate stover tolerances for corn, field, stover at 9 ppm; corn, sweet, stover at 6 ppm; and sorghum, stover at 9 ppm, as those would be subsumed in the group 16, stover tolerance. The amended summary of the petition prepared by BASF, the registrant, and referenced in that document, is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing; however, they were not related to mefentrifluconazole.

Based upon review of the data supporting the petition and under its authority in FFDCA section 408(d)(4)(A)(i), EPA is establishing tolerances that vary slightly from what the petitioner sought. The reason for these changes are explained in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

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

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

### *A. Toxicological Profile*

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

The liver was the most consistent target organ across species, with mice being the most sensitive species. Following subchronic and chronic exposures, increased absolute and relative liver weights, and histopathological liver findings (subchronic: hypertrophy, cytoplasmic alteration, and necrosis in males; fatty change in females; chronic: diffuse and macrovesicular fatty changes) were observed in both sexes. Decreased cholesterol was also observed in the mouse subchronic toxicity studies (cholesterol was not measured in the mouse carcinogenicity study). Following oral exposures to rats, there were effects on liver function as evidenced by increased alkaline phosphatase (ALP), gamma-glutamyl transferase (GGT), and cholesterol, increased absolute and relative liver weights, and histopathological findings (hepatocellular hypertrophy (subchronic and chronic), multifocal necrosis (females; subchronic)). In dogs, liver effects included increased ALP, increased liver weights, and histopathological findings in the liver (hepatocellular hypertrophy, eosinophilic change, and subcapsular fibrosis). In the 90-day oral toxicity study in dogs, males were more sensitive than females; however, in the 1-year toxicity study, effects were observed at the same dose for both sexes. The toxicity was also shown to progress, with greater increases in ALP along with fibrosis being observed in the chronic study. Other effects included increased white blood cell (WBC) counts in mice following subchronic exposures. In addition, increased adrenal gland weights were noted in male rats following subchronic exposures and in female rats, dogs, and mice following chronic exposures; however, corresponding histopathological findings (eosinophilic cytoplasmic change) were only noted in the adrenal glands of female mice in the carcinogenicity study. An in vitro human recombinant aromatase assay

conducted with mefentrifluconazole indicates that it has the potential to interact with the aromatase enzyme.

There was no evidence of increased quantitative or qualitative fetal susceptibility in the developmental toxicity studies in rats and rabbits or offspring susceptibility in the two-generation reproduction toxicity studies in rats. In the developmental toxicity study in rats, fetal effects (increased placental weight, decreased fetal weight, increased incidence of dilated renal pelvis) occurred at the same dose as maternal effects (increased placental weight). In the developmental toxicity study in rabbits, no maternal or developmental effects were seen up to the highest dose tested (25 mg/kg/day); 50 mg/kg/day was established as the maximum tolerable dose (MTD) for non-pregnant female rabbits in the range-finding studies. In the two-generation reproduction study in rats; offspring effects (decreased pup body weight, increased total litter loss and litters containing pup death during post-natal day (PND) 1–4, and increased incidence of dilated renal pelvis) occurred at the same dose as those eliciting parental toxicity (changes in clinical chemistry parameters (increased ALP, GGT, triglycerides, cholesterol), increased relative liver weights, histopathological findings in the liver, and increased total litter loss and litters containing pup death during PND 1–4). Reproductive toxicity (decreased implantation sites per dam in the F1 generation maternal animals) was observed at the same dose causing parental and offspring effects.

In the acute neurotoxicity study in rats, unsteady gait, increased foot splay, and decreased motor activity were observed at 2,000 mg/kg (no-observed-adverse-effect-level (NOAEL) = 600 mg/kg) for both sexes. However, there is no other evidence of neurotoxicity in the database. In addition, there were no treatment-related histopathological findings in the central or peripheral nervous system in the toxicological database.

Mefentrifluconazole was categorized as having low acute toxicity via the oral, dermal, and inhalation routes (Toxicity Categories III–IV). It is a not an eye or skin irritant (Toxicity Category IV), but it is a dermal sensitizer.

M750F022 is a metabolite that was identified as a residue of concern in the livestock metabolism studies and has a hydroxyl group instead of the triazole ring as a result of cleavage. In the available rat metabolism data, M750F022 was not found at significant amounts; however, it is a proposed intermediate for several metabolites that were observed in the study. Additional toxicological studies were performed, which demonstrated that M750F022 was of low acute toxicity by the oral route in rats. There was no genotoxic concern identified in three in vitro genotoxicity assays. In a 28-day oral toxicity study in mice, the liver was identified as the target organ. M750F022 showed considerably lower potential for aromatase inhibition than the parent, mefentrifluconazole, in an in vitro aromatase inhibition assay. Based on these studies, M750F022 is not considered to be a greater toxicological concern than mefentrifluconazole.

Specific information on the studies received and the nature of the adverse effects caused by mefentrifluconazole as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled ''*Mefentrifluconazole. Human Health Risk Assessment for the Section 3 Registration Action of the New Active Ingredient on Non-Residential Turf, Sod Farms, Ornamentals, Commercial and On-Farm Seed Treatment; and Pome Fruit, Crop Group 11–10; Stone Fruit, Crop Group 12–12; Tree Nuts, Crop Group 14–12; Cereal Grains, Crop Group 15; Legume Vegetables, Crop Group 6; Foliage of Legume Vegetables, Crop Group 7; Citrus Fruit, Crop Group 10–10; Small Fruit Vine Climbing, Except Fuzzy Kiwifruit Subgroup 13–07F; Soybeans; Peanuts; Sugar Beet; Rapeseed Subgroup 20A; and Tuberous and Corm Vegetables Subgroup 1C*'' on pages 50–57 in docket ID number EPA–HQ–OPP–2018–0002.

*B. Toxicological Points of Departure/Levels of Concern*

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

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

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

| Exposure/scenario | Point of departure and uncertainty/safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary (Females 13–50 years of age). | NOAEL = 73 mg/kg/day.<br>$UF_A$ = 10X<br>$UF_H$ = 10X<br>FQPA SF = 1X | Acute RfD = 0.73 mg/kg/day.<br>aPAD = 0.73 mg/kg/day | Two-Generation Reproduction Toxicity Study.<br>LOAEL = 194 mg/kg/day based on decreased implantations per dam. |
| Acute dietary (General population including infants and children). | No appropriate toxicological effect attributable to a single dose was observed. Therefore, a dose and endpoint were not identified for this risk assessment. | | |

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR MEFENTRIFLUCONAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

| Exposure/scenario | Point of departure and uncertainty/ safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Chronic dietary (All populations) | NOAEL= 3.5 mg/kg/ day.<br>$UF_A$ = 10X<br>$UF_H$ = 10X<br>FQPA SF = 1X | Chronic RfD = 0.035 mg/kg/day.<br>cPAD = 0.035 mg/ kg/day | Mouse Carcinogenicity Study.<br>LOAEL = 9.1 mg/kg/day based on increased liver weights and histopathological findings in the liver (both sexes). |
| Incidental/Adult oral short-term (1–30 days). | NOAEL = 11 mg/kg/ day.<br>$UF_A$ = 10X<br>$UF_H$ = 10X<br>FQPA SF = 1X | LOC for MOE = 100 | Subchronic Toxicity—Mouse.<br>LOAEL = 58 mg/kg/day increased total white blood cell (WBC) counts, decreased cholesterol levels, increased absolute and relative liver weights, and histopathological liver findings. |
| Dermal short-term (1 to 30 days) and intermediate-term (1–6 months). | Oral study NOAEL = 11 mg/kg/day (dermal absorption factor = 15.6%).<br>$UF_A$ = 10X<br>$UF_H$ = 10X<br>FQPA SF = 1X | LOC for MOE = 100 | Subchronic Toxicity—Mouse.<br>LOAEL = 58 mg/kg/day increased total WBC counts, decreased cholesterol levels, and histopathological liver findings. |
| Cancer (Oral, dermal, inhalation). | Classification: ''Not likely to be Carcinogenic to Humans'' based on the absence of treatment-related tumors in two adequate rodent carcinogenicity studies. | | |

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

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to mefentrifluconazole, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from mefentrifluconazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for the general population for mefentrifluconazole; therefore, a quantitative acute dietary exposure assessment for the general population is unnecessary.

However, such effects were identified for mefentrifluconazole for females 13 to 49 years old. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA conducted an unrefined acute dietary exposure and risk assessment assuming 100 percent crop treated (PCT), default processing factors, and tolerance-level residues for all food commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA's NHANES/ WWEIA. As to residue levels in food, EPA conducted a partially refined chronic dietary exposure and risk assessment assuming 100 PCT, empirical processing factors (when available), and average field-trial residues for some commodities.

iii. *Cancer.* A cancer dietary exposure and risk assessment was not conducted for mefentrifluconazole as it was classified as ''Not likely to be Carcinogenic to Humans'' based on the absence of treatment-related tumors in two adequate rodent carcinogenicity studies.

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

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

Based on the Pesticide in Water Calculator (PWC), the estimated drinking water concentrations (EDWCs) of mefentrifluconazole for acute exposures are estimated to be 42.3 parts per billion (ppb) for surface water and 30.3 ppb for ground water, and for chronic exposures are estimated to be 18.4 ppb for surface water and 5.1 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 42.3 ppb was used to assess the contribution to drinking water and for the chronic dietary risk assessment, the water concentration of value 18.4 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in

this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Mefentrifluconazole is proposed to be registered for the following uses that could result in residential exposures: non-residential turf (*i.e.,* golf courses). EPA assessed residential exposure using the following assumptions: Residential handler exposures are not anticipated based on the proposed use sites and therefore have not been quantitatively assessed. There is the potential for post-application exposure for individuals exposed as a result of being in an environment that has been previously treated with mefentrifluconazole. Short-term dermal exposures were assessed for adults, youth 11 to less than 16 years old, and children 6 to less than 11 years old.

The residential exposure scenario used in both the adult aggregate assessment and the children 6 to <11 years old aggregate assessment is from post-application dermal exposure after applications to golf courses from golfing activities. These scenarios for aggregation, adults and children (6 to <11 years old), represent the worst-case risk estimates and are protective of all other lifestages and exposure scenarios.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

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

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to mefentrifluconazole and any other substances; the Agency's previous statements regarding the potential for a common mechanism among the conazoles noted that the underlying data available at the time were inconclusive. Although the conazole fungicides (triazoles) produce 1,2,4 triazole and its acid-conjugated metabolites (triazolylalanine and triazolylacetic acid), 1,2,4 triazole and its acid-conjugated metabolites do not contribute to the toxicity of the parent conazole fungicides (triazoles). The agency has assessed the aggregate risks from the 1,2,4 triazole and its acid-conjugated metabolites (triazolylalanine and triazolylacetic acid) separately. The supporting risk assessment concludes that aggregate risks are below the Agency's level of concern and can be found at *http://www.regulations.gov* in the document titled ''*Common Triazole Metabolites: Updated Aggregate Human Health Risk Assessment to Address New Section 3 Registrations For Use of Difenoconazole and Mefentrifluconazole*'' in docket ID number EPA–HQ–OPP–2018–0002. Mefentrifluconazole does not appear to produce any other toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that mefentrifluconazole has a common mechanism of toxicity with other substances.

### *D. Safety Factor for Infants and Children*

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

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased quantitative or qualitative fetal susceptibility in the developmental toxicity studies in rats and rabbits or offspring susceptibility in the two-generation reproduction toxicity studies in rats.

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

i. The existing toxicological database for mefentrifluconazole is adequate for FQPA evaluation. Developmental toxicity studies in rats and rabbits as well as a two-generation reproduction study in rats are available for FQPA consideration. The Agency has determined, using a weight-of-evidence approach, that the subchronic neurotoxicity, subchronic inhalation toxicity, and immunotoxicity studies are not required at this time.

ii. In the acute neurotoxicity study in rats, unsteady gait, increased foot splay, and decreased motor activity were considered adverse at 2,000 mg/kg (NOAEL = 600 mg/kg). However, concern is low since the effects are characterized by clear NOAEL and LOAEL values, there is no other evidence of neurotoxicity in the database, there were no corroborating histopathological findings in the central or peripheral nervous system, and the effects were seen at a dose that is not considered relevant for human health risk assessment.

iii. There is no evidence that mefentrifluconazole results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary assessment is based on high-end assumptions, assuming 100 PCT, and average field trial residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to mefentrifluconazole in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by mefentrifluconazole.

### *E. Aggregate Risks and Determination of Safety*

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to mefentrifluconazole will occupy 2.2% of the aPAD for females 13 to 49 years old, the only population group of concern.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to mefentrifluconazole from food and water will utilize 19% of the cPAD for

children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of mefentrifluconazole is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Mefentrifluconazole is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to mefentrifluconazole.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2,600 for adults and 1,900 for children 6 to less than 11 years old. Because EPA's level of concern for mefentrifluconazole is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, mefentrifluconazole is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for mefentrifluconazole.

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

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

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

The registrant, BASF, has proposed a Quick Easy Cheap Effective Rugged and Safe (QuEChERS) multi-residue method (BASF method L0295/01) for the determination of mefentrifluconazole residues in plant matrices. BASF Analytical Method No. L0272/01 is proposed as the enforcement method for the determination of residues of mefentrifluconazole in livestock commodities by liquid chromatography coupled with tandem mass spectrometry (LC–MS/MS).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

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

The Codex has not established any MRLs for mefentrifluconazole.

### *C. Revisions to Petitioned-For Tolerances*

Under FFDCA section 408(d)(4)(A)(i), EPA may establish tolerances that vary from those sought by the petition. For consistency in nomenclature, EPA has used the Agency's preferred commodity terms for the commodities for which tolerances were requested. In addition, the levels at which several tolerances are being established vary from the original petition due to differences in how tolerance values were calculated. Finally, EPA is establishing tolerances for processed commodities where residues concentrate in commodities for which tolerances are being established. A summary and rationale behind these modifications can be found at *http://www.regulations.gov* in the document titled ''*Mefentrifluconazole. Human Health Risk Assessment for the Section 3 Registration Action of the New Active Ingredient on Non-Residential Turf, Sod Farms, Ornamentals, Commercial and On-Farm Seed Treatment; and Pome Fruit, Crop Group 11–10; Stone Fruit, Crop Group 12–12; Tree Nuts, Crop Group 14–12; Cereal Grains, Crop Group 15; Legume Vegetables, Crop Group 6; Foliage of Legume Vegetables, Crop Group 7; Citrus Fruit, Crop Group 10–10; Small Fruit Vine Climbing, Except Fuzzy Kiwifruit Subgroup 13–07F; Soybeans; Peanuts; Sugar Beet; Rapeseed Subgroup 20A; and Tuberous and Corm Vegetables Subgroup 1C*'' on pages 10–13 in docket ID number EPA–HQ–OPP–2018–0002.

## V. Conclusion

Therefore, tolerances are established for residues of mefentrifluconazole, including its metabolites and degradates, in or on Almond, hulls at 4 ppm; Beet, sugar, dried pulp at 2 ppm; Beet, sugar, leaves at 9 ppm; Beet, sugar, roots at 0.6 ppm; Cattle, fat at 0.2 ppm; Cattle, meat at 0.03 ppm; Cattle, meat byproducts at 0.3 ppm; Cherry subgroup 12–12A at 4 ppm; Corn, field, grain at 0.01 ppm; Corn, milled byproducts at 0.03 ppm; Corn, pop, grain at 0.01 ppm; Corn, sweet, kernel plus cob with husks removed at 0.03 ppm; Egg at 0.01 ppm; Fruit, citrus, group 10–10, dried pulp at 2 ppm; Fruit, citrus, group 10–10, oil at 15 ppm; Fruit, pome, group 11–10 at 1.5 ppm; Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 1.5 ppm; Goat, fat at 0.2 ppm; Goat, meat at 0.03 ppm; Goat, meat byproducts at 0.3 ppm; Grain, aspirated grain fractions at 6 ppm; Grain, cereal, forage, fodder, and straw, group 16, forage at 6 ppm; Grain, cereal, forage, fodder, and straw, group 16, hay at 15 ppm; Grain, cereal, forage, fodder, and straw, group 16, stover at 9 ppm; Grain, cereal, forage, fodder, and straw, group 16, straw at 30 ppm; Grain, cereal, group 15, except wheat and corn at 4 ppm; Grape, raisin at 4 ppm; Grapefruit subgroup 10–10C at 0.5 ppm; Hog, fat at 0.015 ppm; Hog, meat at 0.01 ppm; Hog, meat byproducts at 0.03 ppm; Horse, fat at 0.2 ppm; Horse, meat at 0.03 ppm; Horse, meat byproducts at 0.3 ppm; Lemon/lime subgroup 10–10B at 1 ppm; Lentil, dry, seed at 2 ppm; Milk at 0.03 ppm; Milk, fat at 0.8 ppm; Nut, tree, group 14–12 at 0.06 ppm; Orange subgroup 10–10A at 0.6 ppm; Peach subgroup 12–12B at 1.5 ppm; Peanut at 0.01 ppm; Peanut, hay at 30 ppm; Plum prune, dried at 4 ppm; Plum subgroup 12–12C at 2 ppm; Poultry, fat at 0.015 ppm; Poultry, meat at 0.01

ppm; Poultry, meat byproducts at 0.01 ppm; Rapeseed subgroup 20A at 1 ppm; Sheep, fat at 0.2 ppm; Sheep, meat at 0.03 ppm; Sheep, meat byproducts at 0.3 ppm; Soybean, seed at 0.4 ppm; Vegetable, foliage of legume, group 7 at 20 ppm; Vegetable, legume, group 6, except lentil and soybean seed at 0.15 ppm; Vegetable, tuberous and corm, subgroup 1C at 0.04 ppm; and Wheat, grain at 0.3 ppm.

## VI. Statutory and Executive Order Reviews

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

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

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

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

## VII. Congressional Review Act

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

## List of Subjects in 40 CFR Part 180

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

Dated: June 19, 2019.

**Richard Keigwin,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. Add § 180.705 to subpart C to read as follows:

### § 180.705 Mefentrifluconazole; tolerances for residues.

(a) *General.* Tolerances are established for residues of mefentrifluconazole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only mefentrifluconazole, α-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-α-methyl-1*H*-1,2,4-triazole-1-ethanol, in or on the commodity.

TABLE 1 TO PARAGRAPH (a)

| Commodity | Parts per million |
|---|---|
| Almond, hulls | 4 |
| Beet, sugar, dried pulp | 2 |
| Beet, sugar, leaves | 9 |
| Beet, sugar, roots | 0.6 |
| Cattle, fat | 0.2 |
| Cattle, meat | 0.03 |
| Cattle, meat byproducts | 0.3 |
| Cherry subgroup 12–12A | 4 |
| Corn, field, grain | 0.01 |
| Corn, milled byproducts | 0.03 |
| Corn, pop, grain | 0.01 |
| Corn, sweet, kernel plus cob with husks removed | 0.03 |
| Egg | 0.01 |
| Fruit, citrus, group 10–10, dried pulp | 2 |
| Fruit, citrus, group 10–10, oil | 15 |
| Fruit, pome, group 11–10 | 1.5 |
| Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F | 1.5 |
| Goat, fat | 0.2 |
| Goat, meat | 0.03 |
| Goat, meat byproducts | 0.3 |
| Grain, aspirated grain fractions | 6 |
| Grain, cereal, forage, fodder, and straw, group 16, forage | 6 |
| Grain, cereal, forage, fodder, and straw, group 16, hay | 15 |
| Grain, cereal, forage, fodder, and straw, group 16, stover | 9 |
| Grain, cereal, forage, fodder, and straw, group 16, straw | 30 |
| Grain, cereal, group 15, except wheat and corn | 4 |
| Grape, raisin | 4 |
| Grapefruit subgroup 10–10C | 0.5 |
| Hog, fat | 0.015 |
| Hog, meat | 0.01 |
| Hog, meat byproducts | 0.03 |
| Horse, fat | 0.2 |
| Horse, meat | 0.03 |
| Horse, meat byproducts | 0.3 |
| Lemon/lime subgroup 10–10B | 1 |
| Lentil, dry, seed | 2 |
| Milk | 0.03 |
| Milk, fat | 0.8 |
| Nut, tree, group 14–12 | 0.06 |
| Orange subgroup 10–10A | 0.6 |
| Peach subgroup 12–12B | 1.5 |
| Peanut | 0.01 |
| Peanut, hay | 30 |
| Plum prune, dried | 4 |
| Plum subgroup 12–12C | 2 |
| Poultry, fat | 0.015 |
| Poultry, meat | 0.01 |
| Poultry, meat byproducts | 0.01 |
| Rapeseed subgroup 20A | 1 |
| Sheep, fat | 0.2 |
| Sheep, meat | 0.03 |
| Sheep, meat byproducts | 0.3 |
| Soybean, seed | 0.4 |
| Vegetable, foliage of legume, group 7 | 20 |
| Vegetable, legume, group 6, except lentil and soybean seed | 0.15 |

TABLE 1 TO PARAGRAPH (a)—Continued

| Commodity | Parts per million |
|---|---|
| Vegetable, tuberous and corm, subgroup 1C | 0.04 |
| Wheat, grain | 0.3 |

(b) [Reserved]
(c) [Reserved]
(d) [Reserved]

[FR Doc. 2019–13520 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 204 and 252

**[Docket DARS–2019–0027]**

**RIN 0750–AK69**

### Defense Federal Acquisition Regulation Supplement: Annual Representations and Certifications—Alternate A (DFARS Case 2019–D030)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to correct paragraph references in the DFARS provision on annual representations and certifications and also correct the structure of the prescription for that provision.

**DATES:** Effective June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, telephone 571–372–6106.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

This final rule amends the provision at DFARS 252.204–7007, Annual Representations and Certifications—Alternate A, and the prescription for this provision at DFARS 204.1202. DFARS 252.204–7007 provides alternate paragraphs (d) and (e), to replace paragraph (d) of the provision at Federal Acquisition Regulation (FAR) 52.204–8, Annual Representations and Certifications, in order to include DoD-unique representations and certifications.

#### II. Discussion and Analysis

Paragraph (b) of FAR provision 52.204–8 includes a reference to paragraph (d) of the FAR provision. When the DFARS alternate is used, this reference to paragraph (d) creates an inconsistency. To correct the inconsistency, this final rule amends DFARS 252.204–7007 to include an alternate to paragraph (b) of FAR 52.204–8 that references paragraph (e) of the DFARS alternate, instead of paragraph (d) of FAR 52.204–8.

In addition, the prescription at DFARS 204.1202(1) is restructured so that the lead-in tying the prescription to the use of FAR 52.204–8 applies to both paragraphs (1) and (2), as originally intended. DFARS 204.1202(1) previously stated that the DFARS provision 252.204–7007 is only used when using FAR 52.204–8, Annual Representations and Certification. FAR 52.204–8 is not used in solicitations for the acquisition of commercial items, so DFARS 252.204–7007 is also not used in solicitations for the acquisition of commercial items. Paragraph (2) of the prescription states that the following provisions listed in 204.1202 do not need to be separately listed in the solicitation, because they are included in the provision at DFARS 252.204–7007. Although this prescription is in part 204, not part 212, and has probably been correctly interpreted to apply only to acquisition of noncommercial items, paragraph (2) could technically be misinterpreted in a way that could lead to an inconsistency. Since DFARS 252.204–7007 only applies to noncommercial acquisitions, the provisions listed in 204.1202 would only be included in the solicitation through inclusion of the provision at DFARS 252.204–7007 when acquiring noncommercial items. By restructuring the prescription, the limitation of paragraph (2) to noncommercial acquisitions is unambiguous.

#### II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707 entitled ''Publication of Proposed Regulations.'' Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only makes minor administrative corrections. These requirements affect only the internal operating procedures of the Government.

#### III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule makes a minor correction to an existing provision at DFARS 252.204–7007, Alternate A, Annual Representations and Certifications, and clarifies the prescription for use of the provision, which applies below the simplified acquisition threshold but does not apply to the acquisition of commercial items.

#### IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### V. Executive Order 13771

This final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

#### VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

#### VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 204 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 204 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 204—ADMINISTRATIVE MATTERS

■ 2. Amend section 204.1202 by adding introductory text and revising paragraph (1) to read as follows:

**204.1202 Solicitation provision.**

When using the provision at FAR 52.204–8, Annual Representations and Certifications—

(1) Use the provision with 252.204–7007, Alternate A, Annual Representations and Certifications; and

* * * * *

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.204–7007 by—

■ a. Removing the clause date ''(APR 2019)'' and adding ''(JUN 2019)'' in its place;

■ b. Revising the provision introductory text;

■ c. Adding paragraph (b); and

■ d. In paragraph (d)(1) introductory text, removing ''System for Award Management (SAM)'' and adding ''SAM'' in its place.

The revision and addition read as follows:

**252.204–7007 Alternate A, Annual Representations and Certifications.**

* * * * *

Substitute the following paragraphs (b), (d), and (e) for paragraphs (b) and (d) of the provision at FAR 52.204–8:

(b)(1) If the provision at FAR 52.204–7, System for Award Management, is included in this solicitation, paragraph (e) of this provision applies.

(2) If the provision at FAR 52.204–7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (e) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

____ (i) Paragraph (e) applies.

____ (ii) Paragraph (e) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.

* * * * *

[FR Doc. 2019–13745 Filed 6–27–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 215 and 252

**[Docket DARS–2018–0008]**

**RIN 0750–AJ19**

## Defense Federal Acquisition Regulation Supplement: Only One Offer (DFARS Case 2017–D009)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to partially implement a section of the National Defense Authorization Act for Fiscal Year 2017 that addresses the requirement for additional cost or pricing data when only one offer is received in response to a competitive solicitation.

**DATES:** Effective July 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, telephone 571–372–6106.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD published a proposed rule in the **Federal Register** at 83 FR 30656 on June 29, 2018, to partially implement section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) to: (1) Address the potential requirement for additional cost or pricing data when only one offer is received in response to a competitive solicitation; and (2) make prime contractors responsible for determining whether a subcontract qualifies for an exception from the requirement for submission of certified cost based on adequate price competition. This DFARS rule supplements the Federal Acquisition Regulation (FAR) final rule published under FAR Case 2017–006, which modified the standards for adequate price competition at FAR 15.403–1(c) for DoD, National Air and Space Administration (NASA), and the Coast Guard (FAC 2019–03, 84 FR 27494). Section 822 excludes from the standard for adequate price competition the situation in which there was an expectation of competition, but only one offer is received. Three respondents submitted public comments in response to the proposed rule.

### II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments is provided, as follows:

*A. Summary of Significant Changes From the Proposed Rule*

There are no significant changes from the proposed rule in the final rule in response to the public comments. However, changes were required at 252.215–7010, in order to conform to changes in the FAR final rule relating to elimination of the terms ''responsive'' and ''viable.''

*B. Analysis of Public Comments*

1. Effectiveness and Efficiency of the Acquisition Process

*Comment:* Several respondents indicated that the requirement for certification of cost or pricing data and potential submission of additional data when only one offer is received in response to a competitive solicitation would burden the effectiveness and efficiency of the acquisition process and delay timely execution. This may also delay subcontract competitions, requiring restart of the procurement process when only one offer is received for a subcontract.

*Response:* This rule is implementing the requirements of section 822 of the NDAA for FY 2017. DoD has no flexibility to remove the certification requirement from the rule, since it is required by statute.

2. Competition

*Comment:* One respondent noted that it is the expectation of offers that produces the competitive environment.

*Response:* This rule is implementing the requirements of section 822 of the NDAA for FY 2017. The Government cannot project with certainty which solicitations will receive multiple offers or only one offer. Furthermore, even though a solicitation is issued competitively, the Government does not know whether the single offeror expected competition.

3. Evaluation of Subcontractors

*Comment:* One respondent was concerned that contractors may take on more evaluation risks to avoid finding suppliers unacceptable, in order to avoid a situation in which only one viable and responsible offer is received.

*Response:* DoD has no flexibility to change the basic requirements of the rule, since it is required by statute. Furthermore, such behavior would indicate poor business judgment. If the contract contains the clause at FAR 52.244–2, Subcontracts, then the contractor must also comply with the clause at DFARS 252.244–7001, Contractor Purchasing System Administration, which includes the following requirements:

- Paragraph (c)(10) requires timely and adequate cost or price analysis and technical evaluation for each subcontractor and supplier proposal or quote to ensure fair and reasonable subcontract prices.
- Paragraph (c)(20) requires that the contractor provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources.

4. Commercial Items

*Comment:* One respondent stated that paragraph (3) of the clause at DFARS 252.215–7010 should also state that the offeror is responsible for determining the commercial item exception at FAR 15.403–1(c)(3), because the Conference Report for section 822 stated that the Senate Bill contained a provision that would clarify the definition of competition and the role of the prime contractor in determining whether a subcontract meets the competitive or commercial test under the section.

*Response:* DoD has fully implemented the law as enacted. Section 822 does not address determinations with regard to commercial items.

*Comment:* Another respondent stated that the proposed rule should apply to contracts and subcontracts for commercial item acquisitions.

*Response:* Both the provisions at DFARS 252.215–7009 and 252.215–7010, are prescribed for use in solicitations using FAR part 12 procedures for the acquisition of commercial items. However, the changes required in this rule will not affect acquisition of commercial items, because 10 U.S.C. 2306a(b)(1)(B) provides that submission of certified cost or pricing data shall not be required in the case of a contract, a subcontract, or modification of a contract or subcontract for the acquisition of a commercial item. Determination of whether items are commercial items is outside the scope of this rule.

5. Only Expected To Receive One Bid

*Comment:* One respondent stated that the rule was a step in the right direction, but considered that the rule did not implement the statutory language stating that certified cost or pricing data must be supplied by contractors in circumstances where DoD ''only expected to receive one bid.'' The respondent was concerned that shifting the focus of the rule to ''if only one offer is received'' could prevent DoD from obtaining that vital information during the award phase and could create obstacles to obtaining the information at a later date.

*Response:* Section 822 added the phrase ''that is only expected to receive one bid'' at 10 U.S.C. 2306a(a)(1)(A), which now reads as follows: ''An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures *that is only expected to receive one bid* shall be required to submit cost or pricing data before the award of a contract if—. . .'' [followed by cost or pricing data thresholds]. The exceptions at 10 U.S.C. 2306a(b) still apply, including the exception for adequate price competition. Section 822 also modified the standard for adequate price competition, an exception to the requirement for certified cost or pricing data, to require that the agreed upon price is based on adequate competition that results in at least two or more responsive and viable competing bids.

This DFARS rule must be read in conjunction with the changes made under FAR Case 2017–006, Exception from Certified Cost or Pricing Data Requirements—Adequate Price Competition. That final FAR rule made amendments to the standards for adequate price competition at FAR 15.403–1(b), stating first what is common to all agencies, and then making the standard relating to expectation of competition applicable only to agencies other than DoD, NASA, and Coast Guard. In stating the common requirements, the final FAR rule also did not use the terms ''responsive'' and ''viable,'' but expressed the requirements using the existing FAR terminology, *i.e.,* ''Two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement.''

FAR 15.403–4 requires as follows: ''Unless an exception applies, certified cost or pricing data are required before accomplishing any of the following actions expected to exceed the current threshold . . . The award of any negotiated contract. . .''. Adding ''If the contracting officer only expects one bid, unless an exception applies. . .'' would be without effect, because whether or not the contracting officer expects one bid or multiple bids, if only one bid is received, that is determinative of the requirement for submission of certified cost or pricing data. If multiple bids were received from two or more responsible offerors, competing independently, that satisfy the Government's expressed requirement in accordance with FAR 15.403–1(c)(i), despite an erroneous expectation to the contrary, then that would constitute an exception (on the basis of adequate price competition) and no certified cost or pricing data would be required. The offeror does not provide the certificate of current cost or pricing data until agreement on price is reached, at which time it would be known how many offers had been received. According to FAR 15.406–2(e), if certified cost or pricing data are requested by the Government and submitted by an offeror, but an exception is later found to apply, the data shall not be considered certified cost or pricing data and shall not be certified.

*C. Other Changes*

This final DFARS rule has made changes from the proposed rule at DFARS 252.215–7010(c)(3) in both the basic clause and Alternate I. For simplicity, the final FAR rule does not use the terms ''responsive'' and ''viable,'' but expresses the requirements of section 822 using existing FAR terminology, as a requirement that is applicable to all agencies at 15.403–1(c)(1)(i)(A), *i.e.,* ''Two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement.'' In addition, due to the restructuring of FAR 15.403–1(c)(1), the FAR reference at both cites was changed to FAR 403–1(c)(1)(i).

## III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not create a new provision, but amends the existing provisions at DFARS 252.215–7008 and 252.215–7010. Although the existing provisions apply to solicitations for the acquisition of commercial items, including commercially available off-the-shelf (COTS) items, the changes due to this rule do not impact the

acquisition of commercial item, including COTS items, because the rule retains the exceptions to the requirements for certified cost or pricing data relating to acquisition of commercial items. In addition, DFARS 252.215–7010 already applies to contracts valued at or below the simplified acquisition threshold, while DFARS 252.215–7008 does not.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Executive Order 13771**

This final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

**VI. Regulatory Flexibility Act**

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The reason for this rule is to further implement section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) to address the potential requirement for certified cost or pricing data when only one offer is received in response to a competitive solicitation, if no other exception to the requirements for certified cost or pricing data applies. This DFARS rule supplements the final rule published under FAR Case 2017–006 (FAC 2019–03, 84 FR 27494), which modified the standards for adequate price competition at FAR 15.403–1(c) for DoD, NASA, and the Coast Guard.

The objective of this rule is to implement the new more restrictive standard for ''adequate price competition'' as the basis for an exception to the requirement to provide certified cost or pricing data. The statutory basis is 10 U.S.C. 2306a, as amended by section 822 of the NDAA for FY 2017.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

According to data for FY 2016 from the Federal Procurement Data System, for DoD, there were 918 noncommercial, competitive new awards valued at greater than $750,000 (the certified cost or pricing data threshold) that were awarded on the basis of a solicitation that received only one offer. Of the 918 awards, 549 were awarded to small businesses and 369 were awarded to other than small businesses. DoD estimated the number of small entities to which the rule will apply as follows:

- Of these awards, all will require certification, but only 75 percent (277) may require additional data.
- When additional certified cost or pricing data are requested from the prime contractor, it will impact 1,836 subcontract awards; 1,505 to small businesses.
- 75 percent of the subcontract awards to small business (1,129) will be required to provide new certified cost or pricing data, and 25 percent (376) will only be required to certify the cost or pricing data previously provided.

DoD will now be required to obtain certified cost or pricing data from an offeror when only one offer is received, and no other exception applies. DoD estimates 1.3 responses per respondent, with an average of 55.5 hours per response. The average level of the entities completing these responses is estimated as equivalent to a Government General Schedule 12, step 5 employee.

DoD was unable to identify any alternatives that would reduce burden on small business and still meet the requirements of the statute. Impact on small businesses is lessened, because the requirement for certified cost or pricing data only applies to acquisitions that exceed $750,000 and there is an exception for the acquisition of commercial items, including COTS items.

**VII. Paperwork Reduction Act**

This rule contains information collection requirements that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0704–0574, entitled ''Defense Federal Acquisition Regulation Supplement (DFARS) Part 215; Only One Offer and Related Clauses at 252.215.''

**List of Subjects in 48 CFR Parts 215 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 215 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 215—CONTRACTING BY NEGOTIATION

■ 2. Revise section 215.371–3 to read as follows:

**215.371–3 Fair and reasonable price and the requirement for additional cost or pricing data.**

For acquisitions that exceed the simplified acquisition threshold, if only one offer is received when competitive procedures were used and it is not necessary to resolicit in accordance with 215.371–2(a), then then the contracting officer shall comply with the following:

(a) If no additional cost or pricing data are required to determine through cost or price analysis that the offered price is fair and reasonable, the contracting officer shall require that any cost or pricing data provided in the proposal be certified if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply.

(b) Otherwise, the contracting officer shall obtain additional cost or pricing data to determine a fair and reasonable price. If the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply, the cost or pricing data shall be certified.

(c) If the contracting officer is still unable to determine that the offered price is fair and reasonable, the contracting officer shall enter into negotiations with the offeror to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

(d) If the contracting officer is unable to negotiate a fair and reasonable price, see FAR 15.405(d).

■ 3. Amend section 215.408 by—

■ a. Revising paragraph (3);

■ b. In paragraph (5) introductory text, removing ''required'' and adding

''required or when using the provision at 252.215–7008'' in its place; and

■ c. In paragraph (7) introductory text, removing ''FAR 52.215–20'' and adding ''252.215–7010'' in its place.

The revision reads as follows:

**215.408 Solicitation provisions and contract clauses.**

* * * * *

(3) Use the provision at 252.215–7008, Only One Offer, in competitive solicitations that exceed the simplified acquisition threshold, including solicitations using FAR part 12 procedures for the acquisition of commercial items.

* * * * *

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 252.215–7008 by—

■ a. Removing the provision date ''(OCT 2013)'' and adding ''(JUN 2019)'' in its place;

■ b. Revising paragraph (a);

■ c. Removing paragraphs (b) and (d);

■ d. Redesignating paragraph (c) as paragraph (b);

■ e. In the newly redesignated paragraph (b), adding a paragraph heading and removing ''225.870–4(c)'' and adding ''DFARS 225.870–4(c)'' in its place; and

■ f. Adding a new paragraph (c).

The revision and additions read as follows:

**252.215–7008 Only One Offer.**

* * * * *

(a) *Cost or pricing data requirements.* After initial submission of offers, if the Contracting Officer notifies the Offeror that only one offer was received, the Offeror agrees to—

(1) Submit any additional cost or pricing data that is required in order to determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost or pricing data (10 U.S.C. 2306a and FAR 15.403–3); and

(2) Except as provided in paragraph (b) of this provision, if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply, certify all cost or pricing data in accordance with paragraph (c) of DFARS provision 252.215–7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, of this solicitation.

(b) *Canadian Commercial Corporation.* * * *

(c) *Subcontracts.* Unless the Offeror is the Canadian Commercial Corporation, the Offeror shall insert the substance of this provision, including this paragraph (c), in all subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

* * * * *

■ 5. Amend section 252.215–7010 by—

■ a. In the basic provision—

■ i. Removing the provision date of ''(JAN 2018)'' and adding ''(JUN 2019)'' in its place; and

■ ii. Adding paragraph (c)(3);

■ b. In the Alternate I clause—

■ i. Removing the provision date of ''(JAN 2018)'' and adding ''(JUN 2019)'' in its place; and

■ ii. Adding paragraph (c)(3).

The additions read as follows:

**252.215–7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.**

* * * * *

(c) * * *

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, *i.e.,* two or more responsible offerors, competing independently, submit priced offers that satisfy to Government's expressed requirement in accordance with FAR 15.403–1(c)(1)(i).

* * * * *

Alternate I. * * *

(c) * * *

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, *i.e.,* two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement in accordance with FAR 15.403–1(c)(1)(i).

* * * * *

[FR Doc. 2019–13739 Filed 6–27–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 247 and 252

**[Docket DARS–2019–0028]**

**RIN 0750–AK63**

## Defense Federal Acquisition Regulation Supplement: Repeal of Transportation Related DFARS Provisions and Clauses (DFARS Case 2019–D020)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove several transportation-related provisions and clauses, as well as a clause reference, that are no longer necessary.

**DATES:** Effective June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The following DFARS provisions and clauses are included in solicitations and contracts for services to prepare personal property for movement or storage, or perform intra-city of intra-area movement of personal property—

- 252.247–7008, Evaluation of Bids, which provides offerors with information on how the Government will evaluate bids received in response to a solicitation;
- 252.247–7009, Award, which provides offerors with the basis upon which the Government will make a contract award;
- 252.247–7010, Scope of Contract, which identifies the scope of the contractor's responsibility to provide supplies and services under the contract;
- 252.247–7011, Period of Contract, which identifies the period of performance for the contract and the timeframes in which new orders may be placed or completed when the contract is close to its expiration date.
- 252.247–7013, Contract Areas of Performance, which identifies the area of performance for the contract;
- 252.247–7017, Erroneous Shipments, which identifies procedures for the contractor to follow in the event an incorrect shipment occurs under the contract;
- 252.247–7018, Subcontracting, which requires the contractor to obtain

written approval from the Government prior to subcontracting work under the contract; and,

• 252.247–7019, Drayage, which identifies the scope and applicable schedule for inbound and outbound drayage that occurs in connection with the contract.

In reviewing these provisions and clauses, along with current practices for acquiring these transportation services, DoD subject matter experts in transportation services advised that the information contained in these provisions and clauses is specific to the requirement and/or within the contracting officer's discretion. When applicable, the information more appropriately belongs in solicitation instructions or a performance work statement to ensure offerors and contractors receive cohesive set of instructions and performance requirements. As such, these provisions and clauses are no longer necessary and can be removed.

DFARS provision 252.247–7022, Representation of Extent of Transportation By Sea, is included in solicitations and requires an offeror to represent whether it anticipates that supplies will or will not be transported by sea in performance of the contract. The provision advises offerors that if a negative response is received to the representation, DFARS clause 252.247–7024 will be included in the subsequent contract. On February 15, 2019, DoD published a final rule (84 FR 4370) to repeal DFARS clause 252.247–7024, Notification of Transportation By Sea, and incorporate the text of the clause into DFARS clause 252.247–7023, Transportation of Supplies By Sea. As DFARS 252.247–7024 has been repealed, the DFARS provision 252.247–7022 is being revised to remove the reference to the repealed clause.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on these provisions and clauses. The DoD Task Force reviewed the requirements of the transportation related DFARS provisions and clauses and determined that the DFARS coverage was unnecessary and recommended removal.

## II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only removes obsolete transportation related DFARS provisions and clauses. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

## III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is merely removing obsolete provisions and clauses from the DFARS and making one editorial change to a clause to remove a reference to an obsolete clause.

## IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs, has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

## V. Executive Order 13771

This rule is not subject to Executive Order (E.O.) 13771, because this rule is not a significant regulatory action under E.O. 12866.

## VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

## VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## List of Subjects in 48 CFR Parts 247 and 252

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 247 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 247—TRANSPORTATION

### 247.271–3 [Amended]

■ 2. Amend section 247.271–3 by—

■ a. Removing paragraphs (a), (b), (d), (e), (g), (j), (k), and (l); and

■ b. Redesignating paragraphs (c), (f), (h), (i), and (m) as paragraphs (a), (b), (c), (d), and (e), respectively.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.247–7008 [Removed and Reserved]

■ 3. Remove and reserve section 252.247–7008.

**252.247–7009 [Removed and Reserved]**

■ 4. Remove and reserve section 252.247–7009.

**252.247–7010 [Removed and Reserved]**

■ 5. Remove and reserve section 252.247–7010.

**252.247–7011 [Removed and Reserved]**

■ 6. Remove and reserve section 252.247–7011.

**252.247–7013 [Removed and Reserved]**

■ 7. Remove and reserve section 252.247–7013.

**252.247–7014 [Amended]**

■ 8. Amend section 252.247–7014 introductory text by removing ''247.271–3(h)'' and adding ''247.271–3(c)'' in its place.

**252.247–7016 [Amended]**

■ 9. Amend section 252.247–7016 introductory text by removing ''247.271–3(i)'' and adding ''247.271–3(d)'' in its place.

**252.247–7017 [Removed and Reserved]**

■ 10. Remove and reserve section 252.247–7017.

**252.247–7018 [Removed and Reserved]**

■ 11. Remove and reserve section 252.247–7018.

**252.247–7019 [Removed and Reserved]**

■ 12. Remove and reserve 252.247–7019.

■ 13. Amend section 252.247–7022 by—

■ a. In the clause heading, removing the date ''(AUG 1992)'' and adding ''(JUN 2019)'' in its place; and

■ b. Revising paragraph (c).

The revision reads as follows:

**252.247–7022 Representation of extent of transportation by sea.**

* * * * *

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause.

* * * * *

[FR Doc. 2019–13748 Filed 6–27–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Parts 247 and 252

**[Docket DARS–2019–0032]**

**RIN 0750–AK08**

## Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause ''Price Adjustment'' (DFARS Case 2018–D048)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a clause that is no longer necessary.

**DATES:** Effective June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD is amending the DFARS to remove DFARS clause 252.247–7001, Price Adjustment, and the associated clause prescription at DFARS 247.270–4. Included in solicitations and contracts for stevedoring services when using sealed bidding, this clause: Requires a contractor to warrant that the prices in the contract apply to, based upon, and exclude certain criteria; requires a contractor to notify the Government of any changes to collective bargaining agreements that apply to its direct labor employees and will impact the contractor's cost to perform; limits the upward adjustment of prices to a stated percentage and clarifies the terms and process for making such adjustments; and, requires a contractor to provide a statement pertaining to rates of pay for labor with its final invoice under the contract.

DoD subject matter experts on the acquisition of stevedoring services across DoD advise that sealed bidding is not used to procure such services and, as such, this clause is not included in stevedoring contracts. Federal Acquisition Regulation (FAR) clauses 52.222–41, Service Contract Labor Standards; 52.222–43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts); and 52.222–44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment; as well as DFARS clause 252.247–7002, Revision of Prices, adequately address price adjustments resulting from changes in wage rates or benefits and are currently included in stevedoring contracts, as applicable.

Since DFARS clause 252.247–7001 is not used and other FAR and DFARS clauses can be used to provide the necessary information to contractors performing on stevedoring contracts, this DFARS clause is no longer necessary and can be removed. The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this clause. The DoD Task Force reviewed the requirements of DFARS clause 252.247–7001, Pricing Adjustments, and determined that the DFARS coverage was unnecessary and recommended removal.

### II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only removes obsolete DFARS clause 252.247–7001, Pricing Adjustments. Therefore, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items

### III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a

significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is merely removing an obsolete clause from the DFARS.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Executive Order 13771**

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

**VI. Regulatory Flexibility Act**

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

**VII. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. This rule affects the information collection requirements in DFARS clause 252.241–7001, Price Adjustment, currently approved under OMB Control Number 0704–0245, entitled ''Defense Federal Acquisition Regulation Supplement (DFARS) Part 247, Transportation, and associated clauses at DFARS 252.247.'' However, the reduction in burden and savings is negligible.

**List of Subjects in 48 CFR Parts 247 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 247 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 247—TRANSPORTATION

■ 2. Revise section 247.270–4 to read as follows:

**247.270–4 Contract clauses.**

Use the following clauses in solicitations and contracts for stevedoring services as indicated:

(a) 252.247–7000, Hardship Conditions.

(b) 252.247–7002, Revision of Prices, when using negotiation.

(c) 252.247–7007, Liability and Insurance.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.247–7001 [Removed and Reserved]

■ 3. Remove and reserve section 252.247–7001.

**252.247–7002 [Amended]**

■ 4. Amend section 252.247–7002 introductory text by removing ''247.270–4(c)'' and adding ''247.270–4(b)'' in its place.

**252.247–7007 [Amended]**

■ 5. Amend section 252.247–7007 introductory text by removing ''247.270–4(d)'' and adding ''247.270–4(c)'' in its place.

[FR Doc. 2019–13743 Filed 6–27–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Part 249

**[Docket DARS–2019–0001]**

### Defense Federal Acquisition Regulation Supplement: Technical Amendment

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide a needed editorial change.

**DATES:** Effective June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD (A&S) DPC (DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115; facsimile 571–372–6094.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS to provide direction to contracting officers at DFARS 249.109–70 to see DFARS Procedures, Guidance, and Information (PGI) 249.109–70 for additional information and guidance for limitation on pricing of the terminated effort for settlement agreements.

**List of Subjects in 48 CFR Part 249**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 249 is amended as follows:

## PART 249—TERMINATION OF CONTRACTS

■ 1. The authority citations for 48 CFR part 249 continue to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR chapter 1.

■ 2. Section 249.109–70 is added to read as follows:

**249.109–70 Limitation on pricing of the terminated effort.**

When there is a termination for convenience (partial or whole) or a change that reduces scope, follow the procedures at PGI 249.109–70 for limitation on pricing of the terminated or reduced effort.

[FR Doc. 2019–13746 Filed 6–27–19; 8:45 am]

BILLING CODE 5001–06–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No.180117042–8884–02]**

**RIN 0648–XT001**

## Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Temporary rule; closure of Angling category northern area trophy fishery.

**SUMMARY:** NMFS closes the northern area Angling category fishery for large medium and giant (''trophy'' (*i.e.,* measuring 73 inches curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent further overharvest of the Angling category northern area trophy BFT subquota.

**DATES:** Effective 11:30 p.m., local time, June 27, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, 978–281–9260 or Larry Redd, 301–427–8503.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

### Angling Category Large Medium and Giant Northern ''Trophy'' Fishery Closure

The 2019 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2019. The Angling category season opened January 1, 2019, and continues through December 31, 2019. The currently codified Angling category quota is 232.4 mt, of which 5.3 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.8 mt allocated for each of the following areas: North of 39°18′ N lat. (off Great Egg Inlet, NJ) (the ''northern area''); south of 39°18′ N lat. and outside the Gulf of Mexico (the ''southern area''); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting System, NMFS has determined that the codified Angling category northern area trophy BFT subquota has been reached and exceeded and that a closure of the northern area trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT north of 39°18′ N lat. by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on June 27, 2019. This closure will remain effective through December 31, 2019. This action is intended to prevent further overharvest of the Angling category northern area trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1). NMFS previously closed the 2019 trophy BFT fishery in the southern area on March 14, 2019 (84 FR 9719, March 18, 2019) and in the Gulf of Mexico on May 31, 2019 (84 FR 25707, June 4, 2019). Therefore, with this closure of the northern area trophy BFT fishery as of June 27, 2019, the Angling category trophy BFT fishery will be closed in all areas for 2019.

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at *hmspermits.noaa.gov* or by calling (978) 281–9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure.*

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30).

### Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the northern area Angling category trophy fishery is necessary to prevent any further overharvest of the northern area trophy fishery subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line at (978) 281–9260 and on *hmspermits.noaa.gov.*

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the northern area trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity

for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 25, 2019.

**Alan D. Risenhoover,**

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

[FR Doc. 2019–13878 Filed 6–25–19; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 84, No. 125
Friday, June 28, 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 TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0394; Product Identifier 2017–NE–36–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; General Electric Company Turbofan Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2017–23–06, which applies to certain General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, and CF34–8C5B1 engines. AD 2017–23–06 requires an inspection of the bleed air manifold link rod assemblies and the supply, return, and drain fuel fittings on the operability bleed valve (OBV). Since the FAA issued AD 2017–23–06, the manufacturer developed improved inspection techniques and determined these inspections should be applied to additional engine models. This proposed AD would require repetitive inspections of the OBV fuel tubes, OBV bleed air manifold link rod assemblies, and the OBV fuel fittings and replacement of OBVs or related hardware that fail inspection. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 12, 2019.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com*. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0394; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Michael Richardson-Bach, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7747; fax: 781–238–7199; email: *michael.richardson-bach@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0394; Product Identifier 2017–NE–36–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The FAA issued AD 2017–23–06, Amendment 39–19100 (82 FR 52830, November 15, 2017), (''AD 2017–23–06''), for certain General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, and CF34–8C5B1 engines. AD 2017–23–06 requires an inspection of the bleed air manifold link rod assemblies and the supply, return, and drain fuel fittings on the OBV. AD 2017–23–06 resulted from reports that significant fuel leaks, some resulting in engine fires, occurred on multiple occasions due to malfunctions related to the OBVs. The FAA issued AD 2017–23–06 to address the unsafe condition on these products.

### Actions Since AD 2017–23–06 Was Issued

Since the FAA issued AD 2017–23–06, the manufacturer has developed improved inspections of the OBV bleed air manifold link rod assemblies and OBV fuel fittings, added an inspection of the OBV fuel tubes, and determined that these inspections should be applied to additional engine models. GE published these improved inspections in GE Service Bulletin (SB) CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed GE SB CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019. The SB describes procedures for inspecting the bleed air manifold link rod assemblies; the supply, return, and drain fuel fittings; and the fuel tubes on the OBV. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### FAA's Determination

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

**Proposed AD Requirements**

This proposed AD would retain all the requirements of AD 2017–23–06. This proposed AD would revise the inspections of the OBV bleed air manifold link rod assemblies and OBV fuel fittings and require inspections of the OBV fuel tubes. In addition, this proposed AD would expand the applicability of these inspections to include additional GE CF34–8C model turbofan engines.

**Interim Action**

The FAA considers this proposed AD interim action. The FAA will consider further rulemaking based on the continued investigation and development of corrective action by the manufacturer.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 1,297 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection of OBV fuel tubes, assemblies, and fittings. | 1 work-hour × $85 per hour = $85 | $0 | $85 | $110,245 |

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The FAA has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replace OBV | 2 work-hours × $85 per hour = $170 | $17,230 | $17,400 |
| Replace OBV support hardware | 2.25 work-hours × $85 per hour = $191.25 | 3,595 | 3,786.25 |

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

**Regulatory Findings**

The FAA has determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–23–06, Amendment 39–19100 (82 FR 52830, November 15, 2017), and adding the following new AD:

**General Electric Company:** Docket No. FAA–2019–0394; Product Identifier 2017–NE–36–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by August 12, 2019.

**(b) Affected ADs**

This AD replaces AD 2017–23–06, Amendment 39–19100 (82 FR 52830, November 15, 2017).

**(c) Applicability**

This AD applies to all General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5B1, CF34–8C5A2, and CF34–8C5A3 model turbofan engines.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 7531, Compressor bleed governor.

**(e) Unsafe Condition**

This AD was prompted by multiple engine fires that have occurred as a result of malfunctions related to the operability bleed

valve (OBV). The FAA is issuing this AD to prevent failure of the OBV. The unsafe condition, if not addressed, could result in engine fire and damage to the airplane.

**(f) Compliance**

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

**(g) Required Actions**

(1) For CF34–8C1, CF34–8C5, CF34–8C5A1, and CF34–8C5B1 model turbofan engines with serial numbers (S/Ns): 965101 through 965670 inclusive; 194101 through 194999 inclusive; and 195101 through 195653 inclusive:

(i) Perform an inspection of the OBV bleed air manifold link rod assemblies and the OBV fuel fittings within 500 flight hours after November 30, 2017 (effective date of AD 2017–23–06), or before next flight after the effective date of this AD, whichever occurs later.

(ii) Within 880 flight hours since the previous inspection, 500 flight hours from the effective date of this AD, or 6,880 flight hours since new, whichever occurs later, inspect the OBV bleed air manifold link rod assemblies, the OBV fuel fittings, and the OBV fuel tubes.

(iii) Thereafter, perform additional repeat inspections of the OBV bleed air manifold link rod assemblies, the OBV fuel fittings, and the OBV fuel tubes within every 880 flight hours since the previous inspection.

(iv) Use the Accomplishment Instructions, Paragraph 3.B., of GE CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019 (''the SB''), to perform the inspections in paragraphs (g)(1)(i) through (iii) of this AD and, per the criteria for the results of inspections in Paragraph 3.B. of the SB, do the following:

(A) Replace any OBV or fuel tube that is leaking and tighten or replace any loose OBV fuel tube clamps with a part eligible for installation before further flight.

(B) Replace any worn OBV link rod assembly hardware within 50 flight cycles after the inspection required by paragraphs (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD. The engine can be returned to service each day for up to the 50 flight cycles if the OBV fittings are inspected each day for fuel leaks and looseness and, if they do not require removal based on the criteria in Table 1, ''OBV Inspection,'' of GE SB CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019.

(2) For CF34–8C5B1 model turbofan engines with S/Ns not listed in paragraph (g)(1) of this AD and for all CF34–8C5A2 and CF34–8C5A3 model turbofan engines, perform the following:

(i) For engines with 6,000 flight hours or more since new on the effective date of this AD, perform an initial inspection of the OBV bleed air manifold link rod assemblies, OBV fuel fittings, and OBV fuel tubes within 880 flight hours after the effective date of this AD.

(ii) For engines with less than 6,000 flights hours since new on the effective date of this AD, perform an initial inspection of the OBV bleed air manifold link rod assemblies, OBV fuel fittings, and OBV fuel tubes within 880 flight hours time in service or 6,880 flight hours since new, whichever occurs later.

(iii) Thereafter, repeat the inspection of the OBV bleed air manifold link rod assemblies, OBV fuel fittings, and OBV fuel tubes within 880 flight hours since the last inspection.

(iv) Use the Accomplishment Instructions, Paragraph 3.B., of GE CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019, to perform the inspections in paragraphs (g)(2)(i) through (iii) of this AD.

(v) Replace any parts according to the criteria in paragraph (g)(1)(iv) of this AD after the inspection required by paragraphs (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD.

(3) For all affected engines, the reporting instructions in GE SB CF34–8C–AL S/B 75–0020, R04, dated May 10, 2019, are not required by this AD.

**(h) Credit for Previous Actions**

(1) For engines identified in paragraph (g)(1) of this AD, you may take credit for the inspection of the OBV bleed air manifold link rod assemblies and the OBV fuel fittings required by paragraph (g)(1)(i) of this AD if you performed this inspection before November 30, 2017 (the effective date of AD 2017–23–06) using GE SB CF34–8C SB 75–0019, Revision 01, dated October 24, 2017, or R00, dated August 4, 2017;

(2) For all affected engines, you may take credit for the inspection of the OBV bleed air manifold link rod assemblies and the OBV fuel fittings required by paragraph (g)(1)(i) or (g)(2)(i) of this AD if you performed this inspection before the effective date of this AD using GE SB CF34–8C SB 75–0020, Revision 03, dated December 14, 2018.

(3) You are still required to perform the repeat inspections and any replacements, as needed, required by paragraphs (g)(1)(ii) through (g)(1)(iv) of this AD.

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

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

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

**(j) Related Information**

(1) For more information about this AD, contact Michael Richardson-Bach, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7747; fax: 781–238–7199; email: *michael.richardson-bach@faa.gov*.

(2) For service information identified in this AD, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com*. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on June 24, 2019.

**Robert J. Ganley,**

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

[FR Doc. 2019–13761 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0438; Product Identifier 2019–NM–033–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This proposed AD was prompted by a report that during a maintenance check an operator discovered cracking in the station 1460 frame web and inner chord between certain stringers. This proposed AD would require an inspection of the fuselage frames for any existing repair, repetitive surface high frequency eddy current (HFEC) inspections of the fuselage frames with a cargo liner support channel for any cracking, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 12, 2019.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial

Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0438.

**Examining the AD Docket**

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0438; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *peter.jarzomb@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0438; Product Identifier 2019–NM–033–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the agency receives about this proposed AD.

**Discussion**

The FAA has received a report indicating that an operator found cracking of the aft cargo compartment frames in the station 1460 frame web and inner chord between stringers S–26 and S–27 near an existing repair. The crack initiated at the fastener hole common to the cargo liner support channel, and was found near an existing structural repair manual (SRM) repair. Primer was discovered in the crack, indicating that the crack already existed at the time the SRM repair was installed. The crack was discovered at 82,227 total flight hours and 37,450 total flight cycles, and was the result of fatigue caused by cyclic pressurization of the fuselage and flight loads. This condition, if not addressed, could allow cracks to propagate until they cause a severed frame, which could result in additional undetected cracking in adjacent fuselage frames, and could ultimately result in reduced structural integrity of the aft cargo frames and consequent rapid decompression of the airplane.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019. The service information describes procedures for a general visual inspection of the fuselage frames with a cargo liner support channel for any existing repair, repetitive surface HFEC inspections of the fuselage frames with a cargo liner support channel for any cracking, and applicable on-condition actions. On-condition actions include a general visual inspection of the fuselage frames adjacent to the frame with a severed inner chord for any existing repair, a detailed inspection and a surface HFEC inspection of the fuselage frames adjacent to a frame with a severed inner chord for any cracking, and repair.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0438.

**Explanation of Requirements Bulletin**

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

**Costs of Compliance**

The FAA estimates that this proposed AD affects 544 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| General visual inspection. | 37 work-hours × $85 per hour = $3,145 | $0 | $3,145 | $1,710,880. |

ESTIMATED COSTS FOR REQUIRED ACTIONS—Continued

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Repetitive surface HFEC inspections. | Up to 37 work-hours × $85 per hour = Up to $3,145 per inspection cycle. | 0 | Up to $3,145 per inspection cycle. | Up to $1,710,880 per inspection cycle. |

The FAA estimates the following costs to do any necessary on-condition inspections that would be required. The FAA has no way of determining the number of aircraft that might need these on-condition inspections:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| Up to 20 work-hour × $85 per hour = Up to $1,700 per inspection cycle | $0 | Up to $1,700 per inspection cycle. |

The FAA has received no definitive data that would enable us to provide cost estimates for the on-condition repair specified in this proposed AD.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**The Boeing Company:** Docket No. FAA–2019–0438; Product Identifier 2019–NM–033–AD.

**(a) Comments Due Date**

The FAA must receive comments by August 12, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by a report that during a maintenance check an operator discovered cracking of the aft cargo compartment frames in the station 1460 frame web and inner chord between certain stringers. The FAA is issuing this AD to address cracking at the frame web and inner chord; such cracks could propagate until they cause a severed frame, which could result in additional undetected cracking in adjacent fuselage frames, and could ultimately result in reduced structural integrity of the aft cargo frames and consequent rapid decompression of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019.

**Note 1 to paragraph (g):** Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–53A0113, dated February 22, 2019, which is referred to in Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019.

**(h) Exceptions to Service Information Specifications**

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019, uses the phrase ''the original issue date of Requirements Bulletin 757–53A0113 RB,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Requirements Bulletin 757–53A0113 RB,

dated February 22, 2019, uses the phrase ''the original issue date of Requirements Bulletin 757–53A0113 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 757–53A0113 RB, dated February 22, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

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

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov*.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(j) Related Information**

(1) For more information about this AD, contact Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *peter.jarzomb@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 12, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–13672 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 91

**[Docket No.: FAA–2019–0451; Notice No. 19–08]**

**RIN 2120–AL30**

## Special Flight Authorizations for Supersonic Aircraft

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** Current regulations prohibit overland supersonic civil flights in the United States, but include a procedure to request authorization for these flights for the purposes of test and development of new aircraft. The criteria for such authorizations were developed in the 1970s and placed in an appendix to the operating regulations. With renewed interest in supersonic aircraft development, the FAA is proposing to modernize the procedure for requesting these special flight authorizations.

**DATES:** Send comments on or before August 27, 2019.

**ADDRESSES:** Send comments identified by docket number FAA–2019–0451 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

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

**FOR FURTHER INFORMATION CONTACT:** Mehmet Marsan, Office of Environment and Energy, AEE–100, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–7703; email *mehmet.marsan@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Executive Summary

Civil aircraft may not operate in the United States in excess of Mach 1 except in accordance with an authorization issued by the FAA. Currently, the application requirements for an authorization are found in appendix B to 14 CFR part 91, Authorizations to exceed Mach 1 (§ 91.817). The FAA is proposing to streamline the application procedure for these special flight authorizations by clarifying the information that needs to be submitted and specifying the contact office within the FAA. This proposed rule sets forth those application criteria in a more user-friendly format.

In this proposed rule, the FAA has identified three areas to improve provisions that are currently appendix B. The first designates to which office in the agency applicants should send applications and direct questions. The second gathers the scattered application requirements into a list, and presents them in current regulatory format. As part of this effort, the FAA is correcting the language to be consistent throughout the new section. Third, the agency is proposing the addition of a new reason for flight testing to accommodate future noise certification actions.

This proposal removes the application criteria and procedure from an appendix and places it in regulatory text [1] in accordance with current regulatory format. This modernization of the authorization process for certain civil supersonic flights is intended to simplify and clarify the process for applicants interested in the authorization process.

Finally, while not proposed as a change, the FAA is requesting comment on whether a regulatory provision that has yet to be used should be removed.

[1] The material in appendix B was originally proposed as part of § 91.55 (now § 91.817) but was moved to an appendix at the suggestion of a commenter.

## II. Legal Authority for This Rule

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44715 Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This regulation is within the scope of that authority since it provides for certain operations of new supersonic aircraft in approved areas where the environmental impact of the operations has been assessed.

## III. Background

Technological advances and renewed industry interest in developing new civil supersonic aircraft have prompted the FAA to consider policy and regulatory changes to enable the domestic certification and operation of these aircraft.

The introduction of the Concorde aircraft in the 1970s spurred both the prohibition on supersonic flight over land in the United States and the realization that the new industry would need to operate supersonic aircraft for testing as part of regular development. The regulations that adopted the prohibition on supersonic flight and the authorizations that allowed certain flights were promulgated in the 1970s when the concept of supersonic flight was new. The preambles to those rules indicate that more robust development was expected, including the possibility that permanent supersonic flight corridors might be established for routine testing.[2]

When the FAA promulgated the operating prohibition in § 91.817, the authorization procedure was added to appendix B to part 91. The appendix was intended to be used primarily to authorize supersonic flights needed to test the airworthiness of a new aircraft, determine the ''sonic boom characteristics'' of an aircraft, or to show the conditions and limitations under which a supersonic flight did not allow a measurable sound pressure wave to reach the ground as a condition for other operation. The procedures in appendix B require an applicant to propose a test area, and to submit sufficient environmental information about the proposed test area to allow the Administrator to fulfill his duties under the National Environmental Policy Act of 1969 (NEPA) and to consider the protection of the environment in allowing a requested operation. The appendix includes a provision to request flights outside a test area, but requires a significant showing of no noise impact before applications will be considered.

While the intent of the appendix can be distilled to these few provisions, neither its language nor its organization are particularly user friendly. The provisions are placed in three awkwardly organized sections that reference each other as well as the requirements that are scattered among those sections. The terms describing the locations for flight, for example, are inconsistent and range from ''designation of a particular test area'' in paragraph b, to ''test area proposed by the applicant'' in paragraph (c)(2), to ''designated test area'' in paragraph (c)(3) and later provisions. Assessment of these terms, by the FAA and potential applicants, have veered off into questions as to the nature of the Administrator's determination under NEPA versus the actual finding of environmental impact, and has caused interested parties to ask where the previously designated test areas are located. Another example of poor organization is the requirement for an applicant to show why over ocean testing is not sufficient for its purposes. Its placement in the text of the appendix causes it to be overlooked, and when noted, thought to only apply in certain circumstances, a conclusion not supported by any rule text.

When appendix B was promulgated in 1973, the concept of civil supersonic flight was new, and the FAA estimated (for purposes of the Paperwork Reduction Act) that it would receive 20 applications for such flights per year. To date, the FAA has only received a handful of inquiries since 1973, and has only granted three authorizations—two for flights testing an experimental space vehicle attached to an airplane, and one for a domestic manufacturer whose subsonic airplane needed to exceed Mach 1 during required airworthiness testing. However, the FAA expects that renewed interest in the development of supersonic aircraft will lead to increased requests to authorize flights in excess of Mach 1. This proposed update to the application procedures are intended to support the growth of the civil supersonic industry.

## IV. The Proposed Rule

### *A. Special Flight Authorizations for Supersonic Operations*

#### 1. Format of the Rule Text

The Office of the Federal Register advised the FAA that the material contained in appendix B is not appropriate for an appendix in the Code of Federal Regulations (CFR). Accordingly, the FAA is proposing to codify the material in § 91.818 and to make non-substantive changes for organization and clarity. No change to the authority or requirements may be inferred from the change in format. Changes from the current appendix language are described in this preamble.

#### 2. Form and Submission of Application Materials

The description that an application is to be submitted ''in a form and manner prescribed by the Administrator'' has not been helpful to applicants or the FAA. The material that must be provided at application is scattered throughout the current appendix and is not sufficiently described, causing requested information to often be overlooked. Prospective applicants have interpreted this to mean that there is a form they must fill out. This is a misreading of the regulatory text; there is no form. The proposed reorganization would remedy this problem by removing the phrase 'form and manner' and providing the requirements in a list in § 91.818(a).

The current appendix does not specify the office to which application materials are to be submitted, resulting in misdirected documents, delays and confusion. The proposed rule directs applicants to send their materials to the FAA's Office of Environment and Energy (AEE) for consideration by the Administrator.

#### 3. Time of Day

The FAA is proposing to require applicants to include the time of day they intend to conduct flights in the initial application. For flights that are to be conducted at night, further explanation of the necessity of these flights may be required because of their potential for increased noise impact on the human environment.[3] Justification for night flights is information the FAA would have requested at some point during the current application process. The FAA proposes to include that information in the initial application to

[2] NPRM proposing supersonic operating prohibition and appendix B, 35 FR 6189 (April 16, 1970). Final rule adopting supersonic operating prohibition and appendix B, 38 FR 8051 (March 28, 1973).

[3] Night means ''the time between the end of evening civil twilight and the beginning of morning civil twilight, as published in the Air Almanac, converted to local time'' as defined in 14 CFR 1.1.

be more efficient and make the process more transparent.

4. Reasons for Authorization

Paragraph (a)(8) of the proposed rule includes the reasons for which a supersonic flight may be authorized; these are included in the current appendix. The FAA is also proposing an additional reason for flight in paragraph (a)(8)(v). This provision would allow for flights in excess of Mach 1 when measuring the noise characteristics of an aircraft for compliance with noise certification requirements, including conducting noise testing during supersonic flight. This provision is forward-looking. The language in current appendix B addresses only flights necessary to comply with airworthiness certification testing. While the current noise certification regulations of part 36 do not apply to supersonic aircraft, and there are no established noise limits or flight profiles for aircraft operating at supersonic speeds, current industry development suggests that a provision to allow supersonic speeds for noise testing will be needed in the future. The provision proposed here would allow an applicant to seek approval to conduct testing for noise certification following the adoption of regulations that would be promulgated separately under the FAA's statutory authority over aircraft noise.

Interested persons are invited to submit other valid flight test conditions that may not be described here in a comment addressing paragraph (a)(8) of this proposed rule.

5. Flight Tests Over the Ocean

In section 1.(c)(1) of the current appendix, there is a requirement for applicants to show why the purpose of their tests cannot be accomplished by ''overocean testing.'' The preambles to the rule adopting this provision were clear: ''This amendment requires applicants for such authorizations to show why the flight test cannot be safely or properly conducted over the ocean.'' [4] However, the organization of the appendix often causes the applicability of this provision to be overlooked. In this proposed rule, that requirement is placed in § 91.818(a)(9).

The FAA has had to bring this provision to the attention of prospective applicants who seek help understanding the regulation as written. If an application fails to include this information, the FAA would request it before consideration of an application would continue. Clarifying the provision in the regulatory language is expected to increase the visibility of the requirement and reduce the transaction time between the FAA and an applicant.

Rather than the nonspecific term ''overocean,'' the text is revised to state ''over the ocean at a distance ensuring that no sonic boom overpressure reaches any land surface in the United States.'' This is intended to ensure that proposed testing over land is justified, and that when overocean testing is used, the distance required to protect the U.S. shoreline (as required under § 91.817(b)) is not overlooked.

6. Environmental Analyses

The current appendix states that an applicant must provide all the information necessary for the Administrator to make a determination under the NEPA. However, the appendix gives no indication what the FAA considers sufficient to make this determination. FAA Order 1050.1, Environmental Impacts: Policies and Procedures, contains information regarding the FAA's requirements and responsibilities as they relate to making NEPA determinations.[5]

Although there is limited history in approval of these authorizations, the presumption has been that an applicant would submit an Environmental Assessment (EA), or other documentation that provides sufficient information for the Administrator to make a NEPA determination.[6] These options are now described in § 91.818(c)(2).

For all such applications, the FAA would accept previous environmental reviews of the proposed flight area that are appropriate for the assessment of flight operations as long as the material remains current and relevant, or has been updated by the applicant to meet those requirements. Applications would not be considered complete until the environmental impact information has been submitted, reviewed, and determined sufficient by the FAA. Applications would remain open until sufficient information is submitted or until the applicant requests that its application be withdrawn.

7. Duration of Authorizations

The current appendix does not specify a maximum time period for allowable flight-testing. The FAA does not grant open-ended authorizations for flight operations, however, since needs and conditions change over time. The agency would consider any reasonable time proposed by an applicant to accomplish the task for which the authorization is requested; this is contained in proposed § 91.818(e)(1), which states that a special flight authorization will be granted for the time determined to be necessary to conduct the activities in the request. Neither the current rule nor the proposed rule limits the number of applications for supersonic flight testing over the life of an aircraft development project. The FAA encourages applicants to submit separate applications when different phases of a project requiring supersonic flight are separated by significant time gaps. The FAA anticipates that most environmental reviews submitted for a first application would be sufficient for subsequent applications for the same flight area, but are not expected to be effective indefinitely.[7] Applicants are free to request amendments to a special flight authorization, but such amendments may not be presumed until they are reviewed and approved, and a new special flight authorization is granted.

8. Test Area Descriptions

Finally, the term ''designated test area'' in the current appendix has caused prospective applicants to ask where such test areas have been established, when no such areas exist. The history of the rule suggests that areas were expected to be designated as the industry developed but that did not happen. To support the current development efforts of the industry, the FAA seeks to provide supersonic flight test applicants with the broadest opportunity to request an appropriate flight test area, consistent with applicable regulations. Whether an applicant chooses to request an area already used for non-civil supersonic flights or an area in another location would be up to the applicant. The ability to request a flight test area appropriate for an applicant's needs would allow the applicant to control the costs and benefits of various options, and to develop its business plan accordingly. The requirement to submit the environmental impact information remains, which allows the FAA to determine the acceptability of the location and the effect on the environment of the proposed flights as well as its duty to determine the level of federal review required under NEPA.

Accordingly, the proposed rule text does not contain the historical term ''designated test areas,'' but allows the

[4] Preamble to final rule adopting appendix B, 38 FR 8054 (March 28, 1973).

[5] See FAA Order 1050.1F.

[6] To date, each of the operators that have received appendix B authorizations has submitted the type of environmental findings described here.

[7] FAA Order 1050.1 describes time limits for the effectiveness of environmental reviews.

applicant to request a test area that suits its purposes. The requested test area would be described in the application and considered to be one factor in determining the acceptability of the application overall. Nothing about the proposed application process is meant to impede more than one prospective supersonic operator from seeking to use the same area or sharing the costs of the environmental studies that may be required.

*B. Supersonic Operations Outside a Test Area*

Appendix B contains a provision (section 2.(b)) that allows an applicant to request supersonic *non-test* flights outside of a test area. The prerequisites for this supersonic operation are considerable. An applicant must first show—as part of a test conducted under a previous authorization inside a test area—''the conditions and limitations under which speeds greater than a true flight Mach number of 1 will not cause a measurable sonic boom overpressure to reach the surface.'' (Section 2.(a)(3)). Once an applicant demonstrates within a test area that no described sonic overpressure occurs, and ''conservatively'' demonstrates the sufficient conditions and limitations that represent all foreseeable operating conditions that would maintain that status, an applicant may apply for a flight to be conducted outside a test area. As evidenced by the discussion in the preamble to the rule that proposed the appendix, this task is arduous, and one that was defined by strict limits:

> Thus, protection of the environment from sonic boom, not prohibition of supersonic speeds per se, is the FAA's objective. This being the case, reasonable rulemaking should reflect the fact that it is possible to increase aircraft speed beyond Mach 1 (the speed of sound), under specific atmospheric conditions, and still not cause a sonic boom to reach the underlying terrain. Therefore, under the proposed rule, if the operator of a particular aircraft demonstrates in a designated flight test area, that a specific Mach number greater than Mach 1 will not cause a sonic boom to reach the surface of the United States, except the territorial waters thereof,[8] he would be able to obtain an authorization to exceed Mach 1 in operations conducted outside the designated flight test area.
>
> (35 FR 6190, April 16, 1970)

While some might view this language as a means to gain approval for unrestricted civil supersonic operation, the FAA noted that meeting the requirement would be difficult. The conditions and limitations described, for example, would have to include weather and atmospheric conditions as a ''fundamental variable affecting the propagation of sonic boom.'' [9] The preamble to the final rule contains an extended discussion of why the term ''measurable sonic boom overpressure'' was adopted, and how it relates to perception and audibility. The FAA stated that boom propagation control and predictability were not yet a reality, and concluded that it was ''reasonable to require public protection from 'measureable sonic boom overpressures' '' rather than any results based on human perception while research continued.[10]

Forty-five years later, no operator has applied for an authorization to demonstrate a supersonic flight capable of producing no measurable sonic boom overpressure such as to qualify for this operating allowance. The FAA is requesting comment on whether this provision needs to be maintained in the rule, and what the impacts might be if it were removed. When the FAA promulgated this operating provision in 1973, supersonic flight was in its infancy and the agency was clear it would not prevent flights that could show no negative impact on humans or the environment. At present, the FAA knows of no aircraft that can meet the ''no overpressure'' provision. It is well known that such operating conditions would be difficult to forecast and maintain as a test matter, much less during routine flight in varying atmospheric conditions. Finally, speeds slightly above Mach 1 are often the least fuel-efficient and may have the most negative effects on an aircraft. The FAA has no data on which to conclude that the maintenance of this provision provides a realistic goal for current developers of supersonic aircraft, but neither does the agency have any data regarding any consequences of its removal on aircraft under development. While interested persons are encouraged to provide their views on this provision, it remains in this proposed rule as § 91.818(b). If the FAA receives sufficient data or arguments to indicate it no longer has any realistic value or incentive for the industry, the provision will be removed from the final rule.

The FAA is not seeking to propose some alternative to this section as a means to approve routine civil supersonic flight, but simply seeks comments whether the provision as written retains any current value. The records of the adoption of this provision in 1973 contain no discussion of how these flights would be included in the overall operation of the national airspace system (NAS). The sheer volume of increased activity in the NAS since 1973 would demand a more comprehensive consideration of the impact of supersonic flights. Moreover, in the event that some level of sonic boom or other noise generated by supersonic flight is determined to be consistent with the FAA's statutory authority to protect the public health and welfare, the FAA would consider all available regulatory tools available to allow such flights, rather than rely on a 45-year-old standard that was included in a regulation designed primarily to approve test flights. Examples include operational exemptions or other regulatory changes to the prohibition in § 91.817 that account for all of the current considerations.

Other than the changes noted here, the material in proposed new § 91.818 was taken directly from current appendix B to Part 91; no changes are to be inferred from reformatting

## V. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this NPRM.

In conducting these analyses, FAA has determined that this NPRM: (1) Has

[8] The language regarding territorial waters was dropped from the final rule in response to a comment, and would have been incompatible with the later adoption of § 91.817(b) to protect the U.S. shoreline.

[9] 38 FR 8054, March 28, 1973.

[10] Id.

benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) will not have a significant economic impact on a substantial number of small entities; (4) will not create unnecessary obstacles to the foreign commerce of the United States; and (5) will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

*A. Regulatory Evaluation*

As discussed in the preamble, § 91.817 prohibits the operation of civil aircraft at speeds greater than Mach 1, except those allowed in accordance with appendix B to part 91, which allows limited supersonic flights. As also noted in the preamble, the requirements allowing authorizations under appendix B are poorly organized. This proposed rule would clarify and better inform applicants as to the requirements for special supersonic flight authorizations, and organize these requirements in a new, more easily accessible § 91.818.

As noted above, the FAA is proposing a new reason for part 91 special flight authorizations—to measure the noise characteristics of an aircraft for compliance with noise certification requirements, including conducting noise testing during supersonic flight. This provision is beneficial as it anticipates the addition of future part 36 noise certification requirements for supersonic aircraft, including the provision now will ensure the availability of testing as an option, and that it is not overlooked when the part 36 standards are established.

Since there are no substantive changes to the requirements for these special flight authorizations, the proposed rule would not have additional costs. The FAA believes the proposed rule would be deregulatory because of the increased clarity, information, and accessibility it would provide to applicants and expects to reduce the number of follow-up requests for additional information between the FAA and applicants.

*B. Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As noted in the Regulatory Evaluation section, this proposed rule would not have additional costs. Therefore, this proposed rule would not have a significant economic impact on a substantial number of firms. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking would not result in a significant economic impact on a substantial number of small entities.

*C. International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have a legitimate domestic objective, in that it would provide increased clarity and information to applicants as to the requirements for special flight authorizations to test supersonic aircraft. This proposed rule would not operate in a manner as to directly affect foreign trade and, therefore, would have little or no effect on foreign trade.

*D. Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155.0 million in lieu of $100 million.

This rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

*E. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act, (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted this proposed information collection amendment to OMB for its review.

Information collection 2120–0005, General Operating and Flight Rules FAR 91, contains the information collection requirements related to appendix B to part 91, Authorizations to Exceed Mach 1 (§ 91.817). The current filing estimates that the FAA receives 20 requests for authorization annually, and that each request takes an average of 0.7 hours, for a total estimated burden of 14 hours annually.

The FAA has determined that the original number of estimated annual responses is high. In practice, the FAA has only received three requests under appendix B to part 91 in the last 40 years. However, the FAA also acknowledges that the estimate of 0.7 hours per request is too low. The proposed changes to both the number of annual responses and the hours per request is not driven by any of the minor changes described in this

preamble, but reflects a change in the understanding of both the number of applicants expected, and the requirements for NEPA documents between the original collection request and now.

Based on the information the FAA is proposing to collect under new § 91.818, the FAA estimates that each request to exceed Mach 1 submitted pursuant to § 91.818 will take an applicant 40 hours to complete. This estimate is based on the assumption that an applicant will not need to develop a new environmental document for the Administrator's NEPA determination. In the three-year period following publication of this proposed rule, the FAA estimates that there will be a total of three applicants for special flight authorizations (or an average of one per year). The FAA assumes that each of the applicants would qualify to use airspace in the United States in a location where supersonic flights already occur and a NEPA document already exists. The three applicants for supersonic flight test that received authorizations under the current appendix each used military test ranges with previously approved Environmental Impact Statements that had been updated as necessary. Use of available military sites is more efficient and less costly than establishing a new test range and complying with the initial environmental requirements for one.

Accordingly, whether an applicant seeks to establish a new area for testing, or proposes flights in an area where supersonic operations have occurred or are regularly conducted, this regulation requires that documentation of the environmental impact be submitted as part of an application. This regulation allows the use of previously established environmental impact materials for a test area when such materials are properly updated to reflect current conditions and changes since the original material was created.

The following table shows the current approved burden and the proposed new burden for the revisions to information collection 2120–0005.

TABLE 1—SUMMARY OF PROPOSED REVISIONS TO INFORMATION COLLECTION 2120–0005

| | Anticipated applications | Current estimated use of appendix B | Change due to this rulemaking | Change due to agency discretion/ experience | Change due to adjustment in estimate | Change due to potential violation of the PRA |
|---|---|---|---|---|---|---|
| Annual Number of Responses | 1 | 20 | 0 | −19 | 0 | 0 |
| Annual Time Burden (Hours) | 40 | 14 | 0 | 26 | 0 | 0 |
| Annual Cost Burden | $8,000 | $2,800 | $0 | $5,200 | $0 | $0 |

*The revision to information collection 2120–0005 will remove the time attributed to appendix B and add the time attributed to proposed § 91.818.

The FAA estimates fully burdened labor cost to be about $200 per hour, making the total cost for three years 3 × $200 × 40 = $24,000, with a cost per year of $8,000.

The agency is soliciting comments that will assist us in—

- Evaluating whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluating the accuracy of the agency's estimate of the burden;
- Enhancing the quality, utility, and clarity of the information to be collected; and
- Minimizing the burden of collecting information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments on the information collection requirement may be submitted to the address listed at the beginning of this preamble by September 26, 2019. Comments should also be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street NW, Washington, DC 20053.

*F. International Compatibility and Cooperation*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) to the maximum extent practicable. The FAA has reviewed the corresponding ICAO SARPs and has identified no differences with these regulations.

*G. Environmental Analysis*

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f and involves no extraordinary circumstances.

## VI. Executive Order Determinations

*A. Executive Order 13132, Federalism*

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

*B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

*C. Executive Order 13609, Promoting International Regulatory Cooperation*

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive

Order 13609, and has determined that this action would have no effect on international regulatory cooperation since it is a wholly domestic operating rule.

*D. Executive Order 13771*

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the regulatory evaluation.

## VII. Additional Information

*A. Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file, in the docket, all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The agency may change this proposal in light of the comments it receives.

*Proprietary or Confidential Business Information:* Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

*B. Availability of Rulemaking Documents*

An electronic copy of rulemaking documents may be obtained from the internet by—

- Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Publishing Office's web page at *http://www.fdsys.gov.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced above.

**List of Subjects in 14 CFR Part 91**

Aircraft, Aviation safety, Noise control, Reporting and recordkeeping requirements.

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

## PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

**§ 91.817 [Amended]**

■ 2. In paragraphs (a) and (b)(2), remove the words ''under appendix B of this part'' and add in their place the words ''in accordance with § 91.818 of this part''.

■ 3. Add § 91.818 to read as follows:

**§ 91.818 Special flight authorization to exceed Mach 1.**

For all civil aircraft, any operation that exceeds Mach 1 may be conducted only in accordance with a special flight authorization issued to an operator under the requirements of this section.

(a) *Application.* Application for a special flight authorization to exceed Mach 1 must be made to the FAA Office of Environment and Energy for consideration by the Administrator. Each application must include:

(1) The name of the operator;

(2) The number and model(s) of the aircraft to be operated;

(3) The number of proposed flights;

(4) The date range during which the flights would be conducted;

(5) The time of day the flights would be conducted. Proposed night operations may require further justification for their necessity;

(6) A description of the flight area requested by the applicant, including any environmental analysis required under paragraph (c) of this section;

(7) All conditions and limitations on the flights that will ensure that no measurable sonic boom overpressure will reach the surface outside of the proposed flight area;

(8) The reason(s) that operation at a speed greater than Mach 1 is necessary. A special flight authorization to exceed Mach 1 may be granted only for operations that are intended to:

(i) Show compliance with airworthiness requirements;

(ii) Determine the sonic boom characteristics of an aircraft;

(iii) Establish a means of reducing or eliminating the effects of sonic boom, including flight profiles and special features of an aircraft;

(iv) Demonstrate the conditions and limitations under which speeds in excess of Mach 1 will not cause a measurable sonic boom overpressure to reach the surface; or

(v) Measure the noise characteristics of an aircraft to demonstrate compliance with noise requirements imposed under this chapter, or to determine the limits for operation in accordance with § 91.817(b) of this part.

(9) For any purpose listed in paragraph (a)(8) of this section, each applicant must indicate why its intended operation cannot be safely or properly accomplished over the ocean at a distance ensuring that no sonic boom overpressure reaches any land surface in the United States.

(b) *Operation outside a test area.* An applicant may apply for an authorization to conduct flights outside a test area under certain conditions and limitations upon a conservative showing that:

(1) Flights within a test area have been conducted in accordance with an authorization granted under paragraph (a)(8)(iv) of this section;

(2) The results of the flight tests demonstrate that a speed in excess of Mach 1 does not cause a measurable sonic boom overpressure to reach the surface; and

(3) The conditions and limitations determined by that test represent all foreseeable operating conditions and are effective on all flights conducted under an authorization.

(c) *Environmental findings.* (1) No special flight authorization will be granted if the Administrator finds that such action is necessary to protect or enhance the environment.

(2) The Administrator is required to determine whether the issuance of an authorization for a particular flight area is a ''major Federal action significantly affecting the quality of the human environment'' pursuant to the National Environmental Policy Act of 1969 (NEPA), and related Executive Orders and guidance. Accordingly, each applicant must provide information that sufficiently describes the environmental impact of any flight in excess of Mach 1, including the effect of a sonic boom reaching the surface in the proposed flight area, as a means to inform a determination by the Administrator. Such information may take the form of:

(i) An Environmental Impact Statement prepared for the proposed flight area for the purpose of this application;

(ii) An Environmental Impact Statement previously prepared for the proposed flight area, when the FAA has reviewed it and determined the continued adequacy, accuracy, validity and timeliness of the findings it contains; or

(iii) Another statement or finding of environmental impact for the proposed flight area, such as an Environmental Assessment, when the FAA has reviewed it and finds that such material is sufficient for the Administrator to make the required determinations for the proposed flight area.

(d) *Issuance.* An authorization to operate a civil aircraft in excess of Mach 1 may be issued only after an applicant has submitted the information described in this section and the Administrator has taken the required action regarding the environmental findings described in paragraph (c) of this section.

(e) *Duration.* (1) An authorization to exceed Mach 1 will be granted for the time the Administrator determines necessary to conduct the flights for the described purposes.

(2) An authorization to exceed Mach 1 is effective until it expires or is surrendered.

(3) An authorization to exceed Mach 1 may be terminated, suspended or amended by the Administrator at any time the Administrator finds that such action is necessary to protect the environment.

(4) The holder of an authorization to exceed Mach 1 may request reconsideration of a termination, amendment or suspension issued under paragraph (e)(3) of this section within 30 days of notice of the action. Failure to request reconsideration and provide information why the Administrator's action is not appropriate will result in permanent termination of the authorization.

(5) Findings made by and actions taken by the Administrator under this section do not affect any certificate issued under chapter 447 of title 49 of the United States Code.

**Appendix B to Part 91 [Removed and Reserved]**

■ 4. Remove and reserve appendix B to part 91.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 44701(a)(5), and 44715, on June 14, 2019.

**Kevin Welsh,**

*Executive Director for Environment and Energy.*

[FR Doc. 2019–13079 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 601

**[Docket No. FDA–2019–N–1363]**

**RIN 0910–AH50**

## Biologics License Applications and Master Files

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

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is proposing to amend its regulations concerning the use of master files for biological products. This action, if finalized, will allow certain biological products approved under the Federal Food, Drug, and Cosmetic Act (FD&C Act) to continue to incorporate by reference information about drug substances, drug substance intermediates, or drug products contained in master files after those products are deemed to be licensed under the Public Health Service Act (PHS Act) on March 23, 2020. The proposed rule also codifies FDA's practice of permitting applications for biological products submitted under the PHS Act to incorporate by reference information other than drug substance, drug substance intermediate, or drug product information contained in a master file. In addition, the proposed rule codifies FDA's practice of permitting investigational new drug applications to incorporate by reference any information contained in a master file for products subject to licensure under the PHS Act.

**DATES:** Submit either electronic or written comments on the proposed rule by August 27, 2019.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 27, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 27, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets

Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

*Instructions:* All submissions received must include the Docket No. FDA–2019–N–1363 for ''Biologics License Applications and Master Files.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

**FOR FURTHER INFORMATION CONTACT:** Kavita Vyas, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 4154, Silver Spring, MD 20993–0002, 301–796–4787, *kavita.vyas@fda.hhs.gov;* 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:**

**Table of Contents**

I. Executive Summary
A. Purpose of the Proposed Rule
B. Summary of the Major Provisions of the Proposed Rule
C. Legal Authority
D. Costs and Benefits
II. Table of Abbreviations/Commonly Used Acronyms in This Document
III. Background
A. Introduction
B. FDA's Current Regulatory Framework
C. Need for the Regulation
D. History of the Rulemaking
IV. Legal Authority
V. Description of the Proposed Rule
A. Proposed Provision of Paragraph (g)
B. Proposed Provision of Paragraph (i)
C. Proposed Provision of Paragraph (j)
D. Proposed Provision of Paragraph (h)
E. Proposed Records/Record Retention Requirements
F. Proposed Enforcement Provisions
G. Proposed Technical/Conforming Amendments
VI. Proposed Effective/Compliance Dates
VII. Preliminary Economic Analysis of Impacts
VIII. Analysis of Environmental Impact
IX. Paperwork Reduction Act of 1995
X. Federalism
XI. Consultation and Coordination With Indian Tribal Governments
XII. Reference

## I. Executive Summary

### *A. Purpose of the Proposed Rule*

FDA proposes to amend its regulations to implement certain aspects of section 7002(e) of the Biologics Price Competition and Innovation Act of 2009 (BPCI Act). The proposed rule is necessary to avoid unnecessary disruptions with respect to biological products originally approved under section 505 of the FD&C Act (21 U.S.C. 355) when their applications are deemed to be licenses under the PHS Act and to prevent potential drug shortages when those products are transitioned to being regulated under section 351 of the PHS Act (42 U.S.C. 262). The proposed rule will also update the regulation to reflect FDA's longstanding practices regarding the use of master files referenced in applications for biological products submitted under section 351 of the PHS Act.

### *B. Summary of the Major Provisions of the Proposed Rule*

FDA proposes to amend its regulations concerning the use of master files for biological products. The proposed rule would allow certain biological products, originally approved in a new drug application (NDA) under the FD&C Act, to continue relying on a drug master file for information on a drug substance, drug substance intermediate, or drug product (DS/DSI/DP) after the NDA is deemed to be a license for a biological product under the PHS Act on March 23, 2020. The proposed rule also codifies FDA's existing practice that a biological product in a biologics license application (BLA) under the PHS Act may rely on a master file, except for information regarding a drug substance, drug substance intermediate, or drug product. In addition, the rule codifies FDA's practice that an investigational new drug application (IND) for a biological product may incorporate by reference any information, including drug substance, drug substance intermediate, and drug product information, contained in a master file.

### *C. Legal Authority*

FDA is proposing to amend its regulations, in part, to implement section 7002(e) of the BPCI Act. FDA's authority for this rule also derives from the biological product provisions of the PHS Act (42 U.S.C. 262 and 264), and the provisions of the FD&C Act (21 U.S.C. 321, *et seq.*) applicable to drugs, including section 701 (21 U.S.C. 371); the FD&C Act provisions are applicable to biological products under section 351(j) of the PHS Act.

### *D. Costs and Benefits*

FDA anticipates that affected entities would incur minimal costs to read and understand the rule. By allowing transitioned products to continue to incorporate by reference information contained in existing master files, FDA avoids imposing a potential new regulatory burden. FDA projects that over 10 years at a discount rate of 7 percent the proposed rule would generate annualized net cost savings ranging from $0.3 million to $4.6 million with a primary estimate of $2.5 million; over 10 years at a discount rate of 3 percent the proposed rule would generate annualized net cost savings ranging from $0.3 million to $4.8

million with a primary estimate of $2.6 million.

II—TABLE OF ABBREVIATIONS/COMMONLY USED ACRONYMS IN THIS DOCUMENT

| Abbreviation/ acronym | What it means |
|---|---|
| BLA | Biologics License Application. |
| BPCI Act | Biologics Price Competition and Innovation Act of 2009. |
| DMF | Drug Master File. |
| DP | Drug Product. |
| DS | Drug Substance. |
| DSI | Drug Substance Intermediate. |
| FD&C Act | Federal Food, Drug, and Cosmetic Act. |
| FDA | U.S. Food and Drug Administration. |
| IND | Investigational New Drug Application. |
| NDA | New Drug Application. |
| PHS Act | Public Health Service Act. |

## III. Background

### *A. Introduction*

This proposed rule, when finalized, would amend FDA regulations relating to the use of master files in applications for biological products subject to regulation under the PHS Act. Section 7002(b)(1) of the BPCI Act revised section 351(i) of the PHS Act, in part, to amend the definition of a ''biological product'' to include a ''protein (except any chemically synthesized polypeptide).'' [1] A number of products approved in NDAs under section 505 of the FD&C Act meet the revised definition of biological product. Also, section 7002(e)(4) of the BPCI Act provided that, on March 23, 2020, an application for a biological product approved under section 505 of the FD&C Act ''shall be deemed to be a license for the biological product under'' section 351 of the PHS Act. This rule implements FDA's interpretation of the ''deemed to be a license'' provision of the BPCI Act with respect to the use of master files.[2] In addition, this rule codifies current Agency practices relating to the use of master files referenced in applications for biological products.

### *B. FDA's Current Regulatory Framework*

#### 1. What are master files?

Master files are submissions to the Agency that may be used to provide detailed, confidential information to the Agency about facilities, processes, or articles used in the manufacturing, processing, packaging, or storing of one or more human drugs. Information contained in a master file can be used to support a submission to FDA by an applicant or sponsor. The holder of a master file can authorize one or more applicants or sponsors to incorporate by reference information contained in the master file to support a submission to FDA without having to disclose the information in that master file (which may contain trade secrets or other confidential commercial information) to the applicants or sponsors.[3] [4] The submission of a master file is at the sole discretion of the master file holder. Ordinarily, FDA neither independently reviews nor approves submissions to a master file; instead, the Agency reviews such information only in the context of an application that incorporates by reference information contained in that master file.

*a. Drug master files.* Some master files contain information that is relevant to applications for drug products. For products regulated under section 505 of the FD&C Act, FDA defines the term ''drug master file'' (DMF) in its drug regulations (§ 314.420(a) (21 CFR 314.420(a))) and explicitly provides that ''[a]n investigational new drug application or an application, abbreviated application, amendment, or supplement may incorporate by reference all or part of the contents of any drug master file in support of the submission'' if the holder of the master file authorizes the incorporation (§ 314.420(b)). Section 314.420 also describes several types of DMFs, each of which typically contains certain kinds of information (§ 314.420(a)): Drug substance, drug substance intermediate, and materials used in their preparation, or drug product (referred to as Type II DMFs); packaging materials (Type III); excipient, colorant, flavor, essence, or materials used in their preparation (Type IV); and FDA-accepted reference information (Type V). (See also FDA Guidance for Industry entitled ''Drug Master Files: Guidelines,'' September 1989, available at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm122886.htm* (accessed March 2019).)

*b. Other master files.* FDA also permits reference to master files that are not addressed by § 314.420, some of which contain information that is relevant to applications for biological products.[5] The Agency's approach to the terminology for types of master files used for products regulated under the PHS Act has generally tracked its approach to the types of DMFs (*e.g.,* Type II, Type III) used for products regulated under the FD&C Act.

#### 2. Biologics License Applications and Master Files

*a. FDA generally permits BLAs to incorporate by reference information contained in master files.* Just as FDA permits NDAs and ANDAs under the FD&C Act to incorporate by reference certain information contained in DMFs, the Agency also generally permits applications under the PHS Act (BLAs) to incorporate by reference certain information contained in master files, including DMFs.

For most categories of information and most application types (including BLAs and INDs), the needs of master file holders, applicants and sponsors, and FDA have been adequately met through this incorporation-by-reference mechanism. This mechanism allows applicants and sponsors to refer to information contained in master files without having knowledge of the contents of those master files (§ 314.420; 47 FR 46622 at 46642). For products licensed under section 351 of the PHS Act, FDA has permitted, and will generally continue to permit, the use of information contained in most types of master files (such as information about excipients, stabilizers, penetrants, or materials used in the preparation of DS/DSI/DP) because the applicant generally has the ability to independently identify and mitigate the risk posed to product quality by such components. For example, applicants are permitted to incorporate by reference in their BLA information on container closures contained in a master file. This is the case because an applicant can independently identify the risk to product quality posed by a container closure (for example, by leachables in the closure) by performing appropriate studies on stability and adequateness for intended use and then taking steps to

[1] On December 12, 2018, FDA issued a proposed rule regarding its interpretation of the terms ''protein'' and ''chemically synthesized polypeptide'' as used in section 351(i) of the PHS Act (''Definition of the term 'Biological Product' '', 83 FR 63817).

[2] For more information about FDA's interpretation of the ''deemed to be a license'' provision of the BPCI Act, see guidance for industry entitled ''Interpretation of the 'Deemed to be a License' Provision of the Biologics Price Competition and Innovation Act of 2009'' (December 2018). We update guidances periodically. To make sure you have the most recent version of a guidance, check the FDA Drugs guidance web page at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

[3] See, e.g., 21 CFR 314.420 and 47 FR 46622 at 46642 (October 19, 1982).

[4] The holder of a master file (including a drug master file) who expects that information in the file will be incorporated by reference both in a BLA and in an NDA or abbreviated new drug application (ANDA) need only submit the master file to the Agency once.

[5] See, *e.g.,* 21 CFR 601.51(a).

mitigate any risks identified (for example, by implementing appropriate testing and controls). Thus, in such cases, the feasibility of testing to confirm the adequateness of intended container closures mitigates the risks to quality arising from the applicant's lack of access to the information contained in the master file.

Accordingly, proposed § 601.2(i) would codify FDA's longstanding practice of permitting biological products in BLAs to incorporate by reference most categories of information contained in master files (other than information about DS/DSI/DP, discussed below).

*b. FDA currently does not permit biological products in BLAs to incorporate by reference drug substance, drug substance intermediate, or drug product information in master files.* Although FDA's approach to the use of master files in BLAs largely parallels its approach to the use of DMFs in applications under the FD&C Act, there is a significant difference: Unlike applications submitted under section 505 of the FC&C Act, for biological products in BLAs, the Agency has, as a scientific matter, expected applicants to submit information about DS/DSI/DP directly to the BLA rather than incorporating it by reference to a master file. (See, *e.g.,* FDA Guidance for Industry entitled ''Quality Considerations in Demonstrating Biosimilarity of a Therapeutic Protein Product to a Reference Product'' April 2015, available at *https://www.fda.gov/downloads/drugs/guidancecomplianceregulatoryinformation/guidances/ucm291134.pdf* (accessed March 2019).)

The risk associated with the manufacture of complex biological products is generally significantly higher than that associated with the manufacture of chemical entities, which are often less complex.[6] This is because most biological products tend to have certain features (*e.g.,* amino acid sequence, glycosylation, folding, cellular phenotype) essential to their intended effect and can be very sensitive to changes to their manufacturing process. In addition, biological products derived from biological sources may be complex heterogeneous mixtures, which provides another basis for having consistent process controls to ensure quality.

For these reasons, the Agency considers the establishment and function of a robust quality assurance program, with intimate knowledge of all manufacturing steps, to be essential for controlling and evaluating the process and the biological product, and for mitigating product quality risks. The applicant for a BLA is expected to have knowledge of and direct control over the manufacturing process for the DS/DSI/DP for a biological product (21 CFR 601.2 and 601.20). Absent this knowledge and control, the applicant generally cannot operate a robust quality assurance program that independently identifies and mitigates quality risks, which is critical to assuring the quality of a biological product.

As a scientific matter, given the complexity of biological products, the Agency considers it generally impractical for the applicant to confirm the DS/DSI/DP quality characteristics of a biological product without complete knowledge of, and control over, all aspects of the manufacturing process. FDA has concluded that the risk to quality arising from the fragmentation of information about DS/DSI/DP for a biological product between a master file and a BLA is very difficult to mitigate. As a result, FDA believes that this type of information is generally best submitted to the Agency directly in the BLA, and that a BLA that incorporates by reference DS/DSI/DP information for a biological product contained in a master file is generally inconsistent with biological product licensing requirements.[7] [8]

Accordingly, proposed § 601.2(g) would codify FDA's longstanding practice of not permitting a biological product in a BLA to incorporate by reference information regarding DS/DSI/DP contained in master files.

3. The Biologics Price Competition and Innovation Act of 2009

Section 7002(b) of the BPCI Act amended, in part, the definition of a ''biological product'' in the PHS Act to include a ''protein (except any chemically synthesized polypeptide).'' [9] Accordingly, under section 351(i) of the PHS Act, a ''biological product'' is now defined as ''a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, *protein (except any chemically synthesized polypeptide*), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings'' (section 351(i) of the PHS Act; emphasis added).

Some protein products have historically been approved under section 505 of the FD&C Act. However, section 7002(e) of the BPCI Act provides that a marketing application for a ''biological product'' must be submitted under section 351 of the PHS Act (subject to certain exceptions during a transition period ending on March 23, 2020). Section 7002(e) of the BPCI Act also provides that, on March 23, 2020, an application for a biological product approved under section 505 of the FD&C Act ''shall be deemed to be a license for a biological product under section 351'' of the PHS Act.[10] Such approved applications are referred to as ''deemed BLAs'' in this document.

*C. Need for the Regulation*

1. The Biologics Price Competition and Innovation Act of 2009 and the Use of Drug Master Files in BLAs

The BPCI Act is silent about implementation of the ''deemed to be a license for a biological product'' provision. In March 2016, FDA published a draft guidance for industry entitled ''Interpretation of the 'Deemed to be a License' Provision of the Biologics Price Competition and Innovation Act of 2009'' (see 81 FR 13373, March 14, 2016). Footnote 12 of that draft guidance explained that for sponsors of proposed protein products who intend to submit a BLA, a Type II DMF for a drug substance, drug substance intermediate, or drug product would not be acceptable for a BLA

[6] The Agency recognizes that, in limited circumstances, this may not always be the case; however, for purposes of administrative efficiency and predictability, the Agency is proposing a bright line between BLAs and NDAs regarding the referencing of master files for DS/DSI/DP information for biological products.

[7] FDA may permit, and generally will continue to permit, an applicant to incorporate by reference certain information about a product that is not the subject of the applicant's own BLA, such as information about a comparator product used in studies intended to support approval of the applicant's BLA. Incorporation of such information by reference generally does not raise similar concerns relating to an applicant's knowledge and control over all aspects of the manufacturing process for the product that is the subject of the applicant's own BLA.

[8] In lieu of the use of master files, other types of contract manufacturing arrangements can be considered if the sponsor does not intend to manufacture all aspects of the product for licensure and the licensee assumes responsibility for compliance with the applicable product and establishment standards. (See, *e.g.,* FDA guidance for industry entitled ''Cooperative Manufacturing Arrangements For Licensed Biologics,'' November 2008, available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-bio-gen/documents/document/ucm069908.pdf* (accessed March 2019).)

[9] See footnote 1.

[10] See FDA Guidance for Industry entitled ''Interpretation of the 'Deemed to be a License' Provision of the Biologics Price Competition and Innovation Act of 2009'' (December 2018). Available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM490264.pdf* (accessed March 2019).

because a license holder is expected to have knowledge of and control over the manufacturing process for the biological product for which it has a license. The footnote went on to provide that FDA is considering a mechanism that, in limited circumstances, would allow holders of approved applications under section 505 of the FD&C Act that reference a Type II DMF to continue to reference the DMF after the application is deemed to be a license under the PHS Act on March 23, 2020. FDA finalized this guidance in December 2018 (available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM490264.pdf* (accessed March 2019)), after considering comments in its draft recommendations and without including the corresponding footnote from the draft guidance because this proposed rule would establish such a mechanism, while also codifying the general longstanding practice that BLAs and INDs for biological products can reference information in master files except, in the case of BLAs, for DS/DSI/DP information for a biological product.

2. Mechanism To Permit the Continued Use of Currently Referenced DMFs by ''Deemed BLAs''

Biological products regulated under the FD&C Act have been able to incorporate by reference DS/DSI/DP information contained in DMFs to support the approval of NDAs. As explained above, for biological products licensed under section 351 of the PHS Act, incorporating by reference information contained in master files on DS/DSI/DP generally is not permitted.

This proposed regulation addresses, in part, a specific issue related to implementation of the ''deemed to be a license'' provision of the BPCI Act: Whether applications approved under section 505 of the FD&C Act may continue to incorporate by reference DS/DSI/DP information contained in DMFs once the applications are deemed to be BLAs subject to licensure and regulation under the PHS Act.

To date, FDA has identified approximately 89 applications approved under the FD&C Act that will be deemed licensed under the PHS Act on March 23, 2020. Approximately 17 of these applications incorporate by reference information on DS/DSI/DP contained in DMFs. Furthermore, the DS/DSI/DP information incorporated by reference into these 17 applications is drawn from only 7 DMFs. Thus, this use of DMFs for DS/DSI/DP information involves a small subset of the deemed BLAs and only a very small number of DMFs.

In light of FDA's longstanding practice of not permitting a biological product in a BLA to incorporate by reference information regarding DS/DSI/DP contained in a master file, the Agency is considering the appropriate regulatory approach to the relatively few deemed BLAs that reference DS/DSI/DP information contained in DMFs. The Agency is evaluating the risks and benefits of allowing these deemed BLAs to continue incorporating by reference this type of information from those DMFs. The analysis takes into account clinical considerations and product availability, as well as the limited number of applications and the limited number of DMFs that are involved. Based on this analysis, the Agency proposes that for biological products, the appropriate mechanism with respect to addressing incorporation by reference of DS/DSI/DP information contained in DMFs would be to implement the least disruptive approach.

Some of the deemed BLAs that currently incorporate by reference information contained in DMFs to support the application were approved by the Agency based in part on DS/DSI/DP information contained in those DMFs. Many of these products have been marketed for decades. Over this period, none of these products have been withdrawn or removed from the market for reasons of safety or effectiveness. For these products, the Agency has no reason to believe that the March 23, 2020, transition in and of itself introduces new risks to product safety, purity, and potency.

For some biological products, such as certain reproductive hormones, treating the deemed BLAs like other applications for biological products under the PHS Act with regard to the use of DS/DSI/DP information contained in a DMF would present a considerable challenge. Nearly all approved applications for these biological products incorporate by reference DS/DSI/DP information contained in a DMF. This incorporation by reference has resulted in drug substances for these products of acceptable quality for decades. For example, multiple Human Chorionic Gonadotropins from urinary sources have been on the market since the mid-1970s using DMFs for information on the drug substance, with changes to the product being handled through the DMF pathway. Disallowing use of DMFs for these deemed BLAs would curtail or halt production of these products, resulting in imminent or immediate drug shortages with considerable negative impacts on public health. FDA does not believe it was Congress's intent when enacting section 7002(e) of the BPCI Act that deemed BLAs would need to be removed from the market on March 23, 2020.

Furthermore, the general concern about fragmentation of DS/DSI/DP information associated with the use of DMFs is lessened in the case of the deemed BLAs by the existence of generally longstanding relationships between the deemed-BLA applicants and the DMF holders. For example, the license holder of a deemed BLA may have accumulated knowledge about the quality of the biological product supplied by the DMF holder over an extended period. This accumulated knowledge allows the deemed BLA holder to implement a more robust control strategy to mitigate the risk to product quality posed by the applicant's limited knowledge of the manufacturing process described in the DMF.

In light of these facts, FDA believes that permitting a limited number of deemed BLAs to continue to incorporate by reference DS/DSI/DP information contained in a limited number of DMFs will, on balance, protect and promote the public health. In contrast, if non-deemed BLAs were to reference an existing DMF, they would generally not have the benefit of this accumulated knowledge, and thus would not be able to mitigate the resulting fragmentation of information and risk to product quality as effectively. Similarly, while the lack of overt safety signals and the absence of concerns about efficacy provide a rationale for allowing a deemed BLA to continue to rely on DS/DSI/DP information contained in a DMF, it may not be appropriate to extend this rationale to a non-deemed BLA. For these reasons, in proposed § 601.2(h), FDA would permit only deemed BLAs that incorporate by reference information on DS/DSI/DP contained in particular DMFs in their approved applications under section 505 of the FD&C Act to continue doing so after these products are deemed to be licensed under the PHS Act on March 23, 2020. BLAs for other biological products will continue to not be permitted to incorporate by reference DS/DSI/DP information contained in a master file, consistent with FDA's longstanding practice. Also, to enable innovation for deemed BLAs that reference an existing DMF, it is important to preserve the ability to make changes to the existing DMFs. Therefore, the proposed rule will permit holders of existing DMFs referenced for deemed BLAs before transition to modify these DMFs under § 314.420 after March 23, 2020.

3. Investigational New Drug Applications and Master Files

Section 314.420(b) provides that ''[a]n investigational new drug application . . . may incorporate by reference all or part of the contents of any drug master file in support of the submission'' with the DMF holder's consent. In addition, FDA typically permits an IND for a biological product to incorporate by reference information contained in other master files, in addition to DMFs. Furthermore, it has been FDA's practice to permit sponsors of INDs for biological products to incorporate by reference DS/DSI/DP information contained in a master file.

FDA permits the use of DS/DSI/DP master files in biological product INDs for several reasons. Exposure to the investigational product is limited in the IND stage because it is only administered to subjects enrolled in clinical trials, which are typically carried out in controlled settings. Accordingly, the sponsor and FDA can mitigate risk more effectively by closely monitoring patients in those trials, in order to evaluate the safety of the investigational product, which is a necessary component of the licensing process.

Permitting the sponsor of an IND for a biological product to incorporate by reference DS/DSI/DP information contained in master files may also facilitate product development. Without this option, a sponsor might choose not to make the significant investment to manufacture the necessary DS/DSI/DP for a biological product at this early stage of development. However, even in cases where an IND sponsor of a biological product incorporates by reference DS/DSI/DP information contained in a master file, FDA expects the sponsor to have knowledge of and direct control of the manufacturing process by later stages of development.

Therefore, in proposed § 601.2(j), FDA clarifies and codifies this practice.

*D. History of the Rulemaking*

In response to the BPCI Act, public meetings were held to discuss various aspects of the statute. Also, public comments on the current FDA practice for biological products of not accepting DMFs for biological products in BLAs were received in the context of the draft guidance for industry entitled ''Interpretation of the 'Deemed to be a License' Provision of the Biologics Price Competition and Innovation Act of 2009'' (see 81 FR 13373). Comments, in part: (1) Urged FDA to clarify its position on the use of Type II DMFs for applications that will be deemed BLAs on March 23, 2020, and, at least for pancreatic enzyme products, recommended FDA permit applications to reference Type II DMFs after March 23, 2020, even if the application was not approved as an NDA prior to the transition date; [11] (2) urged FDA to adopt a flexible approach toward the continued referencing of existing DMFs; [12] and (3) sought clarity on the use of other categories of DMFs (*e.g.,* Type III DMFs).[13] FDA finalized this guidance in December 2018 after considering comments in its draft recommendations. With respect to the comments concerning DMFs, the Agency undertook an analysis of the number of DMFs, the number of applications referencing these DMFs, and considered the consequences of not taking any action or taking the proposed action. The Agency addressed all the concerns identified in the public comments through the actions described in this proposed rule, which includes allowing the incorporation by reference of DS/DP/DSI information contained in DMFs, provided the DMFs were referenced prior to the application being deemed a BLA on March 23, 2020, and providing clarity on the use of other categories of DMFs in BLAs.

## IV. Legal Authority

FDA is proposing to amend its regulations, in part, to implement certain aspects of section 7002(e) of the BPCI Act. FDA's authority for this proposed rule also derives from the biological product licensing provisions of the PHS Act and the provisions of the FD&C Act (21 U.S.C. 321, *et seq.*) applicable to drugs. Under these provisions, FDA has the authority to issue regulations designed to ensure, among other things, that biological products are safe, pure, and potent and manufactured in accordance with current good manufacturing practice. FDA also has general authority to promulgate regulations for the efficient enforcement of the FD&C Act and the PHS Act, under section 701 of the FD&C Act and section 351(j) of the PHS Act.

## V. Description of the Proposed Rule

We propose to amend § 601.2 to add new paragraphs (g), (h), (i), and (j). Specifically, the proposed rule will allow applications for biological products approved under section 505 of the FD&C Act to continue to incorporate by reference DS/DP/DSI information contained in DMFs, provided the DMFs were referenced before March 23, 2020. Also, this proposed rule essentially codifies, for biological products, the longstanding Agency practices of permitting BLAs to incorporate by reference information other than on DS/DP/DSI contained in master files and INDs to incorporate any information contained in master files. FDA is aware that there are combination products approved in BLAs under the PHS Act and considers that the rationale described in this rule for biological products also applies to the biological constituent part of such combination products. FDA seeks comments on whether applications for combination products submitted in BLAs under the PHS Act should be permitted to incorporate by reference DS/DSI/DP information for any non-biological constituent part (for example, the drug constituent part of an antibody drug conjugate).

*A. Proposed Provision of Paragraph (g)*

Proposed new paragraph (g) codifies the Agency's practice of not permitting applications for biological products submitted under section 351 of the PHS Act to incorporate by reference information on DS/DSI/DP contained in a master file. Deemed BLAs are excluded from this provision and are addressed in proposed new paragraph (h).

*B. Proposed Provision of Paragraph (i)*

Proposed new paragraph (i) codifies the Agency's practice of permitting applications for biological products submitted under section 351 of the PHS Act to incorporate by reference information other than DS/DSI/DP information contained in master files, including in DMFs.

*C. Proposed Provision of Paragraph (j)*

Proposed new paragraph (j) codifies the Agency's practice of permitting INDs to incorporate by reference information contained in master files, including information on DS/DSI/DP.

*D. Proposed Provision of Paragraph (h)*

Proposed new paragraph (h) addresses applications transitioning on March 23, 2020, under section 7002(e) of the BPCI Act. It allows an application for a biological product that has been approved under section 505 of the FD&C Act and that incorporates by reference DS/DSI/DP information contained in a DMF to continue to do so after that application is deemed to be a BLA.

[11] See Comment from Curemark, LLC to Docket No. FDA–2015–D–4750 (available at *https://www.regulations.gov*).

[12] See Comment from Pharmaceutical Research and Manufacturers of America (PhRMA) to Docket No. FDA–2015–D–4750 (available at *https://www.regulations.gov*).

[13] See Comments from Biotechnology Innovation Organization and from Novo Nordisk, Docket No. FDA–2015–D–4750.

The proposed rule is intended to preserve the status quo both for the small number of deemed BLAs and for all other applications for biological products submitted under section 351 of the PHS Act: Deemed BLAs that incorporate by reference information on DS/DSI/DP contained in a DMF at the time of their transition will be permitted to continue to do so, but no other applications for biological products will be permitted to incorporate by reference DS/DSI/DP information contained in any master files.

The proposed rule is not intended to alter a license holder's ability to modify a product under § 601.12 (21 CFR 601.12). The proposed rule is also not intended to expand or reduce the changes allowed to a deemed BLA that incorporates by reference information contained in master files. Under the proposed rule, an applicant would be permitted to supplement a deemed BLA within the same application, as it would any other BLA under § 601.12 and the applicable bundling policy.[14] However, if modifications to the deemed BLA are required that could not be effected in a supplement and a new application is required, that new BLA would not be considered a deemed BLA. As is the case with other (non-deemed) applications for biological products, the new BLA would not be permitted to reference DS/DSI/DP information contained in any master file and would need to submit this information as part of the new BLA itself.

The proposed rule is also not intended to limit or restrict the changes that may be made to any master file, including a DMF for DS/DSI/DP information.

The proposed rule thus preserves the relationship between a DMF and the application that references it. This ensures that the transition to regulation under the PHS Act does not interrupt the supply of biological products that have already been shown to be safe and effective.

*E. Proposed Records/Record Retention Requirements*

None; existing records and retention requirements will continue to apply.

*F. Proposed Enforcement Provisions*

None; existing enforcement regulations will continue to apply.

*G. Proposed Technical/Conforming Amendments*

None necessary.

## VI. Proposed Effective/Compliance Dates

If finalized on or before February 22, 2020, this rule would take effect on March 23, 2020.

## VII. Preliminary Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule does not impose any new burdens, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $154 million, using the most current (2018) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

Table 1 summarizes our estimate of the annualized costs and the annualized cost-saving benefits of the proposed rule.

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

| Category | Primary estimate | Low estimate | High estimate | Units | | | Notes |
|---|---|---|---|---|---|---|---|
| | | | | Year dollars | Discount rate (%) | Period covered (years) | |
| Benefits: | | | | | | | |
| Annualized Monetized $millions/year | $2.48 | $0.33 | $4.64 | 2017 | 7 | 10 | Cost savings. |
| | $2.56 | $0.32 | $4.80 | 2017 | 3 | 10 | Cost savings. |
| Annualized Quantified | | | | | 7 | | |
| Qualitative | | | | | 3 | | |
| Costs: | | | | | | | |
| Annualized Monetized $millions/year | $0.00 | $0.00 | $0.00 | 2017 | 7 | 10 | |
| | $0.00 | $0.00 | $0.00 | 2017 | 3 | 10 | |
| Annualized Quantified | | | | | 7 | | |
| Qualitative | | | | | 3 | | |
| Transfers: | | | | | | | |
| Federal Annualized Monetized $millions/year | | | | | 7 | | |
| | | | | | 3 | | |
| From/To | From: | | | To: | | | |

[14] See guidance for industry entitled ''Submitting Separate Marketing Applications and Clinical Data for Purposes of Assessing User Fees'' (December 2004). Available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm079320.pdf.* (accessed March 2019).

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

| Category | Primary estimate | Low estimate | High estimate | Units | | | Notes |
|---|---|---|---|---|---|---|---|
| | | | | Year dollars | Discount rate (%) | Period covered (years) | |
| Other Annualized Monetized $millions/year | | | | | 7<br>3 | | |
| From/To | From: | | | To: | | | |

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

In line with Executive Order 13771, in table 2 we estimate present and annualized values of costs and cost savings over an infinite time horizon. Based on these cost savings, this proposed rule would be considered a deregulatory action under Executive Order 13771.

TABLE 2—E.O. 13771 SUMMARY TABLE

[$ million in 2016 dollars over an infinite horizon]

| | Lower bound (7%) | Primary (7%) | Upper bound (7%) | Lower bound (3%) | Primary (3%) | Upper bound (3%) |
|---|---|---|---|---|---|---|
| Present Value of Costs | $0.02 | $0.02 | $0.02 | $0.02 | $0.02 | $0.03 |
| Present Value of Cost-Savings | $2.49 | $18.66 | $34.83 | $2.80 | $22.47 | $42.14 |
| Present Value of Net Costs | ($2.47) | ($18.64) | ($34.81) | ($2.77) | ($22.45) | ($42.12) |
| Annualized Costs | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Annualized Cost-Savings | $0.17 | $1.31 | $2.44 | $0.08 | $0.67 | $1.26 |
| Annualized Net Costs | ($0.17) | ($1.30) | ($2.44) | ($0.08) | ($0.67) | ($1.26) |

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 1) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

## VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## IX. Paperwork Reduction Act of 1995

This proposed rule refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 314 and 21 CFR part 601 have been approved under OMB control numbers 0910–0001 and 0910–0338, respectively.

## X. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

## XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

## XII. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.*

1. FDA, Preliminary Regulatory Impact Analysis, ''Biologics License Applications and Master Files.''

## List of Subjects in 21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 601 be amended as follows:

## PART 601—LICENSING

■ 1. The authority citation for part 601 is revised to read as follows:

**Authority:** 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 356b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note), sec 7002(e), Pub. L. 111–148, 124 Stat. 817.

■ 2. Amend § 601.2 by adding paragraphs (g), (h), (i), and (j) to read as follows:

**§ 601.2 Applications for biologics licenses; procedures for filing.**

* * * * *

(g) Except as provided in paragraph (h) of this section, an application for a biological product submitted to the Food and Drug Administration for licensure under section 351 of the Public Health Service Act; licensed under section 351 of the Public Health Service Act; or deemed, under section 7002(e) of the Biologics Price Competition and Innovation Act of 2009, to be licensed under section 351 of the Public Health Service Act may not incorporate by reference drug substance, drug substance intermediate, or drug product information contained in a master file, including a drug master file submitted under § 314.420 of this chapter. Amendments and supplements submitted in support of these applications also may not incorporate by reference such information contained in a master file.

(h) An application for a biological product that:

(1) Was approved under section 505 of the Federal Food, Drug, and Cosmetic Act;

(2) Was deemed on March 23, 2020, to be a license for the biological product under section 351 of the Public Health Service Act; and

(3) On March 23, 2020, incorporated by reference drug substance, drug substance intermediate, and/or drug product information contained in a drug master file submitted under § 314.420 of this chapter may continue to incorporate by reference the information contained in that drug master file after March 23, 2020. Amendments and supplements submitted in support of these applications may also incorporate by reference the information contained in that drug master file.

(i) Nothing in paragraph (g) of this section limits or restricts an application for a biological product submitted to the Food and Drug Administration for licensure under section 351 of the Public Health Service Act; licensed under section 351 of the Public Health Service Act; or deemed, under section 7002(e) of the Biologics Price Competition and Innovation Act of 2009, to be licensed under section 351 of the Public Health Service Act from incorporating by reference information contained in any master file, including a drug master file submitted under § 314.420 of this chapter, that is not drug substance, drug substance intermediate, or drug product information. Amendments and supplements submitted in support of these applications may also incorporate by reference such information contained in a master file.

(j) Nothing in paragraph (g) of this section limits or restricts an investigational new drug application for a biological product from incorporating by reference any information, including drug substance, drug substance intermediate, and drug product information, contained in a master file, including a drug master file submitted under § 314.420 of this chapter.

Dated: June 17, 2019.

**Norman E. Sharpless,**

*Acting Commissioner of Food and Drugs.*

Dated: June 21, 2019.

**Eric D. Hargan,**

*Deputy Secretary, Department of Health and Human Services.*

[FR Doc. 2019–13753 Filed 6–27–19; 8:45 am]

**BILLING CODE 4164–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 174 and 180

**[EPA–HQ–OPP–2019–0041; FRL–9995–27]**

## Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals In or On Various Commodities (May 2019)

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

**ACTION:** Notice of filing of petitions and request for comment.

**SUMMARY:** This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before July 29, 2019.

**ADDRESSES:** Submit your comments, identified by the docket identification (ID) number and pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

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

**FOR FURTHER INFORMATION CONTACT:** Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov;* or Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

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

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

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI

must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

**II. What action is the Agency taking?**

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

*Amended Tolerance Exemptions for Non-Inerts (Except PIPS)*

*PP* 9G8741. (EPA–HQ–OPP–2019–0182). Southern Gardens Citrus Nursery, LLC, 1820 County Rd. 833, Clewiston, FL 33440, requests to amend a temporary exemption from the requirement of a tolerance in 40 CFR 180.1337 for residues of the microbial pesticide *Citrus tristeza* virus expressing spinach defensin proteins 2, 7, and 8 in or on the commodities listed in fruit, citrus group 10–10 by extending the expiration date from August 31, 2020, to August 31, 2023. The petitioner believes no analytical method is needed because it is not practical, and there is no need for removal of residues of *Citrus tristeza* virus or residues of spinach defensin proteins 2, 7, and 8 from citrus tissues and commodities, as a continued exemption from the requirement of a tolerance at 40 CFR 180.1337 is requested for these proteins when expressed in citrus. Contact: BPPD.

*New Tolerance Exemptions for PIPS*

*PP* 8F8722. (EPA–HQ–OPP–2019–0097). BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectant (PIP) *Bacillus thuringiensis* Cry14Ab-1 protein in soybean. An analytical method utilizing ELISA and an independent laboratory validation of the method were submitted to EPA for the detection and measurement of the pesticide residues. Contact: BPPD.

*New Tolerances for Non-Inerts*

*PP* 9F8758. (EPA–HQ–OPP–2019–0297). Taminco US LLC, a subsidiary of Eastman Chemical Company, 200 S Wilcox Drive, Kingsport, TN 37660–5147, requests to amend the tolerance in 40 CFR 180.698 for residues of the plant regulator, chlormequat chloride in or on the raw agricultural commodity oat grain at 30.0 parts per million (ppm).The LC–MS/MS method is used to measure and evaluate the chemical chlormequat chloride. Contact: RD.

**Authority:** 21 U.S.C. 346a.

Dated: June 12, 2019.

**Delores Barber,**

*Director, Information Technology and Resources Management Division, Office of Pesticide Programs.*

[FR Doc. 2019–13774 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 257

**[EPA–HQ–OLEM–2018–0533; FRL–9995–82–OLEM]**

## Georgia: Approval of State Coal Combustion Residuals Permit Program

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

**ACTION:** Announcment of availability; request for comment.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or the Act), the Environmental Protection Agency (EPA) is proposing to partially approve the Georgia Coal Combustion Residuals (CCR) state permit program. After reviewing the state permit program application, submitted by the Georgia Environmental Protection Division (GA EPD), EPA has preliminarily determined that Georgia's CCR state permit program meets the standard for partial approval under RCRA. If approved, Georgia's CCR state permit program will operate in lieu of the Federal CCR program, with the exception of certain provisions noted below. The State's CCR state permit program requirements and resulting permit provisions will also be subject to EPA's information gathering and enforcement authorities under RCRA and other applicable statutory and regulatory provisions as discussed below. This document announces that EPA is seeking comment on this proposal during a 60-day public comment period and will be holding a public hearing on EPA's preliminary approval of Georgia's CCR state permitting program.

**DATES:** Comments must be received on or before August 27, 2019. *Public Hearing:* A public hearing will be held on August 6, 2019, 8 a.m. to 5:30 p.m.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2018–0533. All documents in the docket are listed in the *https://www.regulations.gov* index. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or in hard copy at the EPA Docket Center. The Public Reading Room is open from 8:30 a.m. to

4:30 p.m., Monday through Friday, excluding holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742. You may send comments, identified by Docket ID. No. EPA–HQ–2018–0533, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- U.S. Environmental Protection Agency, EPA Docket Center, Docket No. EPA–HQ–OLEM–2018–0533, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.
- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

The public hearing will be held at GA EPD Tradeport Training Room located at 4244 International Parkway, Suite 116, Atlanta, GA 30354–3906. The hearing will convene at 8:00 a.m. local time and conclude at 5:30 p.m. (local time). For additional information on the public hearing see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Michelle Long, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304P, Washington, DC 20460; telephone number: (703) 347–8943; email address: *Long.Michelle@epa.gov.* For more information on this announcement please visit *https://www.epa.gov/coalash.*

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

## I. Public Participation

### *A. Written Comments*

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2018–0533, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

### *B. Public Hearing*

EPA will hold the public hearing at the GA EPD Tradeport Training Room located at 4244 International Parkway, Suite 116, Atlanta, GA 30354–3906, on August 6, 2019, from 8 a.m. through 5:30 p.m. EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the hearing, please use the online registration form available at *https://www.epa.gov/coalash/forms/public-hearing-georgias-coal-combustion-residuals-permit-program.* The last day to pre-register to speak at the hearing will be July 31, 2019. On August 2, 2019, the EPA will post a general agenda for the hearing at *https://www.epa.gov/coalash/forms/public-hearing-georgias-coal-combustion-residuals-permit-program.*

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk. The EPA will make every effort to accommodate all speakers who arrive and register, although preferences on speaking times may not be able to be fulfilled.

Each commenter will have five (5) minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) or in hard copy form. If EPA is anticipating a high attendance, the time allotment per testimony may be shortened to no shorter than three (3) minutes in order to accommodate all those wishing to provide testimony who have pre-registered. While EPA will make every effort to accommodate all speakers who arrive and register the day of the hearing, opportunities to speak may be limited based upon the number of preregistered speakers. Therefore, EPA strongly encourages anyone wishing to speak to preregister.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/coalash/forms/public-hearing-georgias-coal-combustion-residuals-permit-program.* While the EPA expects the hearing to go forward as set forth above, please monitor our website to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the service of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by July 30, 2019. We will not be able to arrange accommodations without advanced notice.

## II. General Information

### *A. Overview of Proposed Action*

EPA is proposing to approve Georgia's CCR state permit program, in part, pursuant to RCRA 4005(d)(1)(B). 42 U.S.C. 6945(d)(1)(B). The fact that Georgia is seeking a partial program approval does not mean it must subsequently apply for a full program approval. However, Georgia could apply for a revised partial program approval or a full program approval at some point in the future if it chooses to do so. If approved, Georgia's CCR state permit program would operate in lieu of the Federal CCR program, codified at 40 CFR part 257, subpart D,[1] with the exception of the provisions specifically identified below for which the state is not seeking approval. However, even for the approved provisions, EPA would

[1] Unless otherwise specified, all references to part 257 and part 239 in this document are to title 40 of the Code of Federal Regulations (CFR).

retain its inspection and enforcement authorities under RCRA sections 3007 and 3008, 42 U.S.C. 6927 and 6928. *See* 42 U.S.C. 6945(d)(4)(B).

There are no federally recognized tribes within the State of Georgia, nor any federally recognized tribal lands/reservations adjacent to Georgia's boundaries with neighboring states. Thus, EPA has not consulted with any Federal tribes in connection with this proposed Action.

*B. Background*

CCR are generated from the combustion of coal, including solid fuels classified as anthracite, bituminous, subbituminous, and lignite, for the purpose of generating steam to power a generator to produce electricity or electricity and other thermal energy by electric utilities and independent power producers. CCR, commonly known as coal ash, include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. CCR can be sent offsite for disposal, or beneficial use, or disposed in on-site landfills or surface impoundments.

On April 17, 2015, EPA published a final rule, creating 40 CFR part 257, subpart D, that established a comprehensive set of minimum Federal requirements for the disposal of CCR in landfills and surface impoundments (80 FR 21302, April 17, 2015) (''Federal CCR regulations''). The rule created a self-implementing program which regulates the location, design, operating criteria, and groundwater monitoring and corrective action for CCR disposal, as well as the closure and post-closure care of CCR units. It also requires recordkeeping and notifications for CCR units. The Federal CCR regulations do not apply to activities that meet the definition of ''beneficial use'' of CCR, as that term is defined in § 257.53.

*C. Statutory Authority*

EPA is issuing this proposed action pursuant to sections 4005(d) and 7004(b)(1) of RCRA. *See* 42 U.S.C. 6945(d) and 6974(b)(1). Section 2301 of the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act amended section 4005 of RCRA, creating a new subsection (d) that establishes a Federal permitting program similar to those under RCRA subtitle C and other environmental statutes. *See* 42 U.S.C. 6945(d). Under the WIIN Act, states may develop and submit an application for a state CCR permit program to EPA for approval.

Under RCRA section 4005(d)(1)(A), 42 U.S.C. 6945(d)(1)(A), states seeking approval must submit to the Administrator ''evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State.'' EPA shall approve a state permit program if the Administrator determines that the state program meets the standard in RCRA section 4005(d)(1)(B), 42 U.S.C. 6945(d)(1)(B), *i.e.,* that it will require each CCR unit located in the state to achieve compliance with either: (1) The Federal CCR requirements at 40 CFR part 257, subpart D; or (2) other state criteria that the Administrator, after consultation with the state, determines to be ''at least as protective as'' the Federal requirements. *See* 42 U.S.C. 6945(d)(1)(B). The Administrator must make a final determination, after providing for public notice and an opportunity for public comment, within 180 days of receiving a state's complete submittal of the information in RCRA section 4005(d)(1)(A). *See* 42 U.S.C. 6945(d)(1)(B). EPA may approve a CCR state permit program in whole or in part. *Id.* Once approved, the state permit program operates in lieu of the Federal requirements. *See* 42 U.S.C. 6945(d)(1)(A). In a state with partial approval, only the state requirements that have been approved operate in lieu of the Federal requirements, and facilities remain responsible for compliance with all remaining requirements in 40 CFR part 257.

Once a program is approved, the Administrator must review the approved CCR state permit program at least once every 12 years, as well as no later than three years after a revision to an applicable section of 40 CFR part 257, subpart D, or one year after any unauthorized significant release from a CCR unit located in the state. *See* 42 U.S.C. 6945(d)(1)(D)(i)(I)–(III). EPA also must review an approved program at the request of another state alleging that the soil, groundwater, or surface water of the requesting state is or is likely to be adversely affected by a release from a CCR unit in the approved state. *See* 42 U.S.C. 6945(d)(1)(D)(i)(IV).

In a state with an approved CCR state permit program, EPA may commence administrative or judicial enforcement actions under section 3008 of RCRA, 42 U.S.C. 6928, if the state requests assistance or if EPA determines that an EPA enforcement action is likely to be necessary to ensure that a CCR unit is operating in accordance with the criteria of the state's permit program. *See* 42 U.S.C. 6945(d)(4). EPA may also exercise its inspection and information gathering authorities under section 3007 of RCRA, 42 U.S.C. 6927.

## II. Georgia's Application

On April 13, 2018, Georgia EPD submitted its initial CCR State Permit Program application to EPA Region 4. After receiving comments from EPA, Georgia provided revisions to its 2018 application on March 6, 2019 and May 23, 2019. In its February 27, 2019, revised cover letter, Georgia requested partial approval of the State's CCR permit program.[2] EPA determined that Georgia's State CCR Permit Program Application was complete and notified Georgia of its determination by letter dated June 19, 2019. Georgia's application and EPA's completeness determination letter are available in the docket supporting this preliminary determination.

Georgia's CCR Permit Program is codified at Ga. Comp. R. and Regs. 391–3–4–.10, which adopts by reference nearly all of the technical criteria contained in 40 CFR part 257, subpart D.[3] Georgia's CCR Rule is included in Appendix C of Georgia's application and is available in the docket supporting this preliminary determination. Georgia's CCR Permit Program covers a broader universe of CCR units than are covered under the Federal CCR regulations. While Georgia's general applicability section mirrors that of the Federal CCR regulations (*See* Ga. Comp. R. and Regs. 391–3–4–.10(1)(a)1. and 40 CFR 257.50(b)), and the State's definition of ''CCR Unit'' matches the Federal definition (*See* Ga. Comp. R. and Regs. 391–3–4–.01(11) and 40 CFR 257.53), the Georgia CCR regulation defines ''CCR Landfills'' and ''CCR Surface Impoundments'' differently. Specifically, the State's definitions for these units include dewatered surface impoundments, National Pollutant Discharge Elimination System (NPDES)-CCR surface impoundments (inactive, but not dewatered, surface impoundments at inactive facilities), and inactive CCR landfills. *See* Ga. Comp. R. and Regs. 391–3–4–.01(9) and (10). These units are, in turn, defined at Ga. Comp. R. and Regs. 391–3–4–.10(2)(a)1.–3. These types of CCR units are not covered by the Federal CCR regulations. *See* 40 CFR 257.50(d) and

[2] The revised narrative application, dated May 22, 2019, shall be substituted for the original narrative, dated March 19, 2018, and the addendum to the part 257 Checklist for CCR Surface Impoundments and CCR Landfills, submitted on March 6, 2019, shall be added to the part 257 Checklist provided with the original submission in the 2018 Application. All other documents submitted as part of the 2018 Application remain unchanged.

[3] The Georgia CCR Rule adopts 80 FR 21468 (April 17, 2015), as amended at 80 FR 37988 (July 2, 2015) and 81 FR 51807 (August 5, 2016). *See* Ga. Comp. R. and Regs. 391–3–4–.10(1)(c).

257.53. However, by regulating inactive impoundments at inactive facilities, Georgia's CCR Permit Program aligns with the U.S. Court of Appeals decision in *Utility Solid Waste Activities Group, et al.* v. *EPA,* 901 F.3d 414 (D.C. Cir. 2018), which vacated the exclusion from the Federal regulations for inactive impoundments at inactive facilities. Since there are no Federal regulations for inactive impoundments at inactive facilities, EPA has no Federal criteria to compare Georgia's regulations on these units to, which is why Georgia is not seeking approval of that part of the permit program. However, Georgia intends to regulate inactive surface impoundments at inactive facilities as existing CCR units. Georgia's CCR units (existing landfills, active surface impoundments, and inactive surface impoundments at operating power plants) will all be issued new permits under Georgia's CCR regulations. Owners and operators of these units submitted permit applications to Georgia. The permits that will be issued by the state are considered new permits and thus Georgia will follow their public participation procedures for CCR units, detailed on page 14 of the narrative in the Application. Georgia CCR units are issued permits for the life of the site, with a required review (discussed on page 11 of the narrative) every 5 years.

For more information on the specific facilities covered by Georgia's CCR Permit Program, see the Technical Support Document which is available in the docket for this document.[4]

In addition to the technical criteria in Ga. Comp. R. and Regs. 391–3–4–.10, CCR units must comply with the permitting requirements in Ga. Comp. R. and Regs. 391–3–4–.10(9); the procedural permitting requirements in Ga. Comp. R. and Regs. 391–3–4–.02; the financial assurance requirements in Ga. Comp. R. and Regs. 391–3–4–.10(10) and 391–3–4–.13; and the reporting requirements in Ga. Comp. R. and Regs. 391–3–4–.17.

[4] Georgia's application also includes some discussion of Municipal Solid Waste Landfills (MSWLs), including Commercial Industrial Landfills (CILs), that dispose of CCR. While Georgia permits these facilities through its MSWL regulations, MSWLs disposing of CCR are exempted from the requirements of 40 CFR 257 and are outside the scope of the Federal CCR regulations and the State's CCR Permit Program. Georgia's discussion of these landfills and how it regulates them is included in its application only to provide a more inclusive description of CCR disposal activities in Georgia.

## III. EPA Analysis of Georgia's Application

As discussed in Unit I.C. of this document, RCRA section 4005(d) requires EPA to evaluate two components of a state program to determine whether it meets the standard for approval. First, EPA is to evaluate the adequacy of the permit program itself (or other system of prior approval and conditions). *See* 42 U.S.C. 6945(d)(1)(A). Second, EPA is to evaluate the adequacy of the technical criteria that will be included in each permit, to determine whether they are the same as the Federal criteria, or to the extent they differ, whether the modified criteria are ''at least as protective as'' the Federal requirements. *See* 42 U.S.C. 6945(d)(1)(B). Only if both components meet the statutory requirements may EPA approve the program. *See* 42 U.S.C. 6945(d)(1).

On that basis, EPA conducted an analysis of Georgia's State CCR Permit Program Application, including a thorough analysis of Ga. Comp. R. and Regs. 391–3–4–.10 and its adoption by reference of portions of 40 CFR part 257, subpart D. As noted, Georgia has requested partial program approval of its CCR permit program. The Georgia CCR Rule does not adopt by reference 40 CFR 257.52(b), which requires compliance with the protections for Threatened and Endangered Species identified in 40 CFR 257.3–2. Additionally, it adopts by reference portions of the Federal CCR regulations that have since been vacated by the U.S. Court of Appeals in *Utility Solid Waste Activities Group, et al.* v. *EPA*.[5] Accordingly, Georgia is not seeking approval for the following:

1. Requirements relevant to Endangered Species in 40 CFR 257.3–2;

2. The exclusion of inactive impoundments at inactive facilities at 40 CFR 257.50(e), but which has now been vacated;

3. 40 CFR 257.101(a), which allows unlined impoundments to continue receiving coal ash unless they leak, and which has since been vacated; and

4. 40 CFR 257.71(a)(1)(i), which classifies ''clay-lined'' impoundments as lined, which has since been vacated.

Based on this analysis, EPA has preliminarily determined that the portions of Georgia's CCR state permit program that have been submitted for approval meet the standard in section 4005(d)(1)(A) and (B) of RCRA. Georgia's CCR permit program includes all the elements of an adequate CCR state permit program as discussed in more detail below. It also contains all the technical criteria in 40 CFR part 257, except for the provisions specifically discussed below. Consequently, EPA is proposing to approve Georgia's permit program ''in part.'' 42 U.S.C. 6945(d)(1)(B). EPA's analysis and findings are discussed in greater detail below and in the Technical Support Document, which is available in the docket supporting this preliminary determination.

### *A. Adequacy of Georgia's Permit Program*

Section 4005(d)(1)(A) of RCRA, 42 U.S.C. 6945(d)(1)(A), requires a state seeking CCR state permit program approval to submit to EPA an application with ''evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State;'' however, it does not require EPA to promulgate regulations governing the process or standard for determining the adequacy of such state programs. EPA, therefore, developed the *Coal Combustion Residuals State Permit Program Guidance Document; Interim Final* (82 FR 38685, August 15, 2017) (the ''Guidance Document''). The Guidance Document provides guidance on a process and standards that states may choose to use to apply for EPA approval of their CCR permit programs, based on the existing regulations at 40 CFR part 239 and the Agency's experience in reviewing and approving state programs in general. EPA evaluated the adequacy of Georgia's CCR state permit program using the process and statutory and regulatory standards discussed in the Guidance Document. EPA's findings are summarized below and provided in more detail in the Technical Support Document located in the docket supporting this preliminary determination.

#### 1. Public Participation

Based on section 7004 of RCRA, 42 U.S.C. 6974, and the part 239 regulations, it is EPA's judgment that an adequate state CCR permitting program

[5] See *Utility Solid Waste Activities Group, et al.* v. *EPA,* No. 15–1219 (D.C. Circuit). On August 21, 2018, the United States Court of Appeals for the District of Columbia Circuit vacated and remanded the three provisions of the Federal CCR Rule: 40 CFR 257.101(a), which allowed unlined impoundments to continue receiving coal ash unless they leak; 40 CFR 257.71(a)(1)(i), which classified ''clay-lined'' impoundments as lined; and 40 CFR 257.50(e), which exempted from regulation inactive impoundments at inactive facilities. Georgia adopts by reference 40 CFR 257.71(a)(1)(i) and 40 CFR 257.101(a) at Ga. Comp. R. and Regs. 391–3–4–.10(c), two of the three provisions that were vacated.

will ensure that: (1) Documents for permit determinations are made available for public review and comment; (2) final determinations on permit applications are made known to the public; and (3) public comments on permit determinations are considered. To meet these requirements, Georgia has adopted a policy governing the procedure for public comment on draft CCR permits, which is memorialized in its ''CCR Draft Permit Public Comment Process'' Memorandum, signed by the Director of Georgia EPD on April 13, 2018. This procedure requires that Georgia EPD post all draft CCR permits online and concurrently notify anyone who has signed up to receive email for coal ash-related announcements of the posting. Draft permits and all information submitted as part of CCR permit applications will be available for review in person at Georgia EPD's Tradeport office. Draft permits will be available for public comment for 30 days, and the Director may extend this comment period if deemed necessary. Georgia EPD will accept comments via email or regular mail. After the comment period ends, Georgia EPD will review all comments received and make any necessary changes before making a final permit decision. When issuing a final permit, Georgia EPD will release a response to comments on the draft permit and will notify the public in the same manner as when it provided notice of the draft permit. The final permit and response to comments will be available for review online. The ''CCR Draft Permit Public Comment Process'' Memorandum, a sample transmittal letter to the CCR facility owner, and a sample ''Notice of the Opportunity for Public Comment'' are included in Appendix D to the 2018 Application and is available in the docket supporting this preliminary determination. EPA has preliminarily determined that this approach provides adequate opportunities for public participation in the permitting process sufficient to meet the standard for program approval.

2. Guidelines for Compliance Monitoring Authority

Based on the 40 CFR part 239 regulations, it is EPA's judgment that an adequate CCR state permit program should provide the state with the authority to gather information about compliance, perform inspections, and ensure that information it gathers is suitable for enforcement. Georgia EPD has compliance monitoring authority under O.C.G.A. §§ 12–8–23.1(a)(4), 12–8–29.1, and 12–8–23.1(20). Specifically, O.C.G.A. § 12–8–23.1(a)(4) and O.C.G.A. § 12–8–29.1 give the Director of Georgia EPD authority to undertake investigations, analysis, and inspections to determine compliance, and to enter property to undertake investigations to verify compliance. Further, O.C.G.A. § 12–8–23.1(20) grants the Director of Georgia EPD the authority to exercise all incidental powers necessary to carry out the purposes of applicable state law. Together these authorities provide the State with authority to obtain records from an owner or operator to determine compliance. EPA has preliminarily determined that these compliance monitoring authorities are adequate, and that this aspect of the State's CCR state permit program meets the standard for program approval.

3. Guidelines for Enforcement Authority

Based on the 40 CFR part 239 regulations, it is EPA's judgment that an adequate CCR state permit program should provide the state with adequate enforcement authority to administer its CCR state permit program, including the authority to: (1) Restrain any person from engaging in activity which may damage human health or the environment, (2) sue to enjoin prohibited activity, and (3) sue to recover civil penalties for prohibited activity. Georgia EPD has adequate enforcement authority for its existing programs under O.C.G.A. sections 12–8–23.1(a)(9), 12–8–30, 12–8–30.1, 12–8–30.4, and 12–8–30.6, and these authorities extend to Georgia's CCR state permit program. For example, O.C.G.A. section 12–8–23.1(a)(9) provides the State with authority to bring an administrative or civil proceeding to enforce the Georgia Comprehensive Solid Waste Management Act and its implementing regulations. O.C.G.A. section 12–8–30 provides the State with the authority to issue orders requiring corrective action to remedy violations. Under O.C.G.A. section 12–8–30.4, the State may sue in superior court for injunctions, restraining orders, and other relief for activities that violate the State program. Finally, under O.C.G.A. section 12–8–30.6, the State has the authority to bring an administrative action to assess civil penalties for violations of the State's program. EPA has preliminarily determined that this aspect of Georgia's CCR state permit program meets the standard for program approval.

4. Intervention in Civil Enforcement Proceedings

Based on section 7004 of RCRA and the 40 CFR part 239 regulations, it is EPA's judgment that an adequate CCR state permit program should provide adequate opportunity for citizen intervention in civil enforcement proceedings. Specifically, the state must either: (a) Provide for citizen intervention as a matter of right or (b) have in place a process to (1) provide notice and opportunity for public involvement in civil enforcement actions, (2) investigate and provide responses to citizen complaints about violations, and (3) not oppose citizen intervention when permissive intervention is allowed by statute, rule, or regulation. In Georgia, citizen intervention is possible in the State civil enforcement process as a matter of right for interested parties. Pursuant to O.C.G.A. section 12–8–30.2, all hearings/reviews of enforcement actions on orders shall be conducted in accordance with O.C.G.A. section 12–2–2, which provides that hearings shall be conducted in accordance with the Georgia Administrative Procedures Act, which provides for intervention by citizens in contested cases. *See* O.C.G.A. section 50–13–14. EPA has preliminarily determined that these authorities provide for an adequate level of citizen involvement in the enforcement process, and that this aspect of the State's CCR state permit program meets the standard for program approval.

*B. Adequacy of Technical Criteria*

EPA has preliminarily determined that the portions of Georgia's CCR permit program that were submitted for approval meet the standard for approval under RCRA section 4005(d)(1)(B)(i), 42 U.S.C. 6945(d)(1)(B)(i). To make this preliminary determination, EPA compared the technical requirements in Georgia's CCR regulations to 40 CFR part 257 to determine whether they differed from the Federal requirements, and if so, whether those differences met the standard in RCRA sections 4005(d)(1)(B)(ii) and (C), 42 U.S.C. 6945(d)(1)(B)(ii) and (C). Georgia's CCR regulations are contained in Ga. Comp. R. and Regs. 391–3–4–.10, where Georgia adopts by reference portions of 40 CFR part 257, subpart D, and also spells out certain provisions. Specifically, in addition to what is required by 40 CFR part 257, the Georgia CCR regulations contain additional state-specific requirements for new and lateral expansions of CCR landfills in Ga. Comp. R. and Regs. 391–3–4–.10(3)(c)–(e); operating criteria in Ga. Comp. R. and Regs. 391–3–4–.10(5)(c); groundwater monitoring and corrective action in Ga. Comp. R. and Regs. 391–3–4–.10(6)(b)–(g); closure and post-closure care in Ga. Comp. R. and Regs. 391–3–4–.10(7)(c)–(g); and

recordkeeping, notification, and posting of information to the internet in Ga. Comp. R. and Regs. 391–3–4–.10(8)(a)1.

The following table sets forth the Georgia regulations that encompass the technical criteria of the State's CCR Permit Program.

TABLE 1—COMPARISON OF FEDERAL AND GEORGIA'S PROPOSED CCR PERMIT PROGRAM REQUIREMENTS

| Description | State citation/analog | Federal requirement |
|---|---|---|
| Scope and Purpose | Ga. Comp. R. and Regs. 391–3–4–.10(1)(a) and (b) | § 257.50. |
| Effect of other regulations | Ga. Comp. R. and Regs. 391–3–4–.04(11) | § 257.52(a). |
| | Ga. Comp. R. and Regs. 391–3–4–.05 (1)(d) and 391–3–4–10(9)(c)1.(ii). | § 257.52(b) (cross-referencing § 257.3–1 (Floodplains)). |
| | No State Analog | § 257.52(b) (cross-referencing § 257.3–2(Endangered Species). |
| | Ga. Comp. R. and Regs. 391–3–4–.10(5)(a) and 391–3–4–.04(1). | § 257.52(b) (cross-referencing § 257.3–3 Surface Water). |
| Definitions | Ga. Comp. R. and Regs. 391–3–4–.10(2)(a) and 391–3–4–.01. | § 257.53. |
| Location Restrictions | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(3). | §§ 257.60 through 257.64. |
| Design Criteria | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(4). | §§ 257.70 through 257.74. |
| Operating Criteria | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(5). | §§ 257.80 through 257.84. |
| Groundwater Monitoring and Correction Action. | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(6). | §§ 257.90 through 257.98. |
| Closure and Post-Closure Care. | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(7). | §§ 257.100 through 257.104. |
| Record Keeping, Notification, and Posting of Information to the Internet. | Ga. Comp. R. and Regs. 391–3–4–.10(1)(c) and 391–3–4–.10(8). | §§ 257.105 through 257.107. |
| Constituents for Detection Monitoring. | Ga. Comp. R. and Regs. 391–3–4–.10(6)(b) | Appendix III to part 257. |
| Constituents for Assessment Monitoring. | Ga. Comp. R. and Regs. 391–3–4–.10(6)(b) | Appendix IV to part 257. |

As noted above, the Georgia CCR regulations do not adopt by reference § 257.52(b), which requires compliance with the protections for Threatened and Endangered species identified in § 257.3–2, and do not otherwise contain provisions with equivalent protections for Threatened and Endangered species. For this reason, and because the Georgia CCR regulations adopt by reference portions of 40 CFR part 257 that have since been vacated,[6] EPA is proposing to partially approve Georgia's CCR permit program. Specifically, EPA is proposing to approve all of Georgia's program except for the following four provisions:

1. Requirements relevant to Threatened and Endangered species at 40 CFR 257.3–2;

2. The exclusion of inactive impoundments at inactive facilities at 40 CFR 257.50(e);

3. 40 CFR 257.101(a), which allows unlined impoundments to continue receiving coal ash unless they leak; and

4. 40 CFR 257.71(a)(1)(i), which classifies ''clay-lined'' impoundments as lined.

With the exception of the four provisions noted above, the Georgia CCR regulations contain all of the technical elements of the Federal CCR regulations, including requirements for location restrictions, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post-closure care, recordkeeping, notification and publicly accessible website posting requirements. The Georgia CCR permit program also contains State-specific language, references, definitions, and State-specific requirements that differ from the Federal CCR regulations, but which EPA has determined to be ''at least as protective as'' the Federal criteria. The effect of granting a partial approval with respect to the four provisions above is that facilities will remain responsible for compliance with the Federal requirements for Threatened and Endangered species in 40 CFR 257.3–2. Facilities must also comply with the Federal requirements for inactive impoundments at inactive facilities, unlined impoundments, and clay-lined impoundments, once established by EPA. However, as previously noted, the Georgia CCR Permit Program already regulates inactive impoundments at inactive facilities. Further, any future regulations with respect to unlined impoundments and clay-lined impoundments are not expected to have any practical impact in Georgia because all unlined impoundments in the State are scheduled to cease receiving CCR by 2020 (*i.e.,* no unlined impoundments will continue to receive CCR after that date) and because no clay-lined impoundments exist in Georgia.

EPA's full analysis of Georgia's CCR permit program, and how Georgia's regulations differ from the Federal requirements, can be found in the Technical Support Document located in the docket supporting this preliminary determination.

## IV. Proposed Action

EPA has preliminarily determined that Georgia's CCR permit program meets the statutory standard for partial approval. Accordingly, in accordance with 42 U.S.C. 6945(d), EPA is proposing to partially approve Georgia's CCR permit program.

Dated: June 21, 2019.

**Andrew R. Wheeler,**

*Administrator.*

[FR Doc. 2019–13907 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

[6] Georgia adopts by reference §§ 257.71(a)(1)(i) and 257.101(a) at Ga. Comp. R. and Regs. 391–3–4–.10(c).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Part 422

**[CMS–4185–N4]**

**RIN 0938–AT59**

## Medicare and Medicaid Programs; Risk Adjustment Data Validation

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule; request for additional comment; announcement of the release of additional data.

**SUMMARY:** This document summarizes actions taken to date, requests public comment on additional subjects, and announces that CMS is releasing additional material, including study data, related to the Risk Adjustment Data Validation (RADV) provisions of the proposed rule titled ''Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-inclusive Care for the Elderly (PACE), Medicaid Fee-For-Service, and Medicaid Managed Care Programs for Years 2020 and 2021'' that was published in the November 1, 2018 **Federal Register**, 83 FR 55037. The comment period for the RADV provisions of this proposed rule ends on August 28, 2019.

**DATES:** The comment period for CMS RADV provisions (that is, section II.C.2. of the November 1, 2018 proposed rule and proposed §§ 422.300, 422.310(e) and 422.311(a) of the regulation text) closes at 5 p.m. on August 28, 2019.

**ADDRESSES:** In commenting, please refer to file code CMS–4185–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4185–P, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4185–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Smith (410) 786–4671 or Joanne Davis (410) 786–5127.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that website to view public comments.

## I. Request for Public Comment

On November 1, 2018, we published a proposed rule containing provisions related to the Risk Adjustment Data Validation (RADV) audit program, 83 FR 55037 through 55041 and 55077, including the proposal not to apply a Fee-for-Service Adjuster (FFS Adjuster) in any RADV extrapolated audit methodology. That proposal rested on two grounds. First, we conducted a study which indicated that diagnosis error in FFS claims data does not lead to systematic payment error in the Medicare Advantage (MA) program. Second, we suggested that it would be inequitable to correct any systematic errors made in the payments to audited plans only. We continue to welcome public comment on this proposal. We are also seeking comment on whether 42 U.S.C. 1395w–23—and in particular clause (a)(1)(C), which requires risk adjustment in subclause (a)(1)(C)(i), mandates a downward adjustment of risk scores in subclause (a)(1)(C)(ii), and includes provisions about risk adjustment for special needs individuals with chronic health conditions in subclause (a)(1)(C) (iii)—mandates an FFS Adjuster, prohibits an FFS Adjuster, or should otherwise be read to inform our proposal not to apply an FFS Adjuster in any RADV extrapolated audit methodology.

## II. Summary of Prior Notices

Since we published the FFS Adjuster Study on October 26, 2018,[1] we have published several related notices.

On December 27, 2018 (83 FR 66661), we announced an extension of the comment period for the RADV provisions until April 30, 2019 and a plan to release data underlying the October 26, 2018 FFS Adjuster Study.

On March 6, 2019 (84 FR 8069), we announced the release of data underlying the FFS Adjuster Study, both through the Office of Enterprise Data Analytics (OEDA) and on the Private Plans Team website. Data made available to the public through a data use agreement included all of the following:

- An input file originating from a dataset that Research Triangle Institute (RTI) supplied. It represents the calibration data that RTI used for the Centers for Medicare and Medicaid Services Hierarchical Condition Category (CMS–HCC) model version that CMS used to calculate 2009 MA payments.
- An input file containing medical record review findings from a RADV-like review that CMS undertook on a sample of calendar year 2008 medical records.
- FFS data containing 10 datasets that represent the entire 5 percent sample of all final 2004 and 2005 diagnosis codes used for MA model calibrations through 2011.
- An HCC file containing the mapping from International Classification of Disease, 9th Revision diagnosis code to Version 12 of the CMS–HCC model. Diagnosis codes have been modified to remove decimals.
- A file consolidating MA data for beneficiaries who meet eligibility criteria for Contract-Level Risk RADV audits from three sources: The adjusted Monthly Membership Report (MMR), the Model Output File (MOF), and the CMS Enrollment Database (EDB).
- A file consolidating MA data for beneficiaries who did not meet all eligibility criteria for the Contract-Level RADV audits from three sources—adjusted MMR, MOF, and CMS EDB.
- Additional documentation and data related to the RADV FFS Adjuster Study was posted on the Private Plans Team website at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-Risk-*

[1] The Executive Summary and Technical Appendix of the study are both available at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-Risk-Adjustment-Data-Validation-Program/Resources.html*.

*Adjustment-Data-Validation-Program/Resources.html.* This data included a RADV Data Dictionary and Provisional Coefficients workbook.

On April 30, 2019 (84 FR 18215), we announced an additional extension of the comment period for the RADV provision until August 28, 2019. We also announced that we would be releasing additional data underlying the FFS Adjuster Study, including additional data containing Protected Health Information, to all parties who entered an applicable data use agreement and paid the required fee. This data has been available since June 14, 2019. The forms and instructions to request this data and previously released data remain available via the CMS website at *https://www.cms.gov/research-statistics-data-and-systems/files-for-order/limiteddatasets/.* Updates to existing documentation related to the study data, as well as additional data without Protected Health Information, were posted on the CPI Private Plans Team website on April 25, 2019.

### III. Release of Additional Study Material and Further Request for Public Comment

We have now replicated the FFS Adjuster Study and published a summary of that replication as an addendum to the study at: *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-Risk-Adjustment-Data-Validation-Program/Resources.html.* The results of the replication are broadly consistent with the initial implementation of the study. The purpose of this replication was to allow us to both test our initial results and release a more complete set of underlying data. Certain intermediate data elements not saved as part of the implementation of the initial study have been preserved and published in the addendum or at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-Risk-Adjustment-Data-Validation-Program/Resources.htm.* In addition, the addendum contains further discussion of the study's assumptions and methodology. We are also releasing the programming language used to implement the replication of the study, available at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-Risk-Adjustment-Data-Validation-Program/Resources.html,* along with a description of the technical requirements for use of that programming language. It is our intention that the release of this programming language, together with the earlier release of the data used as inputs, will allow for robust public comment on the FFS Adjuster Study.

We welcome public comment on that subject, and all subjects raised in this notice and the notices discussed previously, until 5 p.m. on August 28, 2019.

Dated: June 21, 2019.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2019–13891 Filed 6–27–19; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Parts 207, 215, 216, and 234

**[Docket DARS–2019–0026]**

**RIN 0750–AK38**

## Defense Federal Acquisition Regulation Supplement: Reliability and Maintainability in Weapon System Design (DFARS Case 2019–D003)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DOD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 that requires the use of reliability and maintainability sustainment factors in weapon system design.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 27, 2019, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2019–D003, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2019–D003'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2019–D003.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2019–D003'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2019–D003 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly Bass, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Kimberly Bass, telephone 571–372–6174.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD is proposing to amend the DFARS to implement section 834 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91). Section 834 amends title 10, United States Code (U.S.C.), to add section 2443, sustainment factors in weapon system design, which requires program managers or comparable requiring activity officials exercising program management responsibilities to ensure that reliability and maintainability are included in the performance attributes of the key performance parameters on sustainment during the development of capabilities requirements for major weapon systems design and contracts for the—

- Engineering and manufacturing development of a weapon system, including embedded software; or
- Production of a weapon system, including embedded software.

As a matter of policy, the Under Secretary of Defense for Acquisition and Sustainment directed application of the requirements of 10 U.S.C. 2443 to the technical maturation and risk reduction phase.

### II. Discussion and Analysis

The following changes to the DFARS are proposed to implement 10 U.S.C. 2443:

DFARS 207.106(S–70)(2)(ii)(A) implements 10 U.S.C. 2443 as an additional requirement for major systems, and provides guidance to the acquisition team during acquisition planning to ensure that reliability and maintainability are included in the performance attributes of the key performance parameters on sustainment during the development of capabilities requirements.

DFARS 207.106(S–72)(5) informs the contracting officer to ensure best

practices are used during the development of performance measures for use in responding to the negative or positive contractor performance in meeting the contract requirements for sustainment for a weapon system as defined in 10 U.S.C. 2302 and 2303d during acquisition planning. The contracting officer is to encourage the use of incentive fees and penalties as appropriate and allow the program manager or requiring activity official performing program management responsibilities to base determination of contractor performance on reliability and maintainability data collected during the program. The data collected must be described in detail and shared with appropriate contract and Government organizations to the maximum extent practicable.

DFARS 215.304(c)(vi) informs the contracting officer that, in coordination with the program manager or comparable requiring activity official performing program management responsibilities, source selections must emphasize sustainment factors and objective reliability and maintainability evaluation criteria in competitive contracts for the technical maturation and risk reduction phase, and engineering and manufacturing development of a weapon system, including embedded software; or the production of a weapon system, including embedded software. Application of this requirement to competitive contracts for the technical maturation and risk reduction phase is a matter of policy, whereas application to the engineering and manufacturing development and production of a weapon system, including embedded software, is required by statute.

DFARS 216.402–2(2) requires contracting officers to ensure that information about incentive fees, or the imposition of penalties, are included in the solicitation for covered contracts if the program manager or requiring official includes provisions for the payment of incentive fees to the contractor for achievement of design specifications for reliability and maintainability or the imposition of penalties to be paid by the contractor to the Government for failure to achieve the design specifications.

DFARS 234.004 informs the contracting officer to: (1) Include clearly defined measurable criteria for engineering activities and design specifications for reliability and maintainability provided by the program manager, or comparable requiring activity official performing program management responsibilities; or (2) ensure a copy of the justification for the decision not to include the criteria, is included in the contract file as provided by the program manager or requiring activity official.

**III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items**

This rulemaking does not propose to create any new provisions or clauses or impact any existing provisions or clauses.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Executive Order 13771**

This proposed rule is not expected to be an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

**VI. Regulatory Flexibility Act**

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule requires contracting officers and program managers or requiring office officials to give emphasis to sustainment factors in weapon system design. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DOD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 834 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018. Section 834 amends Title 10, United States Code, to add section 2443, Sustainment factors in weapon system design, which requires program managers or comparable requiring activity officials exercising program management responsibilities to ensure that reliability and maintainability are included in the performance attributes of the key performance parameters on sustainment during the development of capabilities requirements for major weapon systems design and contracts for the technical maturation and risk reduction and engineering and manufacturing development of a weapon system, including embedded software; or production of a weapon system.

The objective of this proposed rule is to require contracting officers, in coordination with program managers or requiring office officials, to ensure that reliability and maintainability are included in the performance attributes of the key performance parameter on sustainment during the development of capabilities requirements.

According to information available in the Federal Procurement Data System for fiscal years 2016 through 2018, DoD made a total of 200 contract awards under various product service codes for research and engineering development under the product service group AC, Research and Development-Defense Systems. The award data included task and delivery orders under single award indefinite delivery indefinite quantity contracts and basic ordering agreements. Of the total 200 awards for the three-year period cited, 79 awards (approximately 40 percent) were made to 71 unique small business entities.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

DoD invites comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2019–D003), in correspondence.

This action is necessary to implement section 834 of the NDAA for FY 2018.

**VII. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 207, 215, 216, and 234**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 207, 215, 216, and 234 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 207, 215, 216, and 234 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 207—ACQUISITION PLANNING

■ 2. Amend section 207.106 by—
■ a. In paragraph (S–70)(1), removing ''Section 802(a)'' and adding ''section 802(a)'' in its place;
■ b. Redesignating paragraphs (S–70)(2)(ii) through (iv) as paragraphs (iii) through (v), respectively;
■ c. Adding a new paragraph (S–70)(2)(ii); and
■ d. Adding paragraph (S–72)(5).
The additions read as follows:

**207.106 Additional requirements for major systems.**

* * * * *

(S–70) * * *

(2) * * *

(ii) In accordance with 10 U.S.C. 2443, to emphasize reliability and maintainability in weapon system design, ensure that reliability and maintainability are included in the performance attributes of the key performance parameters on sustainment during the development of capabilities requirements. For additional guidance see PGI 207.105(b)(14)(ii)(*2*);

* * * * *

(S–72) * * *

(5) In accordance with 10 U.S.C. 2443, acquisition plans for engineering manufacturing and development and production of major systems as defined in 10 U.S.C. 2302 and 2302d and for major defense acquisition programs as defined in 202.101, shall include performance measures that are developed using best practices for responding to the positive or negative performance of a contractor for the engineering and manufacturing development or production of a weapon system, including embedded software. At a minimum the contracting officer shall—

(i) Encourage the use of incentive fees and penalties as appropriate; and

(ii) Allow the program manager or comparable requiring activity official exercising program management responsibilities, to base determinations of a contractor's performance on reliability and maintainability data collected during the program. Such data collection and associated evaluation metrics shall be described in detail in the contract; and to the maximum extent practicable, the data shall be shared with appropriate contractor and Government organizations.

* * * * *

## PART 215—CONTRACTING BY NEGOTIATION

■ 3. Amend section 215.304 by adding paragraph (c)(vi) to read as follows:

**215.304 Evaluation factors and significant subfactors.**

(c) * * *

(vi) Ensure source selections emphasize sustainment factors and objective reliability and maintainability evaluation criteria in competitive contracts for the—

(A) Technical maturation and risk reduction phase of weapon system design (see guidance at PGI 207.105(b)(14)(ii)(*2*));

(B) Engineering and manufacturing development phase of a weapon system, including embedded software (10 U.S.C. 2443); or

(C) Production and deployment phase of a weapon system, including embedded software (10 U.S.C. 2443).

## PART 216—TYPES OF CONTRACTS

■ 4. Amend section 216.402–2 by—
■ a. Designating the text as paragraph (1); and
■ b. Adding paragraph (2).
The addition reads as follows:

**216.402–2 Technical performance incentives.**

* * * * *

(2) Contracting officers shall ensure requirements about the payment of incentive fees or the imposition of penalties are included in the solicitation for a contract for the engineering and manufacturing development or production of a weapon system, including embedded software, if the program manager or comparable requiring activity official exercising program manager responsibilities includes—

(i) Provisions for the payment of incentive fees to the contractor, based on achievement of design specification requirements for reliability and maintainability of weapons systems under the contract; or

(ii) The imposition of penalties to be paid by the contractor to the Government for failure to achieve such design specification requirements (10 U.S.C. 2443).

## PART 234—MAJOR SYSTEM ACQUISITION

■ 5. Amend section 234.004 by adding paragraph (3) to read as follows:

**234.004 Acquisition strategy.**

* * * * *

(3) The contracting officer shall include in solicitations for contracts for the technical maturation and risk reduction phase, engineering and manufacturing development phase or production phase of a weapon system, including embedded software—

(i) Clearly defined measurable criteria for engineering activities and design specifications for reliability and maintainability provided by the program manager, or the comparable requiring activity official performing program management responsibilities; or

(ii) Ensure a copy of the justification, executed by the program manager or the comparable requiring activity official performing program management responsibilities for the decision that engineering activities and design specifications for reliability and maintainability should not be a requirement, is included in the contract file (10 U.S.C. 2443).

[FR Doc. 2019–13744 Filed 6–27–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 228 and 252

**[Docket DARS–2019–0030]**

**RIN 0750–AK12**

### Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clause ''Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles'' (DFARS Case 2018–D047)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the text of an existing clause prescription to require, instead of permit, the clause be included in applicable solicitations and contracts, pursuant to action taken by the Regulatory Reform Task Force.

**DATES:** Comments on the proposed rule should be submitted in writing to the

address shown below on or before August 27, 2019, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2018–D047, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2018–D047'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2018–D047.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2018–D047'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2018–D047 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:**

## I. Background

This rulemaking proposes to modify the clause prescription at DFARS 228.370 to require that DFARS clause 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, be included in all solicitations and contracts, when applicable, and updates the text of the clause to follow current DFARS convention regarding the use of the word ''shall'' to indicate a mandatory requirement or action.

DFARS 252.239–7005 was implemented to ensure the Government receives timely notification of accidents involving aircraft, missile, or space launch vehicles being manufactured, modified, repaired, or overhauled by a contractor in connection with a contract and contractor cooperation with Government investigation of such accidents. The clause is included in solicitations and contracts that involve the manufacture, modification, overhaul, or repair of aircraft, missiles, and space launch vehicles. The clause requires contractors to promptly notify the contracting officer of all facts related to an accident involving such items, cooperate with and assist in the Government's investigation of an accident, and include a similar clause in subcontracts under the contract.

## II. Discussion and Analysis

This rulemaking proposes to amend the clause prescription from permitting use of the clause (*i.e.,* this clause ''may'' be used) to requiring use of the clause (*i.e.,* this clause ''shall'' be used), as there is no situation in which the requirements of the clause would not be necessary to the Government when contracting for the manufacture, modification, overhaul, or repair of aircraft, missiles, and space launch vehicles. In order to follow current DFARS convention regarding the use of ''shall'' to indicate a mandatory requirement, this rule also amends the text of the clause from ''will'' to ''shall'' to clarify the intent of the clause.

The modification of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on these clauses. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.228–7005 and determined that the clause should be modified.

## III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This proposed rule does not create any new provisions or clauses. This proposed rule, if adopted, would amend a clause provision to require its inclusion in applicable contracts and clarifies the intent of the clause. The rulemaking does not change the applicability of the clause to commercial or commercially available off-the-shelf (COTS) items, or items valued at or below the simplified acquisition threshold (SAT). The clause remains applicable to items valued below the SAT, but not applicable to commercial or COTS items.

## IV. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## V. Executive Order 13771

This proposed rule is not expected to be subject to E.O. 13771, because this proposed rule is not a significant regulatory action under E.O. 12866.

## VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule is not creating any new requirements or changing any existing requirements for contractors. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to amend the clause prescription at DFARS 228.370 to require that DFARS clause 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, be included in all solicitations and contracts involving the manufacture, modification, overhaul, or repair of these items; and, update the text of the clause to follow current DFARS convention regarding the use of the word ''shall'' to indicate a mandatory requirement or action. This rule is pursuant to action taken by the DoD Regulatory Reform Task Force.

The objective of this proposed rule is to ensure contractor cooperation in the early reporting of accidents that involve an aircraft, missile, or space launch vehicle being manufactured, modified,

repaired, or overhauled by the contractor in connection with the contract; and, with the Government investigation of such accidents. This proposed rule requires, instead of permits, the inclusion of the clause in all applicable contracts. The rulemaking also updates the clause to clarify its intent; however, it is assumed that the clause is already being included in all applicable contracts. The rulemaking simply clarifies the Government's expectation on the usage of the clause.

According to data available in the Federal Procurement Data System (FPDS) for fiscal years 2016 through 2018, DoD awarded a total of 2,288 noncommercial contracts and orders for services under the product services codes listed below that relate to manufacture, modification, overhaul, or repair of aircraft, missiles, and space launch vehicles. Of these 2,288 awards, 219, or approximately 10 percent, were made to 67 unique small business entities over this three-year period. On average, 73 awards were made to 22 unique small entities on an annual basis.

FPDS does not provide additional information on the types of support services provided under the contract, which can include manufacture, modification, overhaul, or repair work; therefore, the number of small business contractors impacted by this rule is expected to be less than the number of entities identified by the data. The FPDS data reflects awards under the following product service codes:

AC16—R&D—Defense System: Aircraft (Management/Support);

AC26—Defense System: Missile/Space Systems (Management/Support);

AR96—R&D—Space: Other (Management/Support);

J014—Repair, and Rebuilding of Equipment—Guided Missiles;

J015—Maintenance, Repair, and Rebuilding of Equipment—Aircraft and Airframe Structural Components;

J018—Maintenance, Repair, and Rebuilding of Equipment—Space Vehicles;

K014—Modification of Equipment—Guided Missiles;

K015—Modification of Equipment—Aircraft and Airframe Structural Components; and,

K018—Modification of Equipment—Space Vehicles.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. This rulemaking does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2018–D047) in correspondence.

## VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies to this rule, as the information collection requirement in DFARS clause 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, is currently approved under OMB Control Number 0704–0216, entitled ''Defense Federal Acquisition Regulation Supplement (DFARS) Part 228, Bonds and Insurance, and related clauses at DFARS 252.228.'' The proposed changes to the clause prescription and text do not impact the information collection, because prompt contractor reporting of such accidents is already required by the clause and remains unchanged.

## List of Subjects in 48 CFR Parts 228 and 252

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 228 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 228 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 228—BONDS AND INSURANCE

■ 2. Amend section 228.370 by revising paragraph (d) to read as follows:

**228.370 Additional clauses.**

* * * * *

(d) Use the clause at 252.228–7005, Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles, in solicitations and contracts that involve the manufacture, modification, overhaul, or repair of aircraft, missiles, and space launch vehicles.

* * * * *

## PART 252—SOLICITATION ROVISIONS AND CONTRACT CLAUSES

**252.228–7005 [Amended]**

■ 3. Amend section 252.228–7005 by—

■ a. Removing the clause date ''(DEC 1991)'' and adding ''(DATE)'' in its place; and

■ b. In paragraphs (b) and (c) removing ''will'' and adding ''shall'' in both places.

[FR Doc. 2019–13742 Filed 6–27–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 239 and 252

**[Docket DARS–2019–0029]**

**RIN 0750–AK11**

### Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clause, ''Obligation of the Government'' (DFARS Case 2018–D046)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the text of an existing DFARS clause to include the text of two other DFARS clauses on the same subject, in an effort to streamline contract terms and conditions for contractors, pursuant to action taken by the Regulatory Reform Task Force.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 27, 2019, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2018–D046, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2018–D046'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2018–D046.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2018–D046'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2018–D046 in the subject line of the message.

- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:**

## I. Background

This rulemaking proposes to modify and rename DFARS clause 252.239–7013, Obligation of the Government, to: Incorporate the information included in DFARS clause 252.239–7014, Term of Agreement; create an alternate for DFARS clause 252.239–7013 that is used in certain circumstances, in lieu of the basic clause, and include the information in DFARS clauses 252.239–7013, -7014, and -7015; and, amend the clause text to align with the termination notification requirement in the FAR. Combining these clauses will result in DFARS clauses 252.239–7014 and 252.239–7015 being removed from the DFARS.

## II. Discussion and Analysis

When acquiring telecommunications services, contracting officers often use a basic agreement in conjunction with communication service authorizations (CSA). A basic agreement is not a contract; instead, it is a document that is negotiated between a contracting activity and a contractor and identifies the terms and conditions that will apply to any future contracts between the parties. A CSA is a contract and is used to acquire telecommunication services under a basic agreement, which is incorporated by reference in or attachment to the CSA.

DFARS clause 252.239–7013 is included in all basic agreements for telecommunications services and identifies when the Government's liability begins under a basic agreement. DFARS clauses 252.239–7014 is included in all basic agreements for telecommunications services and specifies the term of the basic agreement, the method and timeframe necessary to terminate the basic agreement, and the contractor's obligation to continue performance on CSAs issued under the basic agreement prior to the termination notice. DFARS clause 252.239–7015 is included in basic agreements that supersede an existing basic agreement with a contractor. The clause identifies the basic agreement that is being superseded and specifies that all CSAs issued under the previous basic agreement will be modified to incorporate the terms and conditions of the new basic agreement. The clause also clarifies that current CSAs issued by the contracting activity under basic agreements other than the one identified may also be modified to incorporate the terms and conditions of the new basic agreement.

DFARS clause 252.239–7013 is included in all of the same contracts as DFARS clauses 252.239–7014 and 252.239–7015. Additionally, all three clauses provide terms and conditions that pertain to basic agreements for telecommunications services. As a result, the text of the three clauses can be combined, into a basic and alternate clause, in order minimize the number of clauses in the basic agreement, as well as streamline terms and conditions for and provide comprehensive information to contractors. This rule also changes the termination notification timeframe from 60 to 30 days, in order to align with the requirement at FAR 16.702(b)(2).

The modification of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on these clauses. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.239–7013, –7014, and –7015 and determined that the clauses could be combined.

## III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-The-Shelf Items

This proposed rule does not create any new provisions or clauses. The rulemaking combines three existing clauses on the same topic into a basic and alternate clause and updates a notification timeframe within the clause to comply with existing regulations. This proposed rule would not change the applicability of the affected clauses.

## IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

## VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule is not creating any new requirements or changing any existing requirements for contractors. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify and rename DFARS clause 252.239–7013, Obligation of the Government, to: Incorporate the information included in DFARS clause 252.239–7014, Term of Agreement; create an alternate for DFARS clause 252.239–7013 that is used in certain circumstances, in lieu of the basic clause, and include the information in DFARS clauses 252.239–7013, –7014, and –7015; and, amend the text to align with the termination notification

timeframe in the FAR. Combining these clauses will result in DFARS clauses 252.239–7014 and 252.239–7015 being removed from the DFARS, pursuant to action taken by the Regulatory Reform Task Force.

The objective of this proposed rule is to streamline contract terms and conditions pertaining to telecommunications services. The modification of these DFARS clauses supports a recommendation from the DoD Regulatory Reform Task Force. This rulemaking combines three existing clauses that address the same topic into a single comprehensive clause and alternate clause and updating a notification of termination timeframe to comply with existing regulation.

The Federal Procurement Data System (FPDS) does not collect information on the number of basic agreements that are negotiated or contracts and orders placed under basic agreements with contractors; instead, FPDS collects data on the orders and contracts awarded for telecommunication services, of which a percentage of those awards incorporate the terms and conditions of a basic agreement. Based on data from FPDS for fiscal years 2016, 2017, and 2018, the Government awarded approximately 24,134 contracts and orders for services under the Product and Supply Code (PSC) D3—Information Technology and Telecommunications. Of the 24,134 contracts and orders awarded over this period, approximately 7,530, or 31 percent of the awards, were made to 3,264 unique small businesses entities (an annual average of 1,088). The PSC D3 does not break down further into information technology services and telecommunications services; therefore, the number of small business entities affected by this rule is expected to be less than the annual average of 1,088 unique small entities.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. This rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2018–D035) in correspondence.

## VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## List of Subjects in 48 CFR Parts 239 and 252

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 239 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 239 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 2. Amend section 237.7411 by revising paragraph (c) to read as follows:

### 239.7411 Contract clauses.

* * * * *

(c) Use the basic or alternate of the clause at 252.239–7013, Term of Agreement and Continuation of Services, in basic agreements for telecommunications services.

(1) Use the basic clause in basic agreements that do not supersede an existing basic agreement with the contractor.

(2) Use the alternate I clause in basic agreements that supersede an existing basic agreement with the contractor. Complete paragraph (c)(1) of the clause with the basic agreement number, date, and contacting office that issued the basic agreement being superseded.

* * * * *

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 252.239–7013 to read as follows:

### 252.239–7013 Term of Agreement and Continuation of Services.

*Basic.* As prescribed in 239.7411(c)(1), use the following clause:

TERM OF AGREEMENT AND CONTINUATION OF SERVICES (DATE)

(a) This basic agreement is not a contract. The Government incurs liability only upon issuance of a communication service authorization, which is a contract that incorporates the terms and conditions of this basic agreement.

(b) This agreement shall continue in force from year to year, unless terminated by either party by 30 days' written notice. Termination of this basic agreement does not terminate or cancel any communication service authorizations issued under this basic agreement prior to the termination.

(c) Communication service authorizations issued under this basic agreement may be modified to incorporate the terms and conditions of a new basic agreement negotiated with the Contractor.

(End of clause)

*Alternate I.* As prescribed in 239.7411(c)(2), use the following clause, which includes a different paragraph (c) than the basic clause and creates a paragraph (d) not in the basic clause.

TERM OF AGREEMENT AND CONTINUATION OF SERVICES (DATE)

(a) This basic agreement is not a contract. The Government incurs liability only upon issuance of a communication service authorization, which is a contract that incorporates the terms and conditions of this basic agreement.

(b) This agreement shall continue in force from year to year, unless terminated by either party by 30 days' written notice. Termination of this basic agreement does not terminate or cancel any communication service authorizations issued under this basic agreement prior to the termination.

(c) The Contractor's current communication services authorizations have been modified to incorporate the terms and conditions of this basic agreement.

(1) All current communication service authorizations issued by__, hat incorporate Basic Agreement Number__, dated__, are modified to incorporate this basic agreement.

(2) Current communication service authorizations, issued by the activity in paragraph (c)(1) of this clause, that incorporate other agreements with the Contractor may also be modified to incorporate this basic agreement.

(d) Communication service authorizations issued under this basic agreement may be modified to incorporate a new basic agreement with the Contractor.

(End of clause)

### 252.239–7014 [Removed and Reserved]

■ 4. Remove and reserve section 252.239–7014.

### 252.239–7015 [Removed and Reserved]

■ 5. Remove and reserve section 252.239–7015.

[FR Doc. 2019–13741 Filed 6–27–19; 8:45 am]

BILLING CODE 5001–06–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 217**

**[Docket No. 171213999–9439–01]**

**RIN 0648–BH44**

## Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Alaska Liquefied Natural Gas (LNG) Project in Cook Inlet

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

**ACTION:** Proposed rule; request for comments and information.

**SUMMARY:** NMFS has received a request from the Alaska Gasline Development Corporation (AGDC) for authorization to take marine mammals incidental to Alaska LNG Project in Cook Inlet, over the course of five years (2020–2025). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization, and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than July 29, 2019.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2019–0064, by any of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the Federal eRulemaking Portal, Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0064,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit comments to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* 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 may be provided to the public for review.

Authorization for incidental takings must 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 in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

Accordingly, NMFS plans to adopt the Federal Energy Regulatory Commission's (FERC's) Environmental Impact Statement (EIS), provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing the Letter of Authorization (LOA). NMFS is a cooperating agency on the FERC's EIS.

The FERC's EIS will be made available for public comment at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.*

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the LOA request.

### Summary of Request

On April 18, 2017, NMFS received a request from AGDC for a LOA to take marine mammals incidental to constructing LNG facilities in Cook Inlet. The application was deemed adequate and complete on March 14, 2018. AGDC's request is for takes of a small number of five species of marine

mammals by Level B harassment. On April 11, 2018, NMFS published a Notice of Receipt announcing the receipt of AGDC's LOA application (83 FR 15556). Further analysis by NMFS concludes that potential effects to marine mammals from AGDC's activity could result in Level A harassment. Neither AGDC nor NMFS expects serious injury or mortality to result from this activity. However, since AGDC's LNG facility construction activities are expected to last for five years, an LOA is appropriate.

**Description of Proposed Activity**

*Overview*

AGDC proposes to construct facilities to transport and offload LNG in Cook Inlet, AK, for export. The Project activities include:

- Construction of the proposed Marine Terminal in Cook Inlet, including construction of a temporary Marine Terminal Material Offloading Facility (Marine Terminal MOF) and a permanent Product Loading Facility (PLF).
- Construction of the Mainline (main pipeline) across Cook Inlet, including the potential construction of a temporary Mainline Material Offloading Facility (Mainline MOF) on the west side of Cook Inlet.

Components of proposed construction activities in Cook Inlet that have the potential to expose marine mammals to received acoustic levels that could result in take include:

- Vibratory and impact pile driving associated with Marine Terminal MOF and PLF construction.
- Anchor handling associated with pipelay across the Cook Inlet.

*Dates and Duration*

AGDC plans to start the Alaska LNG facilities construction on March 31, 2020, and complete it by the end of March 2025. Construction activities would be divided into phases, with all construction occurring between April and October from March 2020 to December 2024. During the construction season, crews will be working 12 hours per day, 6 days per week.

*Specific Geographic Region*

The Alaska LNG facilities, which include a Marine Terminal and the Mainline crossing, will be constructed in Cook Inlet. The Marine Terminal would be constructed adjacent to the proposed onshore LNG Plant near Nikiski, Alaska.

In addition, a Mainline Material Offloading Facility (Mainline MOF) may be constructed on the west side of Cook Inlet to support installation of the Cook Inlet shoreline crossing and onshore construction between the Beluga Landing shoreline crossing and the Yentna River. The Mainline MOF would be located near the existing Beluga Landing.

A map of the Alaska LNG facilities action area is provided in Figure 1 below and is also available in Figures 2 to 4 in the LOA application.

BILLING CODE 3510–22–P

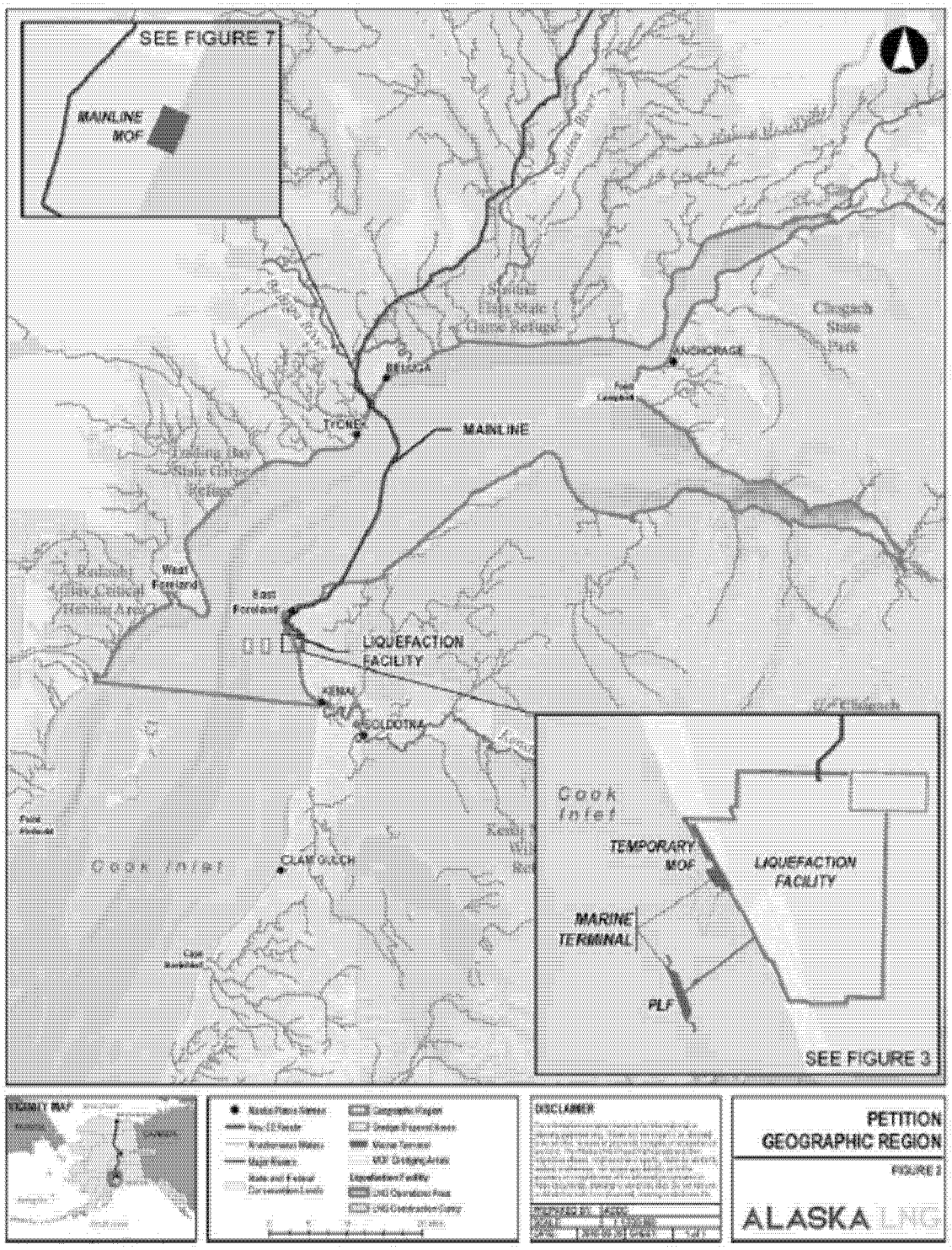



**Figure 1. Geographic area of the proposed Alaska LNG facilities (AGDC, 2018) (see AGDC's LOA application for color legends).**

BILLING CODE 3510–22–C

*Detailed Description of Specific Activity*

The construction of the Alaska LNG facilities includes the construction of a product loading facility, marine terminal material offloading facility, a mainline material offloading facility, and the Mainline crossing of Cook Inlet. For all construction activities, each season extends from 1 April through 31 October, during which construction crews would be working 12 hours per day, six days per week.

The following provides a detailed description of the Alaska LNG facilities to be constructed.

Product Loading Facility (PLF)

The proposed PLF would be a permanent facility used to load LNG carriers (LNGCs) for export. It consists of two loading platforms, two berths, a Marine Operations Platform, and an access trestle that supports the piping that delivers LNG from shore to LNGCs and includes all the equipment to dock LNGCs. Analyzed elements of the PLF are shown in Figures 3 and 4 of the LOA application, and are described as follows.

- PLF Loading Platforms—Two loading platforms, one located at either end of the north-south portion of the trestle, would support the loading arm package, a gangway, supporting piping, cabling, and equipment. The platforms would be supported above the seafloor on steel-jacketed structures called quadropods;
- PLF Berths—Two berths would be located in natural water depths greater than −53 feet (ft) mean lower low water (MLLW) and would be approximately 1,600 feet apart at opposite ends of the north-south portion of the trestle. Each berth would have four concrete pre-cast breasting dolphins and six concrete pre-cast mooring dolphins. The mooring and breasting dolphins would be used to secure vessels alongside the berth for cargo loading operations. The mooring and breasting dolphins would be supported over the seabed on quadropods. A catwalk, supported on two-pile bents, would connect the mooring dolphins to the loading platforms;
- Marine Operations Platform—A Marine Operations Platform would be located along the east-west portion of the access trestle (Figure 4 of the LOA application) and would support the proposed Marine Terminal Building, an electrical substation, piping, cabling, and other equipment used to monitor the loading operations. The platform would be supported above the seafloor on four-pile bents; and
- Access Trestle—This structure is T-shaped with a long east-west oriented section and a shorter north-south oriented section and carries pipe rack, roadway, and walkway. The pipe rack contains LNG loading system pipelines, a fire water pipeline, utility lines, power and instrument cables, and lighting. The east-west portion of the trestle extends from shore, seaward, for a distance of approximately 3,650 feet and would be supported on three-pile and four-pile bents at 120-foot intervals. The north-south oriented portion of the access trestle is approximately 1,560 feet long, and is supported on five-pile quadropods.

Construction of the PLF and berths would be both overhead construction (conducted with equipment located on a cantilever bridge extending from shore) and marine construction (conducted with equipment located on barges/vessel).

The PLF would be constructed over the course of four ice-free seasons (Seasons 1–4); however, Season 1 activities associated with PLF construction would include only installation of onshore portions of the PLF and are therefore not described or analyzed in this document. Activities in Seasons 2 through 4 are described below.

In Season 2, the marine construction spread would be mobilized, and the cantilever bridge would be commissioned. A total of 35 bents and quadropod structures would be installed for part of the east-west access trestle, and eight quadropods would be installed to support the berth loading platforms.

In Season 3, the remainder of the bents for the east-west access trestle would be installed. Additionally, bents supporting the Marine Operations Platform and north-south trestle would be installed. A total of 26 bent and quadropod structures would be installed.

In Season 4, installation of the mooring quadropods would be completed, and the bents supporting the catwalk between the loadout platforms and the mooring dolphins would be installed. A total of 18 bent and quadropod structures would be installed.

All PLF bents and quadropods are expected to be installed with impact hammers. The anticipated production rate for installation of the bents is one bent per six construction days, and for quadropods it is one quadropod per eight work days. Pile driving is expected to occur during only two of the six days for bents and two of the eight days for quadropods. It is also assumed the impact hammer would only be operated approximately 25 percent of time during the two days of pile driving.

Marine Terminal Material Offloading Facility (Marine Terminal MOF)

The proposed Marine Terminal MOF, to be located near the PLF in Nikiski, would consist of three berths and a quay that would be used during construction of the Liquefaction Facility to enable direct deliveries of equipment modules, bulk materials, construction equipment, and other cargo to minimize the transport of large and heavy loads over road infrastructure.

The Marine Terminal MOF quay would be approximately 1,050 feet long and 600 feet wide, which would provide sufficient space for cargo discharge operations and accommodate 200,000 square feet of staging area. It would have a general dock elevation of +32 feet MLLW.

The quay would have an outer wall consisting of combi-wall (combination of sheet piles and pipe piles) tied back to a sheet pile anchor wall, and 11 sheet pile coffer cells, backfilled with granular materials.

Berths at the Marine Terminal MOF would include:

- One Lift-on/Lift-off (Lo-Lo) berth with a maintained depth alongside of −32 feet MLLW;
- One Roll-on/Roll-off (Ro-Ro) berth with a maintained depth alongside of −32 feet MLLW; and
- One grounded barge bed with a ground pad elevation of +10 feet MLLW.

The Temporary MOF has been designed as a temporary facility and would be removed early in operations when it is no longer needed to support construction of the Liquefaction Facility.

The Temporary MOF would be constructed over the course of two construction seasons (Seasons 1 and 2).

The combi-wall and the first six of eleven coffer cells would be installed in Season 1. An equal amount of sheet pile anchor wall would be associated with the combi-wall, but this is not considered in the analysis as the anchor wall would be driven into fill and would not generate substantial underwater sound. Six 24-inch template pipe piles would be installed with a vibratory hammer before the sheet pile is installed for each coffer cell and then removed when coffer cell installation is complete. The remaining five coffer cells and fill would be installed in Season 2, along with the quadropods for the dolphins for the Ro-Ro berth.

The Marine Terminal MOF would be constructed using both land-based (from shore and subsequently from constructed portions of the Marine Terminal MOF) and marine construction methods. The anticipated production rate for installation of combi-wall and coffer cells is 25 linear feet per day per crew, with two crews operating, and vibratory hammers operating 40 percent of each 12-hour construction day. The anticipated production rate for quadropod installation is the same as described in Section 1, above.

Dredging would be conducted over two ice free seasons. Dredging at the

Marine Terminal MOF during the first season of marine construction may be conducted with either an excavator or clamshell (both mechanical dredges). Various bucket sizes may be used. Sediment removed would be placed in split hull or scow/hopper barges tended by tugs that would transport the material to the location of dredge material placement.

Dredging at the Marine Terminal MOF during the second season may be conducted with either a hydraulic (cutter head) dredger or a mechanical dredger. For a hydraulic dredger, the dredged material would be pumped from the dredge area to the disposal location or pumped into split-hull barges for transport to the placement location. If split-hull barges are used rather than direct piping of material, a manifold system may be set up to load multiple barges simultaneously. For a mechanical dredger, two or more sets of equipment would likely be required to achieve total dredging production to meet the Project schedule. Personnel transfer, support equipment, and supply would be similar to the first season. However, due to the low activity level and source levels from dredging, we do not consider there would be take of marine mammals. Therefore, dredging is not further analyzed in this document.

Mainline Material Offloading Facility (Mainline MOF)

A Mainline MOF may be required on the west side of Cook Inlet to support installation of the Cook Inlet shoreline crossing, and onshore construction between the South of Beluga Landing shoreline crossing and the Yentna River. The Mainline MOF would be located near, but at a reasonable distance, from the existing Beluga Landing. Use of the existing landing is not considered to be feasible.

The Mainline MOF would consist of a quay, space for tugs, and berths including:

- Lo-Lo Berth for unloading pipes and construction materials;
- Ro-Ro Berth and ramp dedicated to Ro-Ro operations; and
- Fuel berth dedicated to unloading fuel.

The quay would be 450 feet long (along the shoreline) and 310 feet wide (extending into the Cook Inlet). A Ro-Ro ramp (approximately 80 feet by 120 feet) would be constructed adjacent to the quay. Both the quay and the Ro-Ro ramp would consist of anchored sheet pile walls backed by granular fill. The sources for the granular material would be onshore. Surfacing on the quay would be crushed rock. Some fill material for the quay and Ro-Ro ramp are expected to be generated by excavation of the access road. Any additional needed fill materials and crushed rock for surfacing would be barged in.

The quay and the Ro-Ro ramp are located within the 0-foot contour, so berths would be practically dry at low tide. No dredging is planned; vessels would access the berths and ground themselves during high tide cycles. The proposed top level of the Mainline MOF is +36 feet MLLW, which is about 11 feet above Mean Higher High Water (MHHW).

Approximately 1,270 feet of sheet pile would be installed for construction of the quay and Ro-Ro ramp, and a corresponding length of sheet pile would be installed as anchor wall; however, only 670 feet of sheet pile would be installed in the waters of Cook Inlet. The remainder would be installed as anchor wall in fill material, or in the intertidal area when the tide is out, and would not result in underwater sound.

The Mainline MOF would be constructed in a single construction season (Season 1). A break-down of activities per season is provided below. Crews are expected to work 12 hours per day, six days per week. The sheet pile would be installed using marine equipment, with the first 50 percent of embedment conducted using a vibratory hammer and the remaining 50 percent conducted using an impact hammer. Hammers would be expected to be operated either 25 percent of a 12-hour construction day (impact hammer) or 40 percent of a 12-hour construction day (vibratory hammer).

Mainline Crossing of Cook Inlet

The proposed Mainline, a 42-inch-diameter, natural gas pipeline, would cross the Cook Inlet shoreline on the west side of the inlet (north landfall) south of Beluga Landing at pipeline milepost (MP) 766.3, traverse Cook Inlet in a generally southward direction for approximately 26.7 miles, and cross the east Cook Inlet shoreline near Suneva Lake at MP 793.1 (south landfall). The pipe would be trenched into the seafloor and buried from the shoreline out to a water depth of approximately 35–45 feet MLLW on both sides of the inlet, approximately 8,800 feet from the north landfall and 6,600 feet from the south landfall. Burial depth (depth of top of pipe below the seafloor) in these areas would be 3–6 feet. Seaward of these sections, the concrete coated pipeline would be placed on the seafloor. Seafloor that would be directly affected by construction and operation of the Cook Inlet crossing of the Mainline is itemized in Table 6. Additional footprint would be impacted by the use of anchors to hold the pipelay vessel in place while installing the pipeline on the seafloor.

Geophysical surveys would be conducted just prior to pipeline construction. A detailed bathymetric profile (longitudinal and cross) would be conducted. Types of geophysical equipment expected to be used for the surveys could include:

- Single-beam echosounder planned for use during this program operate at frequencies greater than 200 kilohertz (kHz);
- Multi-beam echo sounders planned for this program operate at frequencies greater than 200 kHz;
- Side-scan sonar system planned for use during this program operate at a frequency of 400 and 900 kHz; and
- Magnetometer. These instruments do not emit sound.

Operation of geophysical equipment such as echosounders and side-scan sonars at frequencies greater than 200 kHz are not considered to result in takes of marine mammals due to the extremely high frequencies emitted that are above the range of marine mammals' hearing thresholds. Magnetometers do not emit underwater sound. Therefore, geophysical surveys are not evaluated further in this document.

The pipeline would be trenched and buried in the nearshore portions of the route across the Cook Inlet.

The nearshore portion of the trench is expected to be constructed using amphibious or barge-based excavators. This portion of the trench would extend from the shoreline out to a transition water depth where a dredge vessel can be employed. On the west side of the inlet (Beluga Landing) this is expected to be from the shore out 655 feet, and on the east side (Suneva Lake) from the shoreline out 645 feet. The trench basis is to excavate a mustow slope trench that would not retain sediments (*i.e.,* a self-cleaning trench). A backhoe dredge may also be required to work in this portion of the crossing.

From the transition water depth to water depths of the −35 feet or −45 feet MLLW, a trailing suction hopper dredger would be used to excavate a trench for the pipeline. Alternative burial techniques, such as plowing, backhoe dredging, or clamshell dredging, would be considered if conditions become problematic for the dredger. After installation of the nearshore pipelines, a jet sled or mechanical burial sled could be used to achieve post dredge burial depths.

Pipeline joints would be welded together onshore in 1,000-foot-long strings and laid on the ground surface

in an orientation that approximates the offshore alignment. A pipe pull barge would be anchored offshore near the seaward end of the trench, and would then be used to pull the pipe strings from their onshore position, out into the trench.

Following pipeline installation, the trench is expected to backfill naturally through the movement of seafloor sediments. If manual backfilling is required, the backfill would be placed by reversing the flow of the trailing suction hopper dredger used offshore (see below) or mechanically with the use of excavators.

Seaward of the trenched sections, the pipeline would be laid on the seafloor across Cook Inlet using conventional pipelay vessel methods. The pipelay vessel would likely employ 12 anchors to keep it positioned during pipelay and provide resistance as it is winched ahead 80 feet each time an additional 80-foot section of pipe is added/welded on the pipe string. Dynamic positioning may be used in addition to the conventional mooring system. Mid-line buoys may be used on the anchor chains when crossing other subsea infrastructure (*i.e.,* pipelines and cables). A pipelay rate of 2,000 to 2,500 feet per 24-hour period is expected. It is anticipated that three anchor handling attendant tugs would be used to repeatedly reposition the anchors, thereby maintaining proper position and permitting forward movement. The primary underwater sound sources of concern would be from the anchor handling tugs (AHTs) during the anchor handling for the pipelay vessel.

The pipeline crossing of Cook Inlet would be installed in two consecutive construction seasons (Seasons 3 and 4). Work from the pipelay vessel and pull barge would be conducted 24 hours per day, seven days per week, until the work planned for that season is completed. Anchor handling durations were estimated differently for the two construction seasons. Anchor handling is expected to be conducted 25 percent of the time that the pull barge is on site in Season 3. The estimate for anchor handling duration in Season 4 was based on the proposed route length, the total numbers of individual anchors moves, and the estimated time required to retrieve and reset each anchor (approximately 30 minutes per anchor to retrieve and reset). A break-down of activities per season is provided below.

Season 3

- Conduct onshore enabling works including establishing winch/laydown and welding area, and excavation of a trench through onshore sections of the shore approach (open cut the shoreline).
- Excavate trench in very nearshore waters using land and amphibious excavation equipment.
- Conduct pre-lay excavation of the pipe trench out to depths of -35 to -45 feet MLLW using various subsea excavation methods.
- Install the pipe in the nearshore trenches using a pull barge.

Anchor handling would occur for approximately six (5.75 days) 24-hour periods in Season 3.

Season 4

- Lay unburied offshore section of Mainline across Cook Inlet using conventional pipelay vessel. The Applicant estimates that anchor handling would occur over 13 24-hour periods in Season 4.
- Tie-in the offshore section to the buried nearshore sections on both sides of the Cook Inlet.
- Flood, hydrotest, and dry the Mainline pipeline with Cook Inlet.

A summary of pile driving activities for the entire Alaska LNG facilities construction, breaking down by seasons and project elements, is provided in Table 1.

TABLE 1—IN-WATER PILE DRIVING ASSOCIATED WITH ALASKA LNG FACILITIES CONSTRUCTION

| Element | Driving method | Pile type & size | Pile number or length | Number strikes/hr (impact only) | Hours pile driving/day | Number days |
|---|---|---|---|---|---|---|
| **Season 1** | | | | | | |
| Marine Terminal MOF combi wall | Vibratory | 60-in steel pipe | 35 | NA | 4.8 | 5 |
| Marine Terminal MOF combi wall | Vibratory | Sheet pile | 1,075 ft | NA | 4.8 | 5 |
| Marine Terminal MOF cell | Vibratory | 18-in steel pipe | 36 | NA | 4.8 | 12 |
| Marine Terminal MOF cell | Vibratory | Sheet pile | 2,454 ft | NA | 4.8 | 11 |
| **Season 2** | | | | | | |
| Marine Terminal MOF Cell | Vibratory | 18-in steel pipe | 30 | NA | 4.8 | 11 |
| Marine Terminal MOF cell | Vibratory | Sheet pile | 2,447 ft | NA | 4.8 | 11 |
| Marine Terminal MOF Ro-Ro dolphin quads. | Impact | 24-in steel pipe | 7 | 1,560 | 3 | 2 |
| Marine Terminal MOF Ro-Ro dolphin quads. | Impact | 48-in steel pipe | 28 | 1,560 | 3 | 2 |
| Mainline MOF | Vibratory | Sheet pile | 670 ft | NA | 4.8 | 3 |
| Mainline MOF | Impact | Sheet pile | 670 ft | 1,560 | 3 | 2 |
| **Season 3** | | | | | | |
| Berth 1 | Impact | 48-in steel pipe | 20 | 1,560 | 3 | 2 |
| Berth 2 | Impact | 48-in steel pipe | 20 | 1,560 | 3 | 2 |
| N-S access trestle | Impact | 48-in steel pipe | 40 | 1,560 | 3 | 3 |
| E-W access trestle | Impact | 60-in steel pipe | 73 | 1,560 | 3 | 11 |
| **Season 4** | | | | | | |
| Breasting dolphin berths 1 & 2 | Impact | Steel pipe 48-in | 8 | 1,560 | 3 | 1 |
| Breasting dolphin berths 1 & 2 | Impact | 60-in steel pipe | 32 | 1,560 | 3 | 3 |
| Mooring dolphin | Impact | 48-in steel pipe | 2 | 1,560 | 3 | 1 |
| Mooring dolphin | Impact | 60-in steel pipe | 8 | 1,560 | 3 | 1 |
| N-S access trestle | Impact | 48-in steel pipe | 30 | 1,560 | 3 | 3 |

TABLE 1—IN-WATER PILE DRIVING ASSOCIATED WITH ALASKA LNG FACILITIES CONSTRUCTION—Continued

| Element | Driving method | Pile type & size | Pile number or length | Number strikes/hr (impact only) | Hours pile driving/day | Number days |
|---|---|---|---|---|---|---|
| E-W access trestle | Impact | 60-in steel pipe | 28 | 1,560 | 3 | 4 |
| Operation platform | Impact | 60-in steel pipe | 12 | 1,560 | 3 | 2 |
| **Season 5** | | | | | | |
| Mooring dolphin | Impact | 48-in steel pipe | 10 | 1,560 | 3 | 2 |
| Mooring dolphin | Impact | 60-in steel pipe | 40 | 1,560 | 3 | 4 |
| Catwalk | Impact | 60-in steel pipe | 8 | 1,560 | 3 | 4 |

A summary of anchor handling activities associated to mooring, trenching, and pipe laying are provided in Table 2.

TABLE 2—DURATION OF ANCHOR HANDLING ASSOCIATED WITH ALASKA LNG FACILITIES PROJECT

| Season | Activity | Hours/day | Days |
|---|---|---|---|
| 3 | Mooring | 6.00 | 9 |
| 3 | Pipe trenching | 6.00 | 14 |
| 4 | Pipeline days at a rate of 2,500 feet per day | 6.00 | 53 |

**Description of Marine Mammals in the Area of Specified Activities**

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SAR; *https://repository.library.noaa.gov/view/noaa/18114*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species with expected potential for occurrence in upper Cook Inlet and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

TABLE 3—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA

| Common name | Scientific name | Stock | ESA/MMPA status; strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR | Annual M/S [3] |
|---|---|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)** | | | | | | |
| Family Eschrichtiidae: | | | | | | |
| Gray whale | *Eschrichtius robustus* | Eastern North Pacific | -; N | 20,990 (0.05, 20,125) | 624 | 132 |
| Family Balaenopteridae: | | | | | | |
| Humpback whale | *Megaptera novaeangliae* | Central North Pacific | E/D; Y | 10,103 (0.300, 7,890) | 83 | 8.5 |
| Fin whale | *Balaenoptera physalus* | Northeast Pacific | E/D; Y | 916 [4] (0.39, 916) | 3.5 | >1.3 |
| Family Delphinidae: | | | | | | |
| Killer whale | *Orcinus orca* | Eastern North Pacific Alaska Resident. | -; N | 2,347 (NA, 2,347) | 24 | 1 |
| Beluga whale | *Delphinapterus leucas* | Cook Inlet | E/D; Y | 312 (0.10, 287) | [5] 0.57 | 0 |
| Family Phocoenidae (porpoises): | | | | | | |
| Harbor porpoise | *Phocoena phocoena* | Gulf of Alaska | -; N | 31,046 (2.14, NA) | unk | 72 |
| Dall's porpoise | *Phocoenoides dali* | Alaska | -; N | 83,400 (0.097, NA) | unk | 38 |
| **Order Carnivora—Superfamily Pinnipedia** | | | | | | |
| Family Otariidae (eared seals and sea lions): | | | | | | |
| California sea lion | *Zalophus californianus* | U.S | -; N | 296,750 (NA, 153,337) | 9,200 | 389 |
| Steller sea lion | *Eumetopias jubatus* | Western U.S | E/D; Y | 53,303 (NA, 53,303) | 320 | 31 |
| Family Phocidae (earless seals): | | | | | | |

TABLE 3—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA—Continued

| Common name | Scientific name | Stock | ESA/ MMPA status; strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR | Annual M/S [3] |
|---|---|---|---|---|---|---|
| Harbor seal ..... | *Phoca vitulina* ..... | Cook Inlet/Shelikof Strait ..... | -; N | 27,386 (NA, 25,651) ..... | 770 | 0.04 |

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region#reports.* CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance.

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] Fin whale estimate is based on survey conducted in 2015 in the Gulf of Alaska, but this is the best available information for use here.

[5] Because this stock does not meet the assumption that it will increase when human-caused mortality is reduced, inherent to the use of the PBR, the calculated value for PBR is likely biased and any removals from this stock will likely further prevent recovery.

Marine mammal species that could potentially occur in the proposed construction areas are included in Table 3. Detailed discussion of these species is provided in the LOA application and summary information is provided below.

In addition, sea otters may be found in Cook Inlet. However, sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

Humpback Whale

The humpback whale is distributed worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres. Humpback whales in the high latitudes of the North Pacific Ocean are seasonal migrants that feed on euphausiids and small schooling fishes (Nemoto, 1957, 1959; Clapham and Mead, 1999). The humpback whale population was considerably reduced as a result of intensive commercial exploitation during the 20th century.

The historical summer feeding range of humpback whales in the North Pacific encompassed coastal and inland waters around the Pacific Rim from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk and north of the Bering Strait (Zenkovich, 1954; Nemoto, 1957; Tomlin, 1967; Johnson and Wolman, 1984). Historically, the Asian wintering area extended from the South China Sea east through the Philippines, Ryukyu Retto, Ogasawara Gunto, Mariana Islands, and Marmust Islands (Rice, 1998). Humpback whales are currently found throughout this historical range. Most of the current winter range of humpback whales in the North Pacific is relatively well known, with aggregations of whales in Japan, the Philippines, Hawaii, Mexico, and Central America. The winter range includes the main islands of the Hawaiian archipelago, with the greatest concentration along the west side of Maui. In Mexico, the winter breeding range includes waters around the southern part of the Baja California peninsula, the central portions of the Pacific coast of mainland Mexico, and the Revillagigedo Islands off the mainland coast. The winter range also extends from southern Mexico into Central America, including Guatemala, El Salvador, Nicaragua, and Costa Rica (Calambokidis *et al.,* 2008).

Although there is considerable distributional overlap in the humpback whale stocks that use Alaskan waters, the whales seasonally found in lower Cook Inlet are probably of the Central North Pacific stock (Barlow *et al.,* 2011; Allen and Angliss 2015).

Humpback whale use of Cook Inlet has been observed to be confined to Lower Cook Inlet; the whales have been regularly seen near Kachemak Bay during the summer months (Rugh *et al.,* 2005). There are anecdotal observations of humpback whales as far north as Anchor Point, with recent summer observations extending to Cape Starichkof (Owl Ridge, 2014). Humpback whales will move about their range. It is possible for a small number of humpback whales to be observed near the Marine Terminal construction area, but they are unlikely to venture north into the proposed Upper Cook Inlet pipeline crossings.

Fin Whale

Within the U.S. waters in the Pacific Ocean, fin whales are found seasonally off the coast of North America and in the Bering Sea during the summer. Moore *et al.* (1998, 2006), Watkins *et al.* (2000), and Stafford *et al.* (2007) documented fin whale calling along the U.S. Pacific coast where rates were highest from August/September through February, suggesting that these may be important feeding areas during the winter. Širović *et al.* (2013) speculated that both resident and migratory fin whales may occur off southern California based on shifts in peaks in fin whale calling data. Širović *et al.* (2015) noted that fin whales were detected in the Southern California Bight year-round and found an overall increase in the fin whale call index from 2006 to 2012. Soule and Wilcock (2013) documented fin whale call rates in a presumed feeding area along the Juan de Fuca Ridge, offshore of northern Washington State, and found that some whales appear to transit northwest from August to October. They speculate that some fin whales migrate northward from the Juan de Fuca Ridge in fall and southward in winter.

Fin whale use of Cook Inlet is rare, but they have been sighted during NMFS aerial surveys in Cook Inlet conducted from 2000–2016 (Shelden *et al.,* 2017).

Gray Whale

The gray whale population along the west coast of the United States belongs to the eastern North Pacific stock. During summer and fall, most gray whales of that stock feed in the Chukchi, Beaufort and northwestern Bering Seas. An exception to this is the relatively small number of whales (approximately 200) that summer and feed along the Pacific coast between Kodiak Island, Alaska and northern California (Darling, 1984; Gosho *et al.,* 2011; Calambokidis *et al.,* 2012), referred to as the ''Pacific Coast Feeding Group.'' Three primary wintering lagoons in Baja California, Mexico, are utilized, and some females are known to make repeated returns to specific lagoons (Jones, 1990).

Gray whale use of Cook Inlet is rare, but they have been sighted during NMFS aerial surveys in Cook Inlet conducted from 2000–2016 (Shelden *et al.,* 2017).

Killer Whale

Killer whales are widely distributed, although they occur in higher densities in colder and more productive waters (Allen and Angliss, 2015). Two different stocks of killer whales inhabit the Cook Inlet region: The Alaska Resident Stock and the Gulf of Alaska, Aleutian Islands, Bering Sea Transient Stock (Allen and Angliss, 2015).

Killer whales are occasionally observed in Lower Cook Inlet, especially near Homer and Port Graham (Shelden *et al.,* 2003; Rugh *et al.,* 2005). A concentration of sightings near Homer and inside Kachemak Bay may represent high use, or high observer-effort given most records are from a whale-watching venture based in Homer. The few whales that have been photographically identified in Lower Cook Inlet belong to resident groups more commonly found in nearby Kenai Fjords and Prince William Sound (Shelden *et al.,* 2003). Prior to the 1980s, killer whale sightings in Upper Cook Inlet were very rare (Rugh *et al.,* 2005). During aerial surveys conducted between 1993 and 2004, killer whales were observed on only three flights, all in the Kachemak and English Bay area (Rugh *et al.,* 2005). However, anecdotal reports of killer whales feeding on belugas in Upper Cook Inlet began increasing in the 1990s, possibly in response to declines in sea lions and harbor seals elsewhere (Shelden *et al.,* 2003). Observations of killer whales in beluga summering grounds have been implicated as a possible contributor to decline of Cook Inlet belugas in the 1990s, although the number of confirmed mortalities from killer whales is small (Shelden *et al.,* 2003). Recent industry monitoring programs only reported a few killer whale sightings (Kendall *et al.,* 2015). The sporadic movements and small numbers of this species suggest that there is a rare possibility of encountering this whale during Marine Terminal construction and Mainline pipelay. There is, however, a greater possibility of transiting vessels associated with the Project encountering killer whales during transit through Lower Cook Inlet.

Beluga Whale

The Cook Inlet beluga whale distinct population segment (DPS) is a small, geographically isolated, and genetically distanced population separated from other beluga populations by the Alaska Peninsula (O'Corry-Crowe *et al.,* 1997). The Cook Inlet beluga DPS was originally estimated at 1,300 whales in 1979 (Calkins, 1989) and has been the focus of management concerns since experiencing a dramatic decline between 1994 and 1998, when the stock declined 47 percent, attributed to overharvesting by subsistence hunting (Mahoney and Shelden, 2000). Prior to subsistence hunting restrictions, harvest was estimated to annually remove 10 to 15 percent of the population (Mahoney and Shelden, 2000). Only five belugas have been harvested since 1999, yet the population has continued to decline. NMFS listed the population as ''depleted'' in 2000 because of the decline, and as ''endangered'' under the ESA in 2008 when the population failed to recover following a moratorium on subsistence harvest.

In April 2011, NMFS designated critical habitat for Cook Inlet beluga whales (76 FR 20180; April 11, 2011) in two specific areas of Cook Inlet:

- *Area 1:* All marine waters of Cook Inlet north of a line from the mouth of Threemile Creek (61°08.5′ N, 151°04.4′ W) connecting to Point Possession (61°02.1′ N, 150°24.3′ W), including waters of the Susitna River south of 61°20.0′ N, the Little Susitna River south of 61°18.0′ N, and the Chickaloon River north of 60°53.0′ N; and
- *Area 2:* All marine waters of Cook Inlet south of a line from the mouth of Threemile Creek (61°08.5′ N, 151°04.4′ W) to Point Possession (61°02.1′ N, 150°24.3′ W) and north of 60°15.0′ N, including waters within 2 nautical miles seaward of mean-high high water (MHHW) along the western shoreline of Cook Inlet between 60°15.0′ N and the mouth of the Douglas River (59°04.0′ N, 153°46.0′ W); all waters of Kachemak Bay east of 151°40.0′ W; and waters of the Kenai River below the Warren Ames bridge at Kenai, Alaska.

The Cook Inlet beluga whale population is estimated to have declined from 1,300 animals in the 1970s (Calkins, 1989) to about 340 animals in 2014 (Shelden *et al.,* 2015). The current population estimate is 328 animals (Shelden *et al.,* 2017). The precipitous decline documented in the mid-1990s was attributed to unsustainable subsistence practices by Alaska Native hunters (harvest of more than 50 whales per year) (Mahoney and Shelden, 2000). In 2006, a moratorium of the harvest of Cook Inlet beluga whales was agreed upon through a cooperative agreement between the Cook Inlet Marine Mammal Council and NMFS.

During late spring, summer, and fall, beluga whales concentrate near the Susitna River mouth, Knik Arm, Turnagain Arm, and Chickaloon Bay (Nemeth *et al.,* 2007) where they feed on migrating eulachon and salmon (Moore *et al.,* 2000). Critical Habitat Area 1 reflects this summer distribution. During winter, beluga whales concentrate in deeper waters in the mid-inlet to Kalgin Island, and in the mustow waters along the west shore of Cook Inlet to Kamishak Bay. Although belugas may be found throughout Cook Inlet at any time of year, they generally spend the ice-free months in Upper Cook Inlet and expand their distribution south and into more offshore waters of Upper Cook Inlet in winter. These seasonal movements appear to be related to changes in the physical environment from sea ice and currents and shifts in prey resources (NMFS, 2016). Belugas spend most of their time year-round in the coastal areas of Knik Arm, Turnagain Arm, Susitna Delta, Chickaloon Bay, and Trading Bay (Goetz *et al.,* 2012). During the open-water months in Upper Cook Inlet (north of the Forelands), beluga whales are typically concentrated near river mouths (Rugh *et al.,* 2010).

Satellite tags from 10 whales tagged from 2000 through 2002 transmitted through the fall, and of those, three tags deployed on adult males transmitted through April and late May. None of the tagged beluga moved south of Chinitna Bay on the western side of Cook Inlet. A review of marine mammal surveys conducted in the Gulf of Alaska from 1936 to 2000 discovered only 31 beluga sightings among 23,000 marine mammal sightings, indicating that very few belugas occur in the Gulf of Alaska outside of Cook Inlet (Laidre *et al.,* 2000 cited in Allen and Angliss, 2014).

Based on these studies, it is anticipated that beluga whales are most likely to occur near the Marine Terminal in moderate densities during the period when sea ice is typically present in Cook Inlet north of the Forelands (December through May; Goetz *et al.,* 2012). Few belugas may occur near the Marine Terminal during the ice-free period (June through November). Belugas would not be expected to focus their foraging (dive) efforts near the proposed Marine Terminal location. If belugas do forage near the Marine Terminal, their foraging dives are more likely to be long and deep during the sea-ice season (December through May; Goetz *et al.,* 2012).

Beluga whales could be found in the vicinities of the Mainline crossing during summer–fall and the Marine Terminal construction area during winter. Previous marine mammal surveys conducted between the Beluga River and the West Forelands (Nemeth *et al.,* 2007; Brueggeman *et al.,* 2007a, b; Lomac-MacNair *et al.,* 2013, 2014; Kendall *et al.,* 2015) suggest that beluga whale numbers near the proposed

Mainline MOF on the west side of Cook Inlet and the pipeline landing peak in May and again in October, with few whales observed in the months in between.

Beluga whales are expected to occur along the entire portion of the Mainline route within Upper Cook Inlet year-round; but, as discussed previously, beluga distribution is concentrated in mustow coastal waters near Knik Arm, Chickaloon Bay, and Trading Bay during the ice-free season (June through November), and in deeper waters of the Susitna Delta, and offshore between East and West Forelands, and around Fire Island during the sea-ice season (December through May) (Goetz *et al.,* 2012). Belugas may remain near the Mainline route during the winter (December through May).

Belugas forage in the Trading Bay area from June to through November (Goetz *et al.,* 2012). Belugas may remain near the Mainline route during the winter (December through May) (Goetz *et al.,* 2012). Belugas would be expected to focus their foraging (dive) efforts near the Trading Bay area during June to November, south of where the proposed Mainline would enter Cook Inlet.

Harbor Porpoise

The Gulf of Alaska harbor porpoise stock is distributed from Cape Suckling to Unimak Pass (Allen and Angliss, 2015). They are found primarily in coastal waters less than 328 feet deep (Hobbs and Waite, 2010) where they feed on Pacific herring (*Clupea pallasii*), other schooling fishes, and cephalopods.

Although harbor porpoises have been frequently observed during aerial surveys in Cook Inlet, most sightings are of single animals, and the sightings have been concentrated nearshore between Iliamna and Tuxedni bays on the lower west side of Lower Cook Inlet (Rugh *et al.,* 2005; Shelden *et al.,* 2013). No harbor porpoises were recorded near Nikiski during NMFS aerial surveys conducted between 1993 and 2012 (Shelden *et al.,* 2013). Dahlheim *et al.* (2000) estimated the 1991 Cook Inlet-wide population at 136 animals. However, they are one of the three marine mammals (besides belugas and harbor seals) regularly seen in Upper Cook Inlet (Nemeth *et al.,* 2007), especially during spring eulachon and summer salmon runs. Brueggeman *et al.* (2007a, b) also reported small numbers of harbor porpoise between Granite Point and the Beluga River. Recent industry monitoring programs in Lower and Middle Cook Inlet reported harbor porpoise sightings in all summer months (Lomac-MacNair *et al.,* 2013, 2014; Kendall *et al.,* 2015). Because harbor porpoise have been observed throughout Cook Inlet during the summer months, they represent a species that could be encountered during all phases and locations of construction.

Dall's Porpoise

Dall's porpoise are widely distributed across the entire North Pacific Ocean. They are found over the continental shelf adjacent to the slope and over deep (2,500+ m) oceanic waters (Hall, 1979). They have been sighted throughout the North Pacific as far north as 65° N (Buckland *et al.,* 1993) and as far south as 28° N in the eastern North Pacific (Leatherwood and Fielding, 1974). The only apparent distribution gaps in Alaska waters are upper Cook Inlet and the eastern flats of the Bering Sea. Throughout most of the eastern North Pacific they are present during all months of the year, although there may be seasonal onshore-offshore movements along the west coast of the continental United States (Loeb, 1972; Leatherwood and Fielding, 1974) and winter movements of populations out of areas with ice such as Prince William Sound (Hall, 1979).

As mentioned above, Dall's porpoise's use of Cook Inlet is rare. They have been sighted during NMFS aerial surveys in Cook Inlet conducted from 2000–2016 (Shelden *et al.,* 2017), although all sightings were in south Cook Inlet over 100 miles south of the Alaska LNG project area.

California Sea Lion

The breeding areas of the California sea lion are on islands located in southern California, western Baja California, and the Gulf of California. Mitochondrial DNA analysis identified five genetically distinct geographic populations: (1) Pacific Temperate, (2) Pacific Subtropical, (3) Southern Gulf of California, (4) Central Gulf of California and (5) Northern Gulf of California (Schramm *et al.,* 2009). In that study, the Pacific Temperate population included rookeries within U.S. waters and the Coronados Islands just south of U.S./Mexico border. Animals from the Pacific Temperate population range into Canadian waters, and movement of animals between U.S. waters and Baja California waters occurs. Males from western Baja California rookeries may spend most of the year in the United States.

California sea lions are very rare in Cook Inlet and typically are not observed farther north than southeast Alaska. However, NMFS' anecdotal sighting database contains four California sea lion sightings in Seward and Kachemak Bay. In addition, an industry survey report contains a sighting of two California sea lions in lower Cook Inlet; however, it is unclear if these animals were indeed California sea lions or mis-identified Steller sea lions (SAE, 2012). Regardless, in an abundance of caution, we have included take for California sea lions in the final IHA.

Steller Sea Lion

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.,* 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands. Individual sea lions disperse widely outside of the breeding season (late May–early July), probably to access seasonally important prey resources. This results in marked seasonal patterns of abundance in some parts of the range and potential for intermixing of eastern and western stock sea lions in foraging areas (Sease and York, 2003). Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) is low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.,* 2004; Hoffman *et al.,* 2006; Jemison *et al.,* 2013). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in Southeast Alaska (Pitcher *et al.,* 2007).

Steller sea lion in the vicinity of the AGDC project area is the Western U.S. stock, and its use of Cook Inlet is rare, but they have been sighted during NMFS aerial surveys in Cook Inlet conducted from 2000–2016 (Shelden *et al.,* 2017).

Harbor Seal

Harbor seals inhabit coastal and estuarine waters along the West Coast, including southeast Alaska west through the Gulf of Alaska and Aleutian Islands, in the Bering Sea and Pribilof Islands (Allen and Angliss, 2015). At more than 150,000 animals state-wide, harbor seals are one of the more common marine mammal species in Alaskan waters (Allen and Angliss, 2015). Harbor seals haul out on rocks, reefs, beaches, and drifting glacial ice (Allen and Angliss, 2015).

Large numbers of harbor seals concentrate at the river mouths and embayments of Lower Cook Inlet, including the Fox River mouth in Kachemak Bay (Rugh *et al.,* 2005). Montgomery *et al.* (2007) recorded over

200 haulout sites in Lower Cook Inlet alone. However, only a few hundred seals seasonally occur in Upper Cook Inlet (Rugh *et al.,* 2005; Shelden *et al.,* 2013), mostly at the mouth of the Susitna River where their numbers vary in concert with the spring eulachon and summer salmon runs (Nemeth *et al.,* 2007; Boveng *et al.,* 2012). In 2012, up to 83 harbor seals were observed hauled out at the mouths of the Theodore and Lewis rivers during April to May monitoring activity associated with a Cook Inlet seismic program (Brueggeman, 2007a). Montgomery *et al.* (2007) also found seals elsewhere in Cook Inlet to move in response to local steelhead (*Onchorhynchus mykiss*) and salmon runs. Recent industry monitoring programs in Lower and Middle Cook Inlet reported harbor seal sightings in all summer months, both in-water and on haulouts (Lomac-MacNair *et al.,* 2013, 2014; Kendall *et al.,* 2015). During summer, small numbers of harbor seals are expected to occur near the Marine Terminal construction area near Nikiski, and along the proposed Mainline pipeline crossing route.

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz;
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz; and
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Ten marine mammal species (7 cetacean and 3 pinniped (2 otariid and 1 phocid) species) have the reasonable potential to co-occur with the proposed construction activities. Please refer to Table 3. Of the cetacean species that may be present, three species are classified as low-frequency cetaceans (*i.e.,* gray, humpback, and fin whales), two are classified as mid-frequency cetaceans (killer and beluga whales), and two are classified as high-frequency cetaceans (*i.e.,* harbor and Dall's porpoise).

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis and Determination* section considers the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Potential impacts to marine mammals from the Alaska LNG project are from noise generated during in-water pile driving and anchor handling activities.

*Acoustic Effects*

Acoustic effects to marine mammals from the proposed Alaska LNG facilities construction mainly include behavioral disturbances and temporary masking of animals in the area. A few individual animals could experience mild levels of temporary and/or permanent hearing threshold shift.

The AGDC's LNG facilities construction project using in-water pile driving and anchor handling during trenching and pipe laying could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area.

*Threshold Shift (noise-induced loss of hearing)*—Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift (TS)—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of TS just after exposure is the initial TS. If the TS eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (TTS) (Southall *et al.,* 2007). When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced TS. An animal can experience TTS or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced

initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran, 2015). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Lucke *et al.* (2009) found a TS of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 micropascal (μPa), which corresponds to a sound exposure level (SEL) of 164.5 dB re: 1 $\mu Pa^2$ s after integrating exposure. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of root mean square (rms) SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley, *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. Therefore, based on these studies, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein and Jennings, 2012).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

*Masking*—In addition, chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals, which utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs at the frequency band that the animals utilize. Therefore, since noise generated from vibratory pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds by odontocetes (toothed whales). However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand, 2009). For AGDC's LNG facilities construction project, noises from pile driving contribute to the elevated ambient noise levels in the project area, thus increasing potential for or severity of masking. Baseline ambient noise levels in the vicinity of project area are high due to ongoing shipping, construction and other activities in Cook Inlet.

*Behavioral Disturbance*—Finally, marine mammals' exposure to certain sounds could lead to behavioral disturbance (Richardson *et al.,* 1995), such as changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007). Currently NMFS uses a received level of 160 dB re 1 μPa (rms) to predict the onset of behavioral disturbance from impulse noises (such as impact pile driving), and 120 dB re 1 μPa (rms) for continuous noises (such as vibratory pile driving). For the AGDC's LNG facilities construction project, both 160- and 120-dB levels are considered for effects analysis because AGDC plans to conduct both impact and vibratory pile driving.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects.

*Potential Effects on Marine Mammal Habitat*

Project activities that could potentially impact marine mammal habitats by causing acoustical injury to prey resources and disturbing benthic habitat include dredging/trenching, disposal of dredged material, and facility installation, as well as impacting marine mammal prey from noise generated by in-water pile driving.

Approximately 42 hectares (103 acres) would be disturbed directly by dredging of the Marine Terminal MOF and trenching for the Mainline crossing, and another 486 hectares (1,200 acres) would be disturbed by the disposal of dredged material. Approximately 26

hectares (64 acres) of seafloor would be disturbed by installation of the Marine Terminal MOF, Mainline MOF, and Mainline Crossing. Additional area would be indirectly affected by the re-deposition of sediments suspended in the water column by the dredging/trenching and dredge disposal. However, such disturbances are expected to be temporary and mild. Recovery and re-colonization of the benthic habitat are expected to occur as soon as any anthropogenic stressors are removed.

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.,* 1981) and possibly avoid predators (Wilson and Dill, 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993). In general, fish react more strongly to pulses of sound (such as noise from impact pile driving) rather than continuous signals (such as noise from vibratory pile driving) (Blaxter *et al.,* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

During the Alaska LNG facilities construction, only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term, and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on marine mammals' prey availability in the area where construction work is planned.

**Estimated Take by Incidental Harassment**

This section provides an estimate of the number of incidental takes proposed for authorization through this LOA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as noise generated from in-water pile driving (vibratory and impact) and anchor handling has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for low- and high-frequency species and phocids because predicted auditory injury zones are larger than for mid-frequency species and otariids. Auditory injury is unlikely to occur for mid-frequency species and otariids. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally disturbed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

*Acoustic Thresholds*

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to experience behavioral disturbance (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of Level B harassment. NMFS predicts that marine mammals are likely to experience behavioral disturbance in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Because AGDC's Alaska LNG facilities project involves the generation of non-impulsive (vibratory pile driving and anchor handling) and impulsive (impact pile driving) sources, both 120 and 160 dB re 1 μPa (rms) thresholds are used to evaluate Level B harassment as explained above.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). AGDC's Alaska LNG facilities project involves the generation of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and anchor handling) sources.

These thresholds are provided in the Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

| Hearing group | PTS onset thresholds | | Behavioral thresholds | |
|---|---|---|---|---|
| | Impulsive | Non-impulsive | Impulsive | Non-impulsive |
| Low-Frequency (LF) Cetaceans | $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB | $L_{E,LF,24h}$: 199 dB | $L_{rms,flat}$: 160 dB | $L_{rms,flat}$: 120 dB. |
| Mid-Frequency (MF) Cetaceans | $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB | $L_{E,MF,24h}$: 198 dB. | | |
| High-Frequency (HF) Cetaceans | $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB | $L_{E,HF,24h}$: 173 dB. | | |
| Phocid Pinnipeds (PW); (Underwater) | $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB | $L_{E,PW,24h}$: 201 dB. | | |
| Otariid Pinnipeds (OW); (Underwater) | $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB | $L_{E,OW,24h}$: 219 dB. | | |

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure (Lpk) has a reference value of 1 µPa, and cumulative sound exposure level (LE) has a reference value of 1µPa2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Source Levels

The project includes impact pile driving and vibratory pile driving and anchor handling associated with trenching and cable laying activities. Source levels of pile driving activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature (Caltrans, 2015). Based on this review, the following source levels are assumed for the underwater noise produced by construction activities:

- Source levels of impact driving of 18- and 24-in steel piles are based on those of 24-inch steel pile impact driving reported by California Department of Transportation (Caltrans) in a pile driving source level compendium document (Caltrans, 2015);
- Source levels of impact driving of 48- and 60-in steel piles is based on that of 48-in steel pile impact driving reported by Austin *et al.* (2016) on the Anchorage Port Modernization Project Test Pile Program;
- Source level of impact pile driving of steel sheet pile is based on that of 24-in steel AZ sheet pile impact driving reported in the Caltrans compendium (Caltrans, 2015);
- Source levels of vibratory pile driving of 18- and 24-in steel piles are based on that of 36-inch steel pile vibratory driving reported in the Caltrans compendium (Caltrans, 2015);
- Source levels of vibratory pile driving of 48- and 60-in steel piles are based on that of 72-inch steel pile vibratory driving reported in the Caltrans compendium (Caltrans, 2015);
- Source level of vibratory pile driving of steel sheet pile is based on that of 24-in steel AZ sheet pile vibratory driving reported in the Caltrans compendium (Caltrans, 2015); and
- Underwater sound levels associated with offshore pipelay and trenching operations when engaging thrusters and anchor handling were based on measurements by Blackwell and Greene (2003) of a tug pushing a full barge near the Port of Alaska when engaging thrusters during docking. The levels are calculated from measured 149 dB re 1 µPa rms at 100 meters/328 feet applying 15*log(r), which yield a source level of 179 dB re 1 µPa rms at 1 meter.

A summary of source levels from different pile driving activities is provided in Table 5.

TABLE 5—SUMMARY OF IN-WATER PILE DRIVING SOURCE LEVELS

[At 10 m from source]

| Method | Pile type/size | $SPL_{pk}$ (dB re 1 µPa) | $SPL_{rms}$ (dB re 1 µPa) | SEL (dB re 1 µPa$^2$-s) | Reference |
|---|---|---|---|---|---|
| Impact driving | 18-in steel pipe pile | 207 | 194 | 178 | Caltrans 2015. |
| Impact driving | 24-in steel pipe pile | 207 | 194 | 178 | Caltrans 2015. |
| Impact driving | 48-in steel pipe pile | 210 | 200 | 185 | Austin *et al.* 2016. |
| Impact driving | 60-in steel pipe pile | 210 | 200 | 185 | Austin *et al.* 2016. |
| Impact driving | Sheet pile | 205 | 190 | 180 | Caltrans 2015. |
| Vibratory driving | 18-in steel pipe pile | 180 | 170 | 170 | Caltrans 2015. |
| Vibratory driving | 24-in steel pipe pile | 180 | 170 | 170 | Caltrans 2015. |
| Vibratory driving | 48-in steel pipe pile | 183 | 170 | 170 | Caltrans 2015. |
| Vibratory driving | 60-in steel pipe pile | 183 | 170 | 170 | Caltrans 2015. |
| Vibratory driving | Sheet pile | 175 | 160 | 160 | Caltrans 2015. |
| Anchor handling and thruster. | | NA | 179 | 179 | Blackwell & Greene 2003. |

These source levels are used to compute the Level A harassment zones and to estimate the Level B harassment zones.

*Estimating Injury Zones*

When the NMFS' Technical Guidance (2016) was published, in recognition of

the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as in-water pile driving activities during the Alaska LNG project, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS.

For Level A harassment zones, since the peak source levels for both pile driving methods are below the injury thresholds, cumulative SEL ($L_E$) were used to do the calculations using the NMFS acoustic guidance (NMFS, 2018).

For cumulative SEL, distances to marine mammal injury thresholds were estimated using NMFS' Optional User Spreadsheet based on the noise exposure guidance. For impact pile driving, the single strike SEL/pulse equivalent was used, and for vibratory pile driving, the rms SPL source level was used. Per the NMFS Spreadsheet, default Weighting Factor Adjustments (WFA) were used for calculating PTS from both vibratory and impact pile driving, using 2.5 kHz and 2.0 kHz, respectively. These WFAs are acknowledged by NMFS as conservative. A transmission loss coefficient of 15 is used with reported source levels measured at 10m.

For dynamic positioning and anchor handling associated with mooring, trenching, and pipelaying, a transmission loss coefficient of 17.8 was used because these activities occur in deeper waters.

Isopleths to Level B behavioral zones are based on rms SPL ($SPL_{rms}$) that are specific for non-impulse (vibratory pile driving) sources. Distances to marine mammal behavior thresholds were calculated using practical spreading.

A summary of the measured and modeled harassment zones is provided in Table 6. In modeling transmission loss from the project area, the conventional assumption would be made that acoustic propagation from the source is impeded by natural and manmade features that extend into the water, resulting in acoustic shadows behind such features. For modeling ensonified areas, areas of half circles were calculated since the pile driving will occur next to shore, which blocks acoustic propagation in the shoreward direction.

TABLE 6—CALCULATED AREAS OF ZONE OF INFLUENCE AND MAXIMUM DISTANCES

| Year | Activity description | Impact only: Strikes/hr | Active piling hr/day | SL 10m SEL ($SPL_{rms}$) | Level A distance (m) (Level A area ($km^2$)) | | | | | Level B distance (m) (area ($km^2$)) |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | LF | MF | HF | PW | OW | |
| 1 | Vibratory drive 18″ pile | | 4.8 | 170 (170) | 77 (0.009) | 7 (0.000) | 114 (0.020) | 47 (0.003) | 3 (0.000) | 21,544 (728.71) |
| | Vibratory drive 60″ pile | | 4.8 | 170 (170) | 77 (0.009) | 7 (0.000) | 114 (0.020) | 47 (0.003) | 3 (0.000) | 21,544 (728.71) |
| | Vibratory sheet pile | | 4.8 | 160 (160) | 17 (0.000) | 1 (0.000) | 25 (0.001) | 10 (0.000) | 1 (0.000) | 4,642 (33.83) |
| 2 | Vibratory drive 18″ pile | | 4.8 | 170 (170) | 77 (0.009) | 7 (0.000) | 114 (0.020) | 47 (0.003) | 3 (0.000) | 21,544 (728.71) |
| | Impact drive 24″ pile | 1,560 | 3 | 178 (194) | 1,297 (2.641) | 46 (0.003) | 1,545 (3.75) | 694 (0.756) | 51 (0.004) | 1,848 (5.362) |
| | Impact drive 48″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Impact drive 60″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Vibratory sheet pile | | 4.8 | 160 (160) | 17 (0.000) | 1 (0.000) | 25 (0.001) | 10 (0.000) | 1 (0.000) | 4,642 (33.83) |
| 3 | Impact drive 48″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Impact drive 60″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Mooring & Pipe Trench | | 6 | 179 dB @ 1m | 0.2 (0.000) | 0.0 (0.000) | 0.1 (0.000) | 0.1 (0.000) | 0 (0.000) | 2,037 (13.029) |
| 4 | Impact drive 48″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Impact drive 60″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Pipe laying | | 6 | 179 dB @1m | 0.2 (0.000) | 0.0 (0.000) | 0.1 (0.000) | 0.1 (0.000) | 0 (0.000) | 2,037 (13.029) |
| 5 | Impact drive 48″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |
| | Impact drive 60″ pile | 1,560 | 3 | 185 (200) | 3,798 (22.647) | 135 (0.028) | 4,524 (32.132) | 2,033 (6.489) | 148 (0.034) | 4,642 (33,831) |

*LF: Low-Frequency Cetaceans; MF: Mid-Frequency Cetaceans; HF: High-Frequency Cetaceans; PW: Phocid Pinnipeds, Underwater; OW: Otariid Pinnipeds, Underwater.*

*Marine Mammal Occurrence*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

Density estimates were calculated for humpback, fin, gray, whales, and killer whales, harbor and Dall's porpoises, harbor seals, and Steller sea lions using aerial survey data collected by NMFS in Cook Inlet between 2000 and 2016. To estimate the average densities of marine mammals, the total number of animals for each species for each year observed over the 15-year survey period was divided by the total area surveyed each year.

For beluga whale, area-based densities were used based on NMFS aerial survey (Shelden *et al.,* 2017).

No density estimate is available for California sea lions. Therefore, its take number is derived from past observations in the general vicinity of the proposed project area.

Detailed description of the marine mammal density estimation is provided below.

Beluga Whale

To estimate the average density, the maximum number of individual beluga whales was divided by the area covered and the average across all years. The survey area can be separated into Upper, Middle, and Lower Cook Inlet, resulting in different densities for beluga whales in each area. Using these data, the appropriate density for beluga whales for the Mainline crossing and Mainline MOF is 0.00049 whales per square kilometer (middle Cook Inlet) and 0.00003 whales per square kilometer for the Marine Terminal (Lower Cook Inlet).

Goetz *et al.* (2012) modeled aerial survey data collected by NMFS between 1993 and 2008 and developed beluga whale summer densities for each 1-square-kilometer (0.4-square-mile) cell of Cook Inlet. Given the clumped and distinct distribution of beluga whales in Cook Inlet during the summer months, these results provide a more precise estimate of beluga whale density at a given location than multiplying all aerial observations by the total survey effort. To develop a density estimate associated with planned survey areas, the ensonified area associated with each activity was overlain on a map of the 1-square-kilometer (0.4-square-mile) density cells. The cells falling within

each ensonified area were quantified, and an average cell density was calculated. Figure 9 in the LOA application shows the Goetz *et al.* (2012) distribution with project components.

A summary of beluga whale density estimates in different regions of Cook Inlet is provided in Table 23 of the LOA application.

Marine Mammals Other Than Beluga Whales and California Sea Lions.

Table 7 summarizes the maximum number of marine mammals, other than beluga whales and California sea lions, observed each year during the NMFS Annual Aerial Surveys and the area covered. To estimate the average density, the maximum number of individuals per species was divided by the area covered and the average across all years was used for each species. The total number of animals observed accounts for the entire Cook Inlet, which is a higher density estimate than anticipated for the Lower Cook Inlet area. The raw densities were not corrected for animals missed during the aerial surveys as no accurate correction factors are currently available for these species; however, observer error may be limited as the NMFS surveyors often circled marine mammal groups to get an accurate count of group size.

TABLE 7—SIGHTING AND DENSITIES OF MARINE MAMMALS OTHER THAN BELUGA WHALE DURING NMFS AERIAL SURVEY BETWEEN 2000 AND 2016

| Species | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2014 | 2016 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Humpback whale* | 11 | 26 | 20 | 20 | 16 | 18 | 14 | 3 | 7 | 5 | 2 | 9 | 1 | 11 | 6 |
| *Fin whale* | 0 | 2 | 0 | 16 | 3 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 1 |
| *Gray whale* | 2 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| *Killer whale* | 0 | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 33 | 0 | 9 | 0 | 0 |
| *Harbor porpoise* | 29 | 26 | 0 | 0 | 101 | 2 | 0 | 4 | 6 | 42 | 10 | 31 | 11 | 128 | 17 |
| *Dall's porpoise* | 17 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| *Harbor seal* | 1,800 | 672 | 1,481 | 974 | 975 | 633 | 887 | 393 | 1,219 | 387 | 543 | 1,747 | 1,772 | 2,115 | 1,909 |
| *Steller sea lion* | 10 | 35 | 54 | 77 | 1 | 104 | 83 | 0 | 75 | 39 | 1 | 100 | 65 | 43 | 71 |
| Area surveyed ($km^2$) | 6,911 | 5,445 | 5,445 | 5,236 | 6,492 | 5,445 | 6,702 | 5,236 | 7,121 | 5,864 | 6,074 | 6,702 | 6,283 | 6,702 | 8,377 |
| **Density estimates ($x10^{-3}$ individuals/$km^2$)** | | | | | | | | | | | | | | | |
| *Humpback whale* | 1.59 | 4.78 | 3.67 | 3.82 | 2.46 | 3.31 | 2.09 | 0.57 | 0.98 | 0.85 | 0.33 | 1.34 | 0.16 | 1.64 | 0.72 |
| *Fin whale* | 0.00 | 0.37 | 0.00 | 3.06 | 0.46 | 0.37 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.58 | 0.12 |
| *Gray whale* | 0.29 | 0.37 | 0.00 | 0.00 | 0.00 | 0.37 | 0.00 | 0.00 | 0.00 | 0.17 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| *Killer whale* | 0.00 | 2.76 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5.43 | 0.00 | 1.43 | 0.00 | 0.00 |
| *Harbor porpoise* | 4.20 | 4.78 | 0.00 | 0.00 | 15.6 | 3.67 | 0.00 | 0.76 | 0.84 | 7.16 | 1.65 | 4.63 | 1.75 | 19.1 | 2.03 |
| *Dall's porpoise* | 2.46 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| *Harbor seal* | 260 | 123 | 272 | 186 | 150 | 116 | 132 | 75.1 | 171 | 66.0 | 89.4 | 261 | 282 | 316 | 228 |
| *Steller sea lion* | 1.45 | 6.43 | 9.92 | 14.7 | 0.15 | 19.1 | 12,4 | 0.00 | 10.5 | 6.65 | 0.17 | 14.9 | 10.3 | 6.42 | 8.48 |

Harbor Seal

The average raw density for harbor seals was originally calculated in the same manner as humpback whales, harbor porpoises, and killer whales in method 1, but resulted in an unrealistically inflated density of 0.18190 seals per square kilometer. This inflated density is due to bias created by the large number of hauled out harbor seals at river mouths in the NMFS aerial survey database relative to offshore densities.

An alternative harbor seal density estimate was developed (method 2) by taking the highest number of hauled out seals recorded during the NMFS aerial survey (650 seals) and dividing it by the area of Upper Cook Inlet (3,833 square kilometers) resulting in a density of 0.1695 seals per square kilometers. This represents the density for the month of June, when the aerial surveys were conducted, the period during which the harbor seal presence (and eulachon run) in Upper Cook Inlet is at its peak. NMFS has recognized that harbor seal density estimates derived from both methods above are inflated, especially given that only about 2.2 seals were observed per 24-hour period by Lomac-MacNair *et al.* (2013, 2014) during seismic surveys in previous years in Upper Cook Inlet. Density determined using method 2 (Table 8) was considered to be more accurate and thus was used to calculate the number of exposures for the analysis.

A summary of marine mammal densities other than California sea lion is provided in Table 8.

TABLE 8—MARINE MAMMAL DENSITY ESTIMATES FOR COOK INLET

| Species | Mean density (animals/$km^2$) |
|---|---|
| Beluga whale (Marine Terminal) [a] | 0.000158 |
| Beluga whale (Mainline Crossing) [a] | 0.0107 |
| Beluga whale (Mainline MOF) [a] | 0.0368 |
| Killer whale [b c] | 0.00064 |
| Humpback whale [b] | 0.00189 |
| Fin whale [b] | 0.00033 |
| Gray whale [b] | 0.00000 |
| Harbor porpoise [b] | 0.00419 |
| Dall's porpoise [b] | 0.00016 |
| Harbor seal (method 1) [c] | 0.18190 |
| Harbor seal (method 2) [d] | 0.01695 |
| Steller sea lion [b] | 0.00811 |

[a] Beluga densities were based on average density near facility from Goetz *et al.* (2012).

[b] Densities calculated by dividing number of animals NMFS observed over 11 years of surveys divided by total area surveyed.

[c] Killer whale density is for all killer whales regardless of stock.

[d] Density calculated as highest number of hauled out seals recorded during the NMFS aerial survey divided by area of Upper Cook Inlet; this method was selected for use in exposure calculation.

California Sea Lion

California sea lion is uncommon in the Alaska LNG project area. However, at least one California sea lion was observed during Apache's 2012 seismic surveys (Apache, 2012). Thus, the potential encountering of this species is qualitatively assessed, below.

*Take Calculation and Estimation*

Here we describe how the information provided above is brought together to produce a quantitative take estimate. For all marine mammals except California sea lions, estimated takes are calculated based on ensonified area for a specific pile driving activity multiplied by the marine mammal density in the action area, multiplied by the number of pile driving days. Distances to and areas of different harassment zones are listed in Table 6.

For both Level A and Level B harassment, take calculations and assumptions are as follows:

- Number of takes per activity = density (average number of animals per km$^2$) * area of ZOI (km$^2$) * number of days, rounded to the nearest whole number;
- Marine mammal densities in the project area are provided in Table 8;
- The number of days for each activity component is provided in Table 1; and
- Takes by Level A and Level B harassment are calculated separately based on the respective ZOIs for each type of activity, providing a maximum estimate for each type of take which corresponds to the authorization requested under the MMPA.

Take numbers based on the above calculation are further adjusted upwards for some species to count for group size, historical sighting (Table 7), and larger Level A harassment zones for such species (Table 6).

Take numbers for California sea lions are based on an observation of at least one animal during Apache's 2012 seismic surveys (Apache, 2012), and adjusted to account for group size.

The estimated numbers of instances of acoustic harassment (takes) by year, species and severity (Level A or Level B) are shown in Table 9.

TABLE 9—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED NOISE LEVELS THAT CAUSE LEVEL A AND LEVEL B HARASSMENT

[Numbers in parentheses are proposed take numbers that are adjusted to count for group size, historical sighting, and larger Level A harassment zones]

| Year | Species | Estimated Level A take | Estimated Level B take | Estimated total take | Abundance | Percentage (instances take versus abundance) |
|---|---|---|---|---|---|---|
| 1 | Humpback whale | 0 | 24 | 24 | 10,103 | 0.24 |
| | Fin whale | 0 | 4 (10) | 4 (10) | 916 | 1.09 |
| | Gray whale | 0 | 1 (5) | 1 (5) | 20,990 | 0.02 |
| | Killer whale | 0 | 8 (10) | 8 (10) | 2,347 | 0.43 |
| | Beluga whale | 0 | 2 (20) | 2 (20) | 312 | 6.41 |
| | Harbor porpoise | 0 (5) | 54 | 54 (59) | 31,046 | 0.19 |
| | Dall's porpoise | 0 (5) | 2 (10) | 2 (15) | 83,400 | 0.02 |
| | Harbor seal | 0 (20) | 219 | 219 (239) | 27,386 | 0.87 |
| | Steller sea lion | 0 (10) | 105 | 105 (115) | 53,303 | 0.22 |
| | California sea lion | (10) | (50) | (60) | 296,750 | 0.02 |
| 2 | Humpback whale | 1 (2) | 16 | 17 (18) | 10,103 | 0.18 |
| | Fin whale | 0 | 3 (10) | 3 (10) | 916 | 1.09 |
| | Gray whale | 0 | 1 (5) | 1 (5) | 20,990 | 0.02 |
| | Killer whale | 0 | 5 (10) | 5 (10) | 2,347 | 0.43 |
| | Beluga whale | 0 | 1 (20) | 1 (20) | 312 | 6.41 |
| | Harbor porpoise | 3 (5) | 36 | 39 (41) | 31,046 | 0.13 |
| | Dall's porpoise | 0 (5) | 1 (10) | 1 (15) | 83,400 | 0.02 |
| | Harbor seal | 2 (20) | 145 | 147 (165) | 27,386 | 0.60 |
| | Steller sea lion | 0 (10) | 70 | 70 (80) | 53,303 | 0.15 |
| | California sea lion | (10) | (50) | (60) | 296,750 | 0.02 |
| 3 | Humpback whale | 1 (2) | 1 (10) | 2 (12) | 10,103 | 0.12 |
| | Fin whale | 0 | 0 (10) | 0 (10) | 916 | 1.09 |
| | Gray whale | 0 | 0 (5) | 0 (5) | 20,990 | 0.02 |
| | Killer whale | 0 | 1 (10) | 1 (10) | 2,347 | 0.43 |
| | Beluga whale | 0 | 3 (20) | 3 (20) | 312 | 6.41 |
| | Harbor porpoise | 3 (10) | 1 (20) | 4 (30) | 31,046 | 0.10 |
| | Dall's porpoise | 0 (5) | 0 (10) | 0 (15) | 83,400 | 0.02 |
| | Harbor seal | 2 (20) | 14 (50) | 16 (70) | 27,386 | 0.26 |
| | Steller sea lion | 0 (10) | 8 (50) | 8 (60) | 53,303 | 0.11 |
| | California sea lion | (5) | (10) | (15) | 296,750 | 0.01 |
| 4 | Humpback whale | 0 | 2 (10) | 2 (10) | 10,103 | 0.10 |
| | Fin whale | 0 | 0 (10) | 0 (10) | 916 | 1.09 |
| | Gray whale | 0 | 0 (5) | 0 (5) | 20,990 | 0.02 |
| | Killer whale | 0 | 1 (10) | 1 (10) | 2,347 | 0.43 |
| | Beluga whale | 0 | 7 (20) | 7 (20) | 312 | 6.41 |
| | Harbor porpoise | 2 (10) | 3 (20) | 5 (30) | 31,046 | 0.10 |
| | Dall's porpoise | 0 (5) | 0 (10) | 0 (15) | 83,400 | 0.02 |
| | Harbor seal | 2 (20) | 19 (50) | 21 (70) | 27,386 | 0.26 |
| | Steller sea lion | 0 (10) | 10 (50) | 10 (60) | 53,303 | 0.11 |
| | California sea lion | (5) | (10) | (15) | 296,750 | 0.01 |
| 5 | Humpback whale | 0 | 0 (10) | 0 (10) | 10,103 | 0.10 |
| | Fin whale | 0 | 0 (10) | 0 (10) | 916 | 1.09 |
| | Gray whale | 0 | 0 (5) | 0 (5) | 20,990 | 0.02 |
| | Killer whale | 0 | 0 (10) | 0 (10) | 2,347 | 0.43 |
| | Beluga whale | 0 | 0 (20) | 0 (20) | 312 | 6.41 |
| | Harbor porpoise | 1 (10) | 0 (20) | 1 (30) | 31,046 | 0.10 |
| | Dall's porpoise | 0 (5) | 0 (10) | 0 (15) | 83,400 | 0.02 |
| | Harbor seal | 1 (10) | 5 (20) | 6 (30) | 27,386 | 0.11 |
| | Steller sea lion | 0 (5) | 0 (10) | 0 (15) | 53,303 | 0.03 |
| | California sea lion | (5) | (10) | (15) | 296,750 | 0.01 |

**Proposed Mitigation**

In order to issue an LOA under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

*Time Restriction*

For pile driving, work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. Other construction activities, such as pipelay, anchor handling, and dredging could occur outside of daylight hours or during periods of low visibility.

*Establishing and Monitoring Level A and Level B Harassment Zones, and Exclusion Zones*

Before the commencement of in-water construction activities, which include impact pile driving and vibratory pile driving, AGDC must establish Level A harassment zones where received underwater $SEL_{cum}$ could cause PTS (see Table 6 above).

AGDC must also establish Level B harassment zones where received underwater SPLs are higher than 160 $dB_{rms}$ re 1 µPa for impulsive noise sources (impact pile driving) and 120 $dB_{rms}$ re 1 µPa for non-impulsive noise sources (vibratory pile driving).

NFMS proposes that AGDC establish exclusion zones for all mid-frequency cetaceans (*i.e.,* beluga and killer whales) based on the Level A harassment distances provided in Table 6, but not less than 10 m. The largest shutdown zone is 135 m from the source for impact pile driving of 48- and 60-in steel piles.

NFMS proposes that AGDC establish exclusion zones for all low- and high-frequency cetaceans and phocids (*i.e.,* humpback, fin, and gray whales, harbor and Dall's porpoises, and harbor seal) based on the Level A harassment distances (Table 6) that are shorter than 500 m. For Level A harassment distances beyond 500 m, a maximum 500 m exclusion zone should be established.

NFMS proposes that AGDC establish exclusion zones for otariids (*i.e.,* Steller and California sea lions) based on the Level A harassment distances provided in Table 6, but not smaller than 10 m. The largest shutdown zone is 150 m from the source, which corresponds to the Level A harassment distance of 148 m from impact pile driving of 48- and 60-in steel piles.

In all cases, a minimum of 10-m exclusion zone must be established if the actual Level A harassment distances are less than 10 m.

A summary of exclusion zones is provided in Table 10.

If marine mammals are found within the exclusion zone, pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 30 minutes for large cetaceans (baleen whales) and 15 minutes for small cetaceans (beluga and killer whales and porpoises) and pinnipeds. If no marine mammals of that species are seen by the observer in that time it can be assumed that the animal has moved beyond the exclusion zone.

TABLE 10—MARINE MAMMAL EXCLUSION ZONES

| Pile driving activities | Exclusion distances (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency cetacean | Mid-frequency cetacean | High-frequency cetacean | Pinniped in water | Otariid in water |
| Vibratory drive 18″ pile | 80 | 10 | 115 | 50 | 10 |
| Vibratory drive 60″ pile | 80 | 10 | 115 | 50 | 10 |
| Vibratory sheet pile | 20 | 10 | 25 | 10 | 10 |
| Impact drive 24″ pile | 500 | 50 | 500 | 500 | 55 |
| Impact drive 48″ pile | 500 | 135 | 500 | 500 | 150 |
| Impact drive 60″ pile | 500 | 135 | 500 | 500 | 150 |
| Impact sheet pile | 500 | 65 | 500 | 500 | 70 |

LF: Low-Frequency Cetaceans; MF: Mid-Frequency Cetaceans; HF: High-Frequency Cetaceans; PW: Phocid Pinnipeds, Underwater; OW: Otariid Pinnipeds, Underwater.

If pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated exclusion zone prior to commencement of pile driving, the observer(s) must notify the pile driving operator (or other authorized individual) immediately and continue to monitor the exclusion zone. Operations may not resume until the marine mammal has exited the exclusion zone or 30 minutes have elapsed for large cetaceans or 15 minutes have elapsed for small cetaceans and pinnipeds since the last sighting.

*Shutdown Measures*

AGDC must implement shutdown measures if a marine mammal is detected moving towards or entered exclusion zones listed in Table 10.

Further, AGDC must implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the LOA (if issued) and such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

*Soft Start*

AGDC must implement soft start techniques for impact pile driving. AGDC must conduct an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three strike sets. Soft start must be required for any impact driving, including at the beginning of the day, and at any time following a cessation of impact pile driving of thirty minutes or longer.

Whenever there has been downtime of 30 minutes or more without impact driving, the contractor must initiate impact driving with soft-start procedures described above.

Based on our evaluation of the required measures, NMFS has preliminarily determined that the prescribed mitigation measures provide the means 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.

**Proposed Monitoring and Reporting**

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) state that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

*Proposed Monitoring Measures*

AGDC must employ trained protected species observers (PSOs) to conduct marine mammal monitoring for its Alaska LNG facilities construction project. The purposes of marine mammal monitoring are to implement mitigation measures and learn more about impacts to marine mammals from the AGDC's construction activities. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all construction work.

Protected Species Observer Qualifications

NMFS-approved PSOs must meet the following requirements:

1. Independent observers (*i.e.,* not construction personnel) are required;

2. At least one observer must have prior experience working as an observer;

3. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;

4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

5. NMFS will require submission and approval of observer CVs.

Marine Mammal Monitoring Protocols

AGDC must conduct briefings between construction supervisors and crews and the PSO team prior to the start of all pile driving activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

A PSO must not work continuously for more than 4 hours without rotation.

PSOs must be able to detect and provide distance and bearing information on marine mammal sightings using the following methods:

- During all observation periods, PSOs will use high-magnification (25X), as well as standard handheld (7X) binoculars, and the naked eye to search continuously for marine mammals;
- Monitoring distances will be measured with range finders. Distances to animals will be based on the best estimate of the PSO, relative to known distances to objects in the vicinity of the PSO;
- Bearings to animals will be determined using a compass;

For marine mammal monitoring during in-water pile driving activities:

- PSOs will be located at appropriate, safe vantage point(s) to be able to observe the entire exclusion zones(s) in order to implement shutdown measures when needed;
- In-water pile driving must only take place when the exclusion and Level A harassment zones are visible and can be adequately monitored. If conditions (*e.g.,* fog) prevent the visual detection of marine mammals, activities with the potential to result in Level A harassment must not be initiated. If such conditions arise after the activity has begun, impact pile driving would be halted but vibratory pile driving or extraction would be allowed to continue;
- Number and locations of PSOs posted for marine mammal monitoring during pile driving must be based on the harassment zone sizes listed in Table 6, as described below:
- For Level A harassment zones with radii less than 150 m, 2 PSOs will be monitoring from land;
- For Level A harassment zones with radii larger than 150 m but smaller than 1,000 m, 4 PSOs will be monitoring from land;
- For Level A harassment zones with radii larger than 1,000 m, 6 PSOs will be monitoring from land; and

• Pre-Activity Monitoring:

The exclusion zone will be monitored for 30 minutes prior to in-water construction/demolition activities. If a marine mammal is present within the exclusion zones specified in Table 10, the activity will be delayed until the animal(s) leave the exclusion zone. Activity will resume only after the PSO has determined that, through sighting or by waiting 15 or 30 minutes, depending on the marine mammal species as described above, the animal(s) has moved outside the exclusion zone. If a marine mammal is observed approaching the exclusion zone, the PSO who sighted that animal will notify all other PSOs of its presence.

• During Activity Monitoring:

If a marine mammal is observed entering the Level A or Level B harassment zones but remains outside the exclusion zone, the pile segment being worked on will be completed without cessation, unless the animal enters or approaches the exclusion zone, at which point all pile driving activities will be halted. If an animal is observed within the exclusion zone during pile driving, then pile driving will be stopped as soon as it is safe to do so. Pile driving can only resume once the animal has left the exclusion zone of its own volition or has not been re-sighted for a period of 15 or 30 minutes, depending on the marine mammal species as described above.

• Post-Activity Monitoring:

Monitoring of all zones will continue for 30 minutes following the completion of the activity.

For marine mammal monitoring during pipe laying activities:

• At least one PSO will be on the barge and on watch during pipe laying activities.

PSOs must collect the following information during marine mammal monitoring:

• Date and time that monitored activity begins and ends for each day conducted (monitoring period);

• Construction activities occurring during each daily observation period, including how many and what type of piles driven and distances covered during pipe laying;

• Deviation from initial proposal in pile numbers, pile types, average driving times, and pipe laying distances, etc.;

• Weather parameters in each monitoring period (*e.g.,* wind speed, percent cloud cover, visibility);

• Water conditions in each monitoring period (*e.g.,* sea state, tide state);

• For each marine mammal sighting:

○ Species, numbers, and, if possible, sex and age class of marine mammals;

○ Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving and pipe laying activities, and notable changes in patterns;

○ Location and distance from pile driving and pipe laying activities to marine mammals and distance from the marine mammals to the observation point; and

○ Estimated amount of time that the animals remained in the Level A and/or Level B harassment zones;

• Description of implementation of mitigation measures within each monitoring period (*e.g.,* shutdown or delay); and

• Other human activity in the area within each monitoring period.

*Reporting Measures*

AGDC is required to submit an annual report within 90 days after each activity year, starting from the date when the LOA is issued (for the first annual report) or from the date when the previous annual report ended. These reports would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed during the period of the report. NMFS would provide comments within 30 days after receiving these reports, and AGDC should address the comments and submit revisions within 30 days after receiving NMFS comments. If no comment is received from NMFS within 30 days, the annual report is considered completed.

AGDC is also required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the final LOA (if issued), whichever comes earlier. This report would synthesize all data recorded during marine mammal monitoring, and estimate the number of marine mammals that may have been harassed through the entire project. NMFS would provide comments within 30 days after receiving this report, and AGDC should address the comments and submit revisions within 30 days after receiving NMFS comments. If no comment is received from NMFS within 30 days, the monitoring report is considered as final.

In addition, NMFS would require AGDC to notify NMFS' Office of Protected Resources and NMFS' Alaska Stranding Coordinator within 24 hours of sighting an injured or dead marine mammal in the construction site. AGDC 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 AGDC finds an injured or dead marine mammal that is not in the construction area, AGDC would report the same information as listed above to NMFS as soon as operationally feasible.

**Negligible Impact Analysis and Determination**

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to the species listed in Table 3, given that the anticipated effects of AGDC's Alaska LNG facilities construction project activities involving pile driving and pipe laying on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis by species for this activity, or else species-specific factors would be identified and analyzed.

Cook Inlet beluga whales, humpback whales, fin whales, and the western stock of Steller sea lions are listed as endangered under the ESA. These stocks are also considered depleted under the MMPA. The estimated annual rate of decline for Cook Inlet beluga whales was 0.6 percent between 2002 and 2012. Zerbini *et al.* (2006) estimated rates of increase of fin whales in coastal waters south of the Alaska, and data from Calambokidis *et al.* (2008) suggest the population of humpback whales may also be increasing. Steller sea lion trends for the western stock are variable throughout the region with some decreasing and others remaining stable or even indicating slight increases. The other species that may be taken by harassment during AGDC's LNG facilities construction project are not listed as threatened or endangered under the ESA nor as depleted under the MMPA.

Although a few individual marine mammals (up to 2 humpback whales, 10 harbor porpoises, 5 Dall's porpoises, 20 harbor seals, and 10 Steller and California sea lions) are estimated to experience Level A harassment in the form of PTS if they stay within the Level A harassment zone during the entire pile driving for the day, the degree of injury that might occur would be expected to be mild and not likely to affect the reproduction or survival of the individual animals. It is expected that, if hearing impairments occur, most likely the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment. Hearing impairment that might occur for these individual animals would be limited to the dominant frequency of the noise sources, *i.e.,* in the low-frequency region below 2 kHz. Nevertheless, as for all marine mammal species, it is known that in general these marine mammals will avoid areas where sound levels could cause hearing impairment. Therefore, it is not likely that an animal would stay in an area with intense noise that could cause severe hearing damage.

Under the majority of the circumstances, anticipated takes are expected to be limited to short-term Level B harassment. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving. Given the limited estimated number of incidents of Level A and Level B harassment and the limited, short-term nature of the responses by the individuals, the impacts of the estimated take cannot be reasonably expected to, and are not reasonably likely to, rise to the level that they would adversely affect any marine mammal species at the population level, through effects on annual rates of recruitment or survival.

Mitigation measures such as dedicated marine mammal observers, pre-construction exclusion zone clearance, soft-start, and shutdown measures when marine mammals are seen within the exclusion zones reduce short-term reactions and minimize any effects on hearing sensitivity. In all cases, the effects of these activities are expected to be short-term, with no lasting biological consequence. Therefore, the exposure of marine mammals to sounds produced by AGDC's LNG facilities construction activities is not anticipated to have an effect on annual rates of recruitment or survival of the affected species or stocks.

The area where the activities will take place is within the Cook Inlet beluga whale critical habitat. Satellite-tagging studies and aerial survey indicate that seasonal shifts exist in Cook Inlet beluga whale distribution, with the whales spending a great percentage of time in coastal areas during the summer and early fall (June through October or November), and dispersing to larger ranges that extend to the middle of the inlet in winter and spring (November or December through May) (Hansen and Hubbard, 1999; Rugh *et al.,* 2004; Hobbs *et al.,* 2005; Goetz *et al.,* 2012). However, fine scale modeling based on NMFS long-term aerial survey data indicate that the AGDC's proposed LNG facilities construction does not overlap with beluga whale high density areas during the summer and fall (Goetz *et al.,* 2012).

There are no known important habitats, such as rookeries or haulouts, in the vicinity of the AGDC's LNG facilities construction project for other marine mammal species. The project also is not expected to have significant adverse effects on affected marine mammals' habitat, including prey, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Injury—a small individuals of humpback whales, harbor porpoises, Dall's porpoises, harbor seals, and Steller and California sea lions could experience mild level of PTS as a form of injury. However, as mentioned earlier in this section, the level of PTS is expected to be small;
- TTS—a small individuals of marine mammals could experience mild level of TTS before the threshold shifts become permanent. However, most of the TTS effects are expected to be brief in duration, and will not progress into PTS;
- Behavioral disturbance—most of the noise effects on marine mammals are expected to be in the form of behavioral disturbance. However, such effects are expected to be in short duration, within the day during the construction activities when the animal is nearby. As construction activities only occur for a maximum of 12 hours during daylight hours between April and October of the year, marine mammals in the project area will not be subject to chronic exposure of construction noise; and
- Important Areas—the area where the activities will take place is within the Cook Inlet beluga whale critical habitat. However, fine scale modeling based on NMFS long-term aerial survey data indicate that the AGDC's proposed LNG facilities construction does not overlap with beluga whale high density areas during the summer and fall.

Species/Stock scale—based on our analysis, only a small percentage of marine mammals is expected to be harassed during the Alaska LNG facilities construction. The maximum percentage of population that could be affected for all marine mammal species is under 7 percent for the beluga whale. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

**Small Numbers**

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(A) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals.

The estimated takes are below at most seven percent of the population for all marine mammals (Table 9).

Based on the analysis contained herein of the proposed activity (including the prescribed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

In order to issue an LOA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The project is unlikely to affect beluga whale harvests because no beluga harvest will take place in 2019, nor is one likely to occur in the other years that would be covered by the 5-year regulations and associated LOAs. Additionally, the proposed action area is not an important native subsistence site for other subsistence species of marine mammals. Also, because of the relatively small proportion of marine mammals utilizing Cook Inlet, the number harvested is expected to be extremely low. Therefore, because the proposed program would result in only temporary disturbances, the program would not impact the availability of these other marine mammal species for subsistence uses.

The timing and location of subsistence harvest of Cook Inlet harbor seals may coincide with AGDC's project, but because this subsistence hunt is conducted opportunistically and at such a low level that totals approximately 50 harbor seals and fewer than 10 Steller sea lions in a typical year (NMFS, 2013c), AGDC's program is not expected to have an impact on the subsistence use of harbor seals.

NMFS anticipates that any effects from AGDC's proposed activities on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks will reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from AGDC's proposed activities.

**Adaptive Management**

The regulations governing the take of marine mammals incidental to AGDC's proposed LNG facilities construction activities would contain an adaptive management component.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from AGDC regarding practicability) on an annual basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

**Endangered Species Act (ESA)**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of LOAs, NMFS consults internally, in this case with the NMFS Alaska Region Protected Resources Division, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of Cook Inlet beluga whale, Northeastern Pacific stock of fin whales, Western North Pacific DPS of humpback whales, and western DPS of Steller sea lions, which are listed under the ESA.

The Permit and Conservation Division has requested initiation of Section 7 consultation with the Alaska Region for the promulgation of 5-year regulations and the subsequent issuance of annual LOAs. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

**Classification**

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The AGDC is the only entity that would be subject to the requirements in these proposed regulations. During construction, AGDC would employ or contract thousands of people and the Alaska LNG Project would generate a market value in the billions of dollars. Therefore, AGDC is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, an initial regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor must a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork

Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This proposed rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

**List of Subjects in 50 CFR Part 217**

Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: June 10, 2019.

**Samuel D. Rauch III,**

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

For reasons set forth in the preamble, 50 CFR part 217 is proposed to be amended as follows:

## PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*

■ 2. Add subpart E to part 217 to read as follows:

### Subpart E—Taking and Importing Marine Mammals; Alaska Gasline Development Corporation Liquefied Natural Gas Facilities Construction

Sec.

217.40 Specified activity and specified geographical region.
217.41 Effective dates.
217.42 Permissible methods of taking.
217.43 Prohibitions.
217.44 Mitigation requirements.
217.45 Requirements for monitoring and reporting.
217.46 Letters of Authorization.
217.47 Renewals and modifications of Letters of Authorization.
217.48—217.49 [Reserved]

### Subpart E—Taking and Importing Marine Mammals; Alaska Gasline Development Corporation Liquefied Natural Gas Facilities Construction

#### § 217.40 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Alaska Gasline Development Corporation (AGDC) or successor entities and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by AGDC may be authorized in a Letter of Authorization (LOA) only if it occurs within AGDC's Alaska liquefied natural gas (LNG) facilities' construction areas, which are located between the Beluga Landing shoreline crossing on the north and the Kenai River south of Nikiski on the south in Cook Inlet, Alaska.

(c) The taking of marine mammals during this project is only authorized if it occurs incidental to construction activities associated with the proposed LNG facilities or the Mainline crossing of Cook Inlet.

#### § 217.41 Effective dates.

Regulations in this subpart are effective [*DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE*] through [*DATE 5 YEARS AND 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE*].

#### § 217.42 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 217.46, the Holder of the LOAs (hereinafter ''AGDC'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.40(b) by Level A harassment and Level B harassment associated with pile driving and pipe laying activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOAs.

#### § 217.43 Prohibitions.

Notwithstanding takings contemplated in § 217.42 and authorized by LOAs issued under §§ 216.106 of this chapter and 217.46, no person in connection with the activities described in § 217.40 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.46;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if NMFS determines such taking results in an unmitigable adverse impact on the availability of such species or stock of marine mammal for taking for subsistence uses.

#### § 217.44 Mitigation requirements.

When conducting the activities identified in § 217.40(c), the mitigation measures contained in any LOAs issued under §§ 216.106 of this chapter and 217.46 must be implemented. These mitigation measures must include but are not limited to:

(a) *Time restriction.* In-water pile driving must occur only during daylight hours. Times for other construction activities, such as pipelay, anchor handling, and dredging are not restricted.

(b) *Establishment of monitoring and exclusion zones.* (1) For all relevant in-water construction activity, AGDC must designate Level A harassment zones with radial distances as identified in any LOA issued under §§ 216.106 of this chapter and 217.46.

(2) For all relevant in-water construction activity, AGDC must designate Level B harassment zones with radial distances as identified in any LOA issued under §§ 216.106 of this chapter and 217.46.

(3) For all in-water pile driving work, AGDC must implement a shutdown zone for each specific activity as identified in any LOA issued under §§ 216.106 of this chapter and 217.46. If a marine mammal comes within or enters the shutdown zone, AGDC must cease all operations.

(i) For mid-frequency cetaceans and otariids during in-water pile driving activity, the exclusion zones must be based on the Level A harassment distances, but must not be less than 10 m from the pile.

(ii) For low- and high-frequency cetaceans and phocids during in-water pile driving activity, if the species' Level A harassment distance is less than 500 m, the exclusion zone must match that distance.

(iii) For low- and high-frequency cetaceans and phocids during in-water pile driving activity, if the species' Level A harassment distance is greater than 500 m, the exclusion zone must be 500 m from the pile.

(c) *Monitor of exclusion zones.* Pile driving must only take place when the exclusion zones are visible and can be adequately monitored. If conditions (*e.g.,* fog) prevent the visual detection of marine mammals within the exclusion zones, AGDC must not initiate activities. If such conditions arise after the activity has begun, AGDC must halt impact pile driving, but vibratory pile driving and extraction could continue.

(d) *Shutdown measures.* (1) AGDC must deploy protected species observers (PSOs) to monitor marine mammals during in-water pile driving and pipe laying activities.

(2) Monitoring must take place from 30 minutes prior to initiation of pile driving or pipe laying activities through

30 minutes post-completion of pile driving or pipe laying activities.

(i) For pile driving activity, pre-activity monitoring must be conducted for 30 minutes to confirm that the shutdown zone is clear of marine mammals, and pile driving may commence only if observers have declared the shutdown zone clear of marine mammals for that full duration of time. Monitoring must occur throughout the time required to drive a pile. 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).

(ii) [Reserved]

(3) If a marine mammal authorized to be taken by Level B harassment enters or approaches the shutdown zone, if a marine mammal not specified in the LOAs enters the Level B harassment zone, or if the take of a marine mammal species or stock has reached the take limits specified in any LOA issued under § 216.106 of this chapter and § 217.46 and enters the Level B harassment zone, AGDC must halt all construction activities at that location. If construction is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown or Level B harassment zone, whichever applicable, or 30 minutes have passed without re-detection of the animal if it is a larger cetacean (humpback, fin, or gray whales), or 15 minutes have passed without re-detection of the animal if it is a small cetacean (beluga and killer whales and porpoises) or pinniped.

(4) AGDC must implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the applicable LOA and if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction or demolition activities.

(e) *Soft start.* (1) AGDC must implement soft start techniques for impact pile driving. AGDC must conduct an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three strike sets.

(2) Soft start must be required for any impact driving, including at the beginning of the day, and at any time following a cessation of impact pile driving of 30 minutes or longer.

**§ 217.45 Requirements for monitoring and reporting.**

(a) *Marine mammal monitoring.* (1) AGDC must employ trained protected species observers (PSO) to conduct marine mammal monitoring for its LNG facilities construction projects. The PSOs must observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all construction work. PSOs must have no other assigned tasks during monitoring periods, and must be placed at appropriate and safe vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures, when applicable, through communication with the equipment operator.

(2) *Protected species observer qualifications.* AGDC must adhere to the following observer qualifications:

(i) Independent PSOs (*i.e.,* not construction personnel) are required;

(ii) At least one observer must have prior experience working as an observer;

(iii) Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;

(iv) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(v) AGDC must submit observer CVs for NMFS approval.

(3) *Marine mammal monitoring protocols.*

(i) AGDC must conduct briefings between construction supervisors, crews and the PSO team prior to the start of all construction activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocols, and operational procedures.

(ii) A PSO must not work continuously for more than 4 hours without rotation.

(iii) PSOs must be able to detect and provide distance and bearing information of marine mammal sightings using the following methods:

(A) During all observation periods, PSOs must use high-magnification (25X) binoculars, standard handheld (7X) binoculars, and the naked eye to search continuously for marine mammals.

(B) Monitoring distances must be measured with range finders. Distances to animals must be based on the best estimate of the PSO, relative to known distances to objects in the vicinity of the PSO.

(C) Bearings to animals must be determined using a compass.

(iv) Monitoring for marine mammals during in-water pile driving:

(A) PSOs must be located at appropriate and safe vantage point(s) to be able to observe the entire exclusion zones(s) in order to implement shutdown measures when needed.

(B) In-water pile driving must only take place when the exclusion zones and Level A harassment zones are visible and can be adequately monitored. If conditions (*e.g.,* fog) prevent the visual detection of marine mammals, AGDC must not initiate activities with the potential to result in Level A harassment. If such conditions arise after the activity has begun, AGDC must halt impact pile driving, but vibratory pile driving or extraction could continue.

(C) Number and locations of PSOs posted for marine mammal monitoring during pile driving must be based on the harassment zone sizes as described below:

(*1*) For Level A harassment zones with radii less than 150 m, 2 PSOs will be monitoring from land.

(*2*) For Level A harassment zones with radii larger than 150 m but smaller than 1,000 m, 4 PSOs will be monitoring from land.

(*3*) For Level A harassment zones with radii larger than 1,000 m, 6 PSOs will be monitoring from land.

(D) Pre-Activity Monitoring. The exclusion zone must be monitored for 30 minutes prior to in-water construction and demolition activities. If a marine mammal is present within the exclusion zone, AGDC must delay the activity until the animal(s) leave the exclusion zone. Activity must resume only after the PSOs have determined that, through sighting or by waiting 15 minutes for small cetaceans or pinnipeds, or 30 minutes for large cetaceans, the animal(s) has moved outside the exclusion zone. If a marine mammal is observed approaching the exclusion zone, the PSO who sighted that animal must notify all other PSOs of its presence.

(E) During Activity Monitoring. If a marine mammal is observed entering the Level A or Level B harassment zones but is outside the exclusion zone, a pile segment being worked on may be completed without cessation, unless the animal enters or approaches the exclusion zone, at which point AGDC must halt all pile driving activities. If an animal is observed within the exclusion zone during pile driving, then AGDC must halt pile driving as soon as it is safe to do so. Pile driving may only resume if the animal has left the

exclusion zone of its own volition or has not been re-sighted for a period of 15 minutes for small cetaceans or pinnipeds, or 30 minutes for large cetaceans.

(F) Post-Activity Monitoring. Monitoring of all zones must continue for 30 minutes following the completion of an activity.

(v) Monitoring for marine mammal monitoring during pipe laying activities:

(A) At least one PSO will be on the barge and on watch during pipe laying activities.

(B) [Reserved]

(4) *Data collection.* PSOs must collect the following information during marine mammal monitoring:

(i) Date and time that monitored activity begins and ends for each day conducted (monitoring period);

(ii) Construction activities occurring during each daily observation period, including how many and what type of piles driven and distances covered during pipe laying;

(iii) Deviation from initial proposal in pile numbers, pile types, average driving times, and pipe laying distances, etc.;

(iv) Weather parameters in each monitoring period (*e.g.,* wind speed, percent cloud cover, visibility);

(v) Water conditions in each monitoring period (*e.g.,* sea state, tide state);

(vi) For each marine mammal sighting:

(A) Species, numbers, and, if possible, sex and age class of marine mammals;

(B) Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving and pipe laying activities;

(C) Location and distance from pile driving and pipe laying activities to marine mammals and distance from the marine mammals to the observation point; and

(D) Estimated amount of time that the animals remained in the Level A and/or Level B harassment zones;

(vii) Description of implementation of mitigation measures within each monitoring period (*e.g.,* shutdown or delay); and

(viii) Other human activity in the area within each monitoring period.

(b) *Reporting measures.* (1) *Annual reports.* (i) AGDC must submit an annual report within 90 days after each activity year, starting from the date when the LOA is issued (for the first annual report) or from the date when the previous annual report ended.

(ii) Annual reports must detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed during the period of the report.

(iii) NMFS must provide comments within 30 days after receiving annual reports, and AGDC must address the comments and submit revisions within 30 days after receiving NMFS comments. If no comment is received from the NMFS within 30 days, the annual report must be considered completed.

(2) *Final report.* (i) AGDC must submit a comprehensive summary report to NMFS within 90 days after completion of the construction work or the expiration of the final LOA (if issued), whichever comes earlier.

(ii) The final report must synthesize all data recorded during marine mammal monitoring, and estimate the number of marine mammals that may have been harassed through the entire project.

(iii) NMFS would provide comments within 30 days after receiving this report, and AGDC must address the comments and submit revisions within 30 days after receiving NMFS comments. If no comment is received from the NMFS within 30 days, the final report must be considered as final.

(3) *Reporting of injured or dead marine mammals.* (i) In the unanticipated event that the construction or demolition activities clearly cause the take of a marine mammal in a prohibited manner, such as an injury, serious injury, or mortality, AGDC must immediately cease operations with the potential to impact marine mammals in the vicinity and immediately report the incident to the NMFS Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Region Stranding Coordinators. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Description of the incident;

(C) Status of all sound source use in the 24 hours preceding the incident;

(D) Environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, visibility, and water depth);

(E) Description of marine mammal observations in the 24 hours preceding the incident;

(F) Species identification or description of the animal(s) involved;

(G) The fate of the animal(s); and

(H) Photographs or video footage of the animal (if equipment is available).

(ii) Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS must work with AGDC to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. AGDC may not resume its activities until notified by NMFS via letter, email, or telephone.

(iii) In the event that AGDC discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), AGDC must immediately report the incident to the NMFS Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Regional Stranding Coordinators. The report must include the same information identified in paragraph (b)(3)(i) of this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with AGDC to determine whether modifications in the activities are appropriate.

(iv) In the event that AGDC discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the LOA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), AGDC must report the incident to the NMFS Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Regional Stranding Coordinators, within 48 hours of the discovery. AGDC must provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. AGDC may continue its operations under such a case.

### § 217.46 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, AGDC must apply for and obtain (LOAs) in accordance with § 216.106 of this chapter for conducting the activity identified in § 217.40(c).

(b) LOAs, unless suspended or revoked, may be effective for a period of time not to extend beyond the expiration date of these regulations.

(c) If an LOA(s) expires prior to the expiration date of these regulations, AGDC may apply for and obtain a renewal of the LOA(s).

(d) In the event of projected changes to the activity or to mitigation, monitoring, reporting (excluding changes made pursuant to the adaptive management provision of § 217.47(c)(1)) required by an LOA, AGDC must apply

for and obtain a modification of LOAs as described in § 217.47.

(e) Each LOA must set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, their habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA(s) must be based on a determination that the level of taking must be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of the LOA(s) must be published in the **Federal Register** within 30 days of a determination.

**§ 217.47 Renewals and modifications of Letters of Authorization.**

(a) An LOA issued under §§ 216.106 of this chapter and 217.46 for the activity identified in § 217.40(c) must be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA(s) under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.46 for the activity identified in § 217.40(c) may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* After consulting with AGDC regarding the practicability of the modifications, NMFS may modify (including by adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from AGDC's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS must publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 217.46, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

**§§ 217.48—217.49 [Reserved]**

[FR Doc. 2019–12568 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 84, No. 125
Friday, June 28, 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

### Submission for OMB Review; Comment Request

June 24, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by July 29, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

**Agricultural Marketing Service**

*Title:* Mandatory Country of Origin Labeling of All Covered Commodities

*OMB Control Number:* 0581–0250.

*Summary of Collection:* The 2002 (Pub. L. 107–171) and 2008 (Pub. L. 110–234) Farm Bills amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) to require retailers to notify their customers of the country of origin of muscle cuts and ground beef (including veal), lamb, pork, chicken, and goat; wild and farm-raised fish and shellfish; perishable agricultural commodities; peanuts, pecans, and macadamia nuts; and ginseng. Individuals who supply covered commodities, whether directly to retailers or indirectly through other participants in the marketing chain, are required to establish and maintain country of origin and, if applicable, method of production information for the covered commodities and supply this information to retailers.

*Need and Use of the Information:* Producers, handlers, manufacturers, wholesalers, importers, and retailers of covered commodities are affected. This public reporting burden is necessary to ensure accuracy of country of origin and method of production declarations relied upon at the point of sale at retail. The public reporting burden also assures that all parties involved in supplying covered commodities to retail stores maintain and convey accurate information as required.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 415,517.

*Frequency of Responses:* Recordkeeping.

*Total Burden Hours:* 20,966,789.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–13773 Filed 6–27–19; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. FSIS–2019–0013]**

### Notice of Request To Revise an Approved Information Collection: Industry Responses to Noncompliance Records

**AGENCY:** Food Safety and Inspection Service, USDA.

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding industry responses to noncompliance records. The approval for this information collection will expire on November 30, 2019. FSIS is making no changes to the existing information collection.

**DATES:** Submit comments on or before August 27, 2019.

**ADDRESSES:** FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2019–0013. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

*Docket:* For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

**FOR FURTHER INFORMATION CONTACT:** Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

**SUPPLEMENTARY INFORMATION:**

*Title:* Industry Responses to Noncompliance Records.

*OMB Control Number:* 0583–0146.

*Expiration Date:* 11/30/2019.

*Type of Request:* Renewal an approved information collection.

*Abstract:* FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the approved information collection regarding industry responses to noncompliance records. The approval for this information collection will expire on November 30, 2019. FSIS is making no changes to the existing information collection.

The noncompliance record, FSIS Form 5400–4, serves as FSIS's official record of noncompliance with one or more regulatory requirements. Inspection program personnel use the form to document their findings and provide written notification of the official establishment's or plant's failure to comply with regulatory requirements. The establishment or plant management receives a copy of the form and has an opportunity to respond in writing using the noncompliance record form. The establishment or plant management can also choose to respond to FSIS electronically by using the Industry Module in PHIS.

FSIS has made the following estimates based upon an information collection assessment:

*Estimate of burden:* FSIS estimates that it will take respondents an average of 60 minutes per response.

*Respondents:* Official establishments.

*Estimated total number of respondents:* 7,057.

*Estimated annual number of responses per respondent:* 17.

*Estimated total annual burden on respondents:* 119,969 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

**USDA Non-Discrimination Statement**

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

*How To File a Complaint of Discrimination*

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

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

*Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

*Fax:* (202) 690–7442.

*Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done in Washington, DC.

**Paul Kiecker,**

*Deputy Administrator.*

[FR Doc. 2019–13817 Filed 6–27–19; 8:45 am]

**BILLING CODE 3410–DM–P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the District of Columbia Advisory Committee to the Commission will convene by conference call, at 12:00 p.m. (EDT) Thursday, July

11, 2019. The purpose of the planning meeting is to continue project planning for a future briefing meeting on the Committee's civil rights project that examines the intersection of homelessness, mental health and the criminal justice system, including a review of the District's Mental Health Court.

**DATES:** Thursday, July 11, 2019 at 12:00 p.m. (EDT).

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

**SUPPLEMENTARY INFORMATION:**

*Public Call-In Information:* Conference call number: 1–877–260–1479 and conference call ID number: 1929821.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–877–260–1479 and conference call ID number: 1929821. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–877–260–1479 and conference call ID number: 1929821.

Members of the public are invited to make statements during the Public Comments section of the meeting or to submit written comments. The comments must be received in the regional office by Monday, August 12, 2019. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlKAAQ.* Please click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

**Agenda**

*Thursday, July 11, 2019, at 12:00 p.m. (EDT)*

I. Welcome and Rollcall
II. Discuss Project and Hearing Planning
III. Other Business
IV. Next Planning Meeting
V. Public Comments
VI. Adjourn

*Exceptional Circumstance:* Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 25, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–13871 Filed 6–27–19; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Jersey Advisory Committee to the Commission will convene by conference call, on Friday, July 19, 2019 at 11:30 a.m. (EDT). The purpose of the meeting is to discuss and vote on the project proposal for the Committee's civil rights project on the collateral consequences of a criminal record on forfeiture of private property and access to professional licenses.

**DATES:** Friday, July 19, 2019, at 11:30 a.m. (EDT).

*Public Call-In Information:* Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659.

Members of the public are invited to make statements during the Public Comment section of the meeting or to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjVAAQ,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

**Agenda: Friday, July 19, 2019 at 11:30 a.m. (EDT)**

I. Welcome and Roll Call
II. Planning Meeting
—Study Civil Rights Project
—Continued Discussion of Plans for a Briefing Meeting
III. Other Business
IV. Next Meeting
V. Public Comment

VI. Adjourn

Dated: June 25, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–13873 Filed 6–27–19; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Delaware Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Delaware Advisory Committee to the Commission will convene by conference call, on Monday, July 15, 2019 at 4:00 p.m. (EDT). The purpose of the meeting is to discuss the status of the Committee's draft report on its civil rights project that examined implicit bias and policing in communities of color in Delaware.

**DATES:** Monday, July 15, 2019 at 4:00 p.m. (EDT).

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

**SUPPLEMENTARY INFORMATION:**

*Public Call-In Information:*

Conference call number: 1–866–556–2429 and conference call ID: 4512490.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–866–556–2429 and conference call ID: 4512490. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–866–556–2429 and conference call ID: 4512490.

Members of the public are invited make statements during the Public Comment section of the meeting or to submit written comments; the written comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlEAAQ,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

AGENDA: Monday, July 15, 2019 at 4:00 p.m. (EDT)

I. Welcome and Roll Call
II. Project Planning
—Discuss and Vote on Draft Report
III. Other Business
IV. Public Comment
V. Next Meeting
VI. Adjourn

Dated: June 25, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–13872 Filed 6–27–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

**[190605488948801]**

**RIN 0691–XC101**

### Request for Comment; Notice of Development of Gross Domestic Product by County Statistics

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

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

**SUMMARY:** The Bureau of Economic Analysis (BEA) is soliciting comments from the public on its new prototype Gross Domestic Product by County statistics, including comments on the methodology, presentation, granularity, and scope. Following the public comment period, BEA will incorporate feedback, finalize the methodology and related materials, and begin publishing this data series as an official series annually. Gross Domestic Product by County statistics will provide information on the economic activity generated in each of the nation's counties or county equivalents.

**DATES:** Comments must be received no later than July 29, 2019.

**ADDRESSES:** You may submit comments via email to *gdpbycounty@bea.gov* or via U.S. Mail addressed to Mauricio Ortiz, Chief, Regional Income Division, Bureau of Economic Analysis, Department of Commerce, 4600 Silver Hill Road (BE–55), Washington, DC 20233. Comments sent by any other method or after the comment period may not be considered. All comments are a part of the public record.

**FOR FURTHER INFORMATION CONTACT:** Mauricio Ortiz, Chief, Regional Income Division, Bureau of Economic Analysis, Department of Commerce, 4600 Silver Hill Road (BE–55), Washington, DC 20233; phone: (301) 278–9269 or via email to *Mauricio.Ortiz@bea.gov.*

**SUPPLEMENTARY INFORMATION:** Statistics measuring county gross domestic product (GDP)—the value of goods and services produced there—will help create a more complete picture of the geographic distribution of U.S. economic activity. The information will help policymakers and regional planners promote local economic growth and direct resources to the places most in need. The statistics will be a new tool to help businesses make decisions about investment and growth and to help residents better understand their county's economic health. The data can be used to compare the size and growth (or decline) of local economies across the country.

In July 2016, BEA released a paper, laying out a research agenda to produce GDP statistics for each of the nation's 3,113 counties or county equivalents, such as Louisiana's parishes and Alaska's boroughs. Building on that research, in December 2018 BEA released a prototype set of county GDP statistics measuring the economic performance of counties or county equivalents, covering the years 2012 through 2015. A paper published in the March 2019 issue of BEA's *Survey of Current Business* detailed the data sources and methods used to calculate the GDP by county prototype statistics.

BEA is seeking feedback on the prototype statistics and will continue to refine its methodology and presentations before official county GDP

statistics are slated to be released in December 2019.

BEA invites comments from the public, private industry, state and local governments, non-profit organizations, and other interested parties to assist in improving the prototype statistics' quality, reliability, and usefulness. In particular, BEA is interested in feedback regarding the following:

1. How do you plan to use county GDP statistics?

2. Would an annual publication in December meet your needs? If not, what time of the year would be most valuable to inform planning and other uses?

3. Are the prototype estimates consistent with the data and local information that you have on specific counties? If not, please outline the differences.

4. Do you have any feedback about the methodology used to create the prototype county GDP statistics described in the March 2019 issue of BEA's online *Survey of Current Business* (available at *bea.gov*)?

5. Are there additional source data that you believe could be used to generate and corroborate these statistics beyond those described in the March 2019 article?

6. Which would better meet your needs:

Less-detailed industry breakdowns, which will result in fewer data suppressions to protect confidentiality or more-detailed industry breakdowns, with the necessary suppressions?

Dated: June 4, 2019.

**Mauricio Ortiz,**

*Chief, Regional Income Division, Bureau of Economic Analysis.*

[FR Doc. 2019–13858 Filed 6–27–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–40–2019]**

### Foreign-Trade Zone (FTZ) 100—Dayton, Ohio; Notification of Proposed Production Activity; Whirlpool Corporation (Small Appliances), Greenville, Ohio

Whirlpool Corporation (Whirlpool) submitted a notification of proposed production activity to the FTZ Board for its facility in Greenville, Ohio. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 19, 2019.

The applicant indicates that it will be submitting a separate application for FTZ designation at the company's facility under FTZ 100. The Whirlpool facility is used for the production of small appliances. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Whirlpool from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Whirlpool would be able to choose the duty rates during customs entry procedures that apply to: Blenders; hand blenders; stand mixers; blender jars; cabinet tops; domes and blades; lower housings and gearings; attachment packs; planetary gears and shafts; lower gearcases; and, seals and couplers (duty rate ranges from 2.5 to 4.2%). Whirlpool would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Plastic cases; plastic knobs; plastic seals; plastic grommets; plastic lids; cardboard boxes; literature (use and care guides); cotton cloth covers not knitted or crocheted; cotton cloth covers; cloth covers; non-woven cotton cloth bags; steel screws; slicer/blade attachments; steel wall brackets; scale and sifter attachments; bearing retainers; transmission shafts; pinion gears; worm gears; bevel gears; DC motors between 18.65W and 14.92kW; Universal AC/DC motors greater than 74.6W; single-phase AC gear motors; single-phase AC motors; electrical armatures; lithium-ion batteries; stand mixer attachments and bowls; heating resistors; heating elements; electronic switches; rotary switches; pushbutton switches; slide switches; control panels/user interfaces; power cords; carbon brushes; and, cleaning brushes (duty rate ranges from duty-free to 9.9%). The request indicates that cotton cloth covers not knitted or crocheted, cotton cloth covers, cloth covers, and lithium-ion batteries will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items. The request also indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 7, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 25, 2019.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2019–13861 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–39–2019]**

### Foreign-Trade Zone 280—Caldwell, Idaho; Application for Reorganization (Expansion of Service Area) Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Southwest Idaho Manufacturers' Alliance, grantee of Foreign-Trade Zone 280, requesting authority to reorganize the zone to expand its service area under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 18, 2019.

FTZ 280 was approved by the FTZ Board on May 12, 2012 (Board Order 1825, 77 FR 32929, June 4, 2012). The zone currently has a service area that includes Ada and Canyon Counties, Idaho.

The applicant is now requesting authority to expand the service area of the zone to include Elmore County, as described in the application. If

approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The application indicates that the proposed expanded service area is adjacent to the Boise, Idaho Customs and Border Protection Port of Entry.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 27, 2019. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 11, 2019.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov* or (202) 482–5928.

Dated: June 20, 2019.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2019–13864 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–41–2019]**

### Foreign-Trade Zone 162—New Haven, Connecticut; Application for Subzone; Waterfront Enterprises, LLC, New Haven, Connecticut

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater New Haven Chamber of Commerce, grantee of FTZ 162, requesting subzone status for the facilities of Waterfront Enterprises, LLC, located in New Haven, Connecticut. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 24, 2019.

The proposed subzone would consist of the following sites: *Site 1* (4.6 acres) 400 Waterfront Street, New Haven; *Site 2* (22 acres) 31 Waterfront Street, New Haven; *Site 3* (7 acres) 30 Waterfront Street, New Haven; and, *Site 4* (23 acres) 347 Chapel Street, New Haven. No authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 7, 2019. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 22, 2019.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth .Whiteman@trade.gov* or (202) 482–0473.

Dated: June 25, 2019.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2019–13862 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–802]**

### Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation: Final Results of the 2016–2017 Administrative Review

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

**SUMMARY:** The Department of Commerce (Commerce) continues to find that the State Atomic Energy Corporation ''ROSATOM'' (ROSATOM), its affiliates Joint Stock Company ''TENEX'' (TENEX) and TENAM Corporation (TENAM), and TENEX's unaffiliated reseller, Centrus Energy Corp. and United States Enrichment Corporation (collectively, Centrus), are in compliance with the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (Agreement) during the period of review (POR) from October 1, 2016 through September 30, 2017.

**DATES:** Applicable June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon or Jill Buckles, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–6230, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On November 14, 2018, Commerce published the *Preliminary Results* of this administrative review.[1] After the *Preliminary Results,* we received a number of submissions, including responses to supplemental questionnaires issued by Commerce prior to the *Preliminary Results.*[2] In accordance with 19 CFR 351.309(c), we invited interested parties to comment on the *Preliminary Results.*[3] On June 11, 2019, Louisiana Energy Services LLC (LES); Centrus; and Power Resources, Inc. and Crow Butte Resources, Inc. (collectively, Cameco) submitted case

[1] *See Agreement Suspending the Antidumping Duty Investigation on Uranium From the Russian Federation: Preliminary Results of 2016–2017 Administrative Review and Postponement of Final Results,* 83 FR 56802 (November 14, 2018) (*Preliminary Results*).

[2] *See* Letter from ROSATOM, TENEX, and TENAM, ''Uranium from the Russian Federation—Comments on Factual Information Rebutting, Clarifying, or Correcting the Response of ROSATOM to the Department's September 21, 2018 Supplemental Questionnaire,'' dated November 5, 2018; Letter from TENEX, ''Uranium from the Russian Federation Suspension Agreement Administrative Review: Supplemental Questionnaire Response of TENEX,'' dated November 7, 2018; Letter from Exelon Generation Company, LLC and the Ad Hoc Utilities Group, ''Uranium from the Russian Federation (A–821–802): Comments on Supplemental Questionnaire Response of Joint Stock Company TENEX,'' dated November 16, 2018; Letter from Centrus, ''Uranium from the Russian Federation: Supplemental Questionnaire Response,'' dated November 16, 2018; Letter from LES, ''Uranium from the Russian Federation: Factual Information Rebutting, Clarifying, and Correcting the Supplemental Questionnaire Response Submitted on November 16, 2018 by Centrus Energy Corp. and United States Enrichment Corporation,'' dated December 17, 2018; Letter from TENEX, ''Uranium from the Russian Federation—TENEX Factual Information to Rebut or Clarify Information Provided by LES,'' dated January 3, 2019; Letter from Centrus, ''Uranium from the Russian Federation: Submission of New Factual Information to Rebut, Clarify and Correct LES's December 17, 2018 Submission of New Factual Information,'' dated February 12, 2019; and Letter from LES, ''Uranium from the Russian Federation: Sur-Rebuttal Comments to February 12, 2019 Comments of Centrus,'' dated February 26, 2019.

[3] *See* Memorandum to Interested Parties, ''Establishment of Briefing Schedule for Preliminary Results in the 2016—2017 Administrative Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,'' dated June 3, 2019.

briefs.[4] On June 14, 2019, LES;[5] ROSATOM, TENEX, and TENAM (collectively, ROSATOM *et al.*);[6] Centrus;[7] Cameco;[8] and Exelon Generation Company, LLC and the Ad Hoc Utilities Group (collectively, AHUG)[9] submitted rebuttal briefs.

Commerce conducted verification in Moscow, Russia, of the questionnaire and supplemental questionnaire responses of ROSATOM and TENEX during May 20–24, 2019.[10] On June 6, 2019, Commerce issued its verification report.[11] On December 12, 2018, LES requested a hearing in the administrative review proceeding, and, on December 14, 2018, Centrus and Cameco requested a hearing as well. On June 20, 2019, Commerce held a public hearing.[12]

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.[13] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results is now June 24, 2019.

## Scope of Review

The product covered by this Agreement is natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compounds; uranium enriched in $U^{235}$ and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in $U^{235}$ or compounds of uranium enriched in $U^{235}$; and any other forms of uranium within the same class or kind.

Imports of uranium ores and concentrates, natural uranium compounds, and all forms of enriched uranium are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds are currently classifiable under HTSUS subheadings: 2844.10.10 and 2844.10.50. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[14]

## Analysis

Commerce continues to find, based on record evidence, that ROSATOM was in compliance with the terms of the Agreement and Commerce's February 2, 2010 Statement of Administrative Intent (SAI) during the POR. Commerce has reviewed the information submitted by ROSATOM and found, in particular, no evidence of non-compliance regarding sales or exports in excess of the Agreement's export limits and no evidence of non-compliance regarding the anti-circumvention requirements in section VII of the Agreement or the reporting requirements in Appendix 3 pursuant to section VIII of the Agreement.

Commerce finds no evidence of non-compliance by TENEX, TENAM, and Centrus during the POR regarding the contract and shipment approval requirements provided for in section V of the Agreement, established by the SAI, and requested by Commerce. We have reviewed the submissions to Commerce requesting approval of contracts or contract amendments applicable to both sales and exports of Russian Uranium Products to the United States during the POR from TENEX, TENAM, and Centrus and find that each party has complied with the contract approval documentation requirements in sections V.C and V.F and Appendix 2 of the Agreement and in the SAI. We note that TENEX failed to provide to Commerce certain contract amendments that changed the material terms of contracts in effect as required by the SAI.[15] However, upon discovery of this lapse, TENEX explained the circumstances under which it occurred and remedied the situation. We find that, while this oversight by TENEX is not insignificant, it does not rise to the level of a violation of the Agreement and does not imperil Commerce's ability to ensure its strict quota accounting through the contract and shipment approval requirements established in the Agreement and the SAI.[16]

Regarding submissions to Commerce requesting approval of a shipment under an approved contract or contract amendment which entered for delivery during the POR, we have reviewed the submissions from TENEX, TENAM, and Centrus and find that each party has complied with the shipment approval documentation requirements established in the Agreement and the SAI and requested by Commerce. Lastly, regarding returned natural uranium feed and associated certification requirements, we find no issues in the submissions from TENEX, TENAM, and Centrus that rise to the level of non-compliance with Commerce's requirements regarding returned natural uranium feed, as specified in its contract and shipment approval memoranda.

Commerce is deferring analysis of whether the Agreement continues to meet the statutory requirements until the next administrative review. This deferral will allow Commerce to conduct a more extensive analysis of a larger time period which it believes is

[4] *See* Centrus Case Brief, ''Uranium from the Russian Federation: Case Brief'' dated June 11, 2019 (Centrus Case Brief); *see also* Cameco Case Brief, ''Uranium from the Russian Federation: Case Brief in 2016–2017 Administrative Review,'' dated June 11, 2019; and LES Case Brief, ''Administrative Review of the Suspension Agreement on Uranium from the Russian Federation: Case Brief of Louisiana Energy Services, LLC,'' dated June 11, 2019.

[5] *See* LES Rebuttal Brief, ''Administrative Review of the Suspension Agreement on Uranium from the Russian Federation: Rebuttal Brief of Louisiana Energy Services, LLC,'' dated June 14, 2019.

[6] *See* ROSATOM *et al.* Rebuttal Brief, ''Uranium from the Russian Federation—ROSATOM, TENEX, and TENAM Rebuttal Brief,'' dated June 14, 2019.

[7] *See* Centrus Rebuttal Brief, ''Uranium from the Russian Federation: Rebuttal Case Brief,'' dated June 14, 2019.

[8] *See* Cameco Rebuttal Brief, ''Uranium from the Russian Federation: Rebuttal to Case Briefs,'' dated June 14, 2019.

[9] *See* AHUG Rebuttal Brief, ''Uranium from the Russian Federation (A–821–802): Rebuttal Brief of the Ad Hoc Utilities Group,'' dated June 14, 2019.

[10] *See* Letter to ROSATOM and TENEX, ''Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation: Verification Agenda for State Atomic Energy Corporation ''ROSATOM'' and Joint Stock Company ''TENEX,'' dated March 1, 2019; *see also* Memorandum to the File, ''Correction to Verification Dates,'' dated April 10, 2019.

[11] *See* Memorandum to the File, ''Verification of the Questionnaire Responses of State Atomic Energy Corporation ''ROSATOM'' and Joint Stock Company ''TENEX'' in the Administrative Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,'' dated June 6, 2019.

[12] *See* Letter from Commerce to Interested Parties, dated June 17, 2019; *see also* Hearing Transcript, dated June 24, 2019.

[13] *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.

[14] *See* Memorandum to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, from P. Lee Smith, Deputy Assistant Secretary for Policy & Negotiations, ''Issues and Decisions Memorandum for the Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Uranium from the Russian Federation for the period October 1, 2016 through September 20, 2017,'' dated concurrently, and hereby adopted by, this notice (Issues and Decision Memorandum).

[15] *See* SAI at 4.

[16] *Id.* at 1–4.

necessary to resolve the issues raised regarding price suppression or undercutting and public interest in this review.

The issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum and business proprietary memorandum.[17] The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

We are issuing and publishing these results of review in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: June 24, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## APPENDIX

### Issues and Decision Memorandum

I. Summary
II. Scope of the Agreement
III. Background
IV. Discussion of the Issues
Issue 1: Alleged Violations of the Agreement
Issue 2: Failure to Meet the Statutory Requirements
V. Recommendation

[FR Doc. 2019–13867 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

[17] *See* Issues and Decision Memorandum; *see also* Memorandum to the File from Sally C. Gannon, Director for Bilateral Agreements, ''Proprietary Discussion of Issues for the Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Uranium from the Russian Federation, for the period October 1, 2016, through September 30, 2017,'' dated concurrently and hereby adopted by this notice.

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–489–822]**

## Welded Line Pipe From the Republic of Turkey: Rescission of Antidumping Duty Administrative Review; 2017–2018

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on welded line pipe from the Republic of Turkey (Turkey) for the period December 1, 2017, through November 30, 2018.

**DATES:** Applicable June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Alice Maldonado or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–3693, respectively.

### Background

On December 3, 2018, Commerce published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on welded line pipe from Turkey for the period December 1, 2017, through November 30, 2018.[1] In December 2018, Commerce received a timely request, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of this antidumping duty order from California Steel Industries, TMK IPSCO, Welspun Tubular LLC USA, and Maverick Tube Corporation, (collectively, the petitioners).[2] Based upon this request, on March 14, 2019, in accordance with section 751(a) of the Act, Commerce published in the **Federal Register** a notice of initiation listing 19 companies for which the petitioners requested a review.[3]

On May 23, 2019, the petitioners withdrew their request for an administrative review.[4]

### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The aforementioned withdrawal request was timely submitted, and no other interested party requested an administrative review of any company. Therefore, we are rescinding the administrative review of the antidumping duty order on welded line pipe from Turkey covering the period December 1, 2017, through November 30, 2018.

### Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the *Federal Register*.

### Notification to Importers

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

### Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 83 FR 62293 (December 3, 2018).

[2] *See* Petitioners' Letter, ''Welded Line Pipe from the Republic of Turkey: Request for Administrative Review,'' dated December 28, 2018.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 9297 (March 14, 2019).

[4] *See* Petitioners' Letter, ''Welded Line Pipe from the Republic of Turkey: Withdrawal of Request for Administrative Review,'' dated May 23, 2019.

protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: June 24, 2019.

**James Maeder,**

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

[FR Doc. 2019–13860 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** The United States Travel and Tourism Advisory Board (Board or TTAB) will hold a meeting on Tuesday, July 16, 2019. The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry. The purpose of the meeting is for Board members to discuss key issues related to the importance of international travel and tourism to the United States and for the Secretary of Commerce to provide information on the Administration's priorities in travel and tourism. The final agenda will be posted on the Department of Commerce website for the Board at *http://trade.gov/ttab* at least one week in advance of the meeting.

**DATES:** Tuesday, July 16, 2:00 p.m.–3:30 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Tuesday, July 9, 2019.

**ADDRESSES:** The meeting will be held in Washington, DC. The exact location will be provided by email to registrants.

Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: National Travel and Tourism Office, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 10003, Washington, DC 20230 or by email to *TTAB@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Brian Beall, the United States Travel and Tourism Advisory Board, National Travel and Tourism Office, U.S. Department of Commerce, 1401 Constitution Ave. NW, Room 10003, Washington, DC 20230; telephone: 202–482–0140; email: *TTAB@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

*Public Participation:* The meeting will be open to the public and will be accessible to people with disabilities. Any member of the public requesting to join the meeting is asked to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted but may not be possible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Members of the public wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on Tuesday, July 9, 2019 for inclusion in the meeting records and for circulation to the members of the Board. In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Brian Beall at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Tuesday, July 9, 2019 to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

**Brian Beall,**

*Deputy Director for Policy and Planning, National Travel and Tourism Office, Industry and Analysis, International Trade Administration, U.S. Department of Commerce.*

[FR Doc. 2019–13851 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–874]**

### Certain Hot-Rolled Steel Flat Products From Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017

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

**SUMMARY:** The Department of Commerce (Commerce) determines that certain hot-rolled steel flat products from Japan were sold at less than normal value during the period of review (POR), March 22, 2016 through September 30, 2017.

**DATES:** Applicable June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jun Jack Zhao or Myrna Lobo, 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) 482–1396 or (202) 482–2371, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On November 14, 2018, Commerce published the *Preliminary Results* of this review in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results.* Between December 14 and December 21, 2019, Commerce received timely filed briefs and rebuttal briefs from the petitioners,[2] Nippon Steel & Sumitomo Metal Corporation (Nippon Steel) and Tokyo

[1] *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016–2017;* 83 FR 56813 (November 14, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

[2] The petitioners are AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners).

Steel Manufacturing Co., Ltd. (Tokyo Steel).[3]

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.[4] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. On March 28 and May 22, 2019, we extended the deadline for the final results.[5] The revised deadline for the final results is now June 21, 2019.

These final results cover 20 producers and exporters of subject merchandise. Based on an analysis of the comments received, we have made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the ''Final Results of Review'' section, below. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

## Scope of the Order[6]

The merchandise covered by the order is certain hot-rolled steel flat products. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[7]

## Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Hitachi Metals, Ltd. (Hitachi), Honda Trading Canada, Inc. (Honda), and Panasonic Corporation (Panasonic) each had no shipments of subject merchandise during the POR. U.S. Customs and Border Protection (CBP) subsequently confirmed these companies had no shipments.[8] As no party has identified any record evidence which would call into question these preliminary findings with respect to Hitachi, Honda, or Panasonic, we continue to find that these companies made no shipments of subject merchandise during the POR. Accordingly, consistent with our practice, we intend to instruct CBP to liquidate any existing entries of subject merchandise produced by these three companies, but exported by other parties without their own rate, at the all-others rate.[9]

Mitsui & Co. Ltd. (Mitsui) also initially claimed no shipments during the POR.[10] Based on information received from CBP,[11] we stated in the *Preliminary Results* we would continue to include Mitsui with the companies under review and make a determination for the final results after soliciting more information and comments on Mitsui. On December 20, 2018, we placed U.S. entry documentation on the record and provided parties with an opportunity to comment. We also requested Mitsui to explain the apparent discrepancy between its claim of no shipments and the CBP information.[12] Mitsui responded by stating that the documents provided to Commerce by CBP were consistent with the entry documentation which it had now retrieved by Mitsui & Co., (USA), Inc. (Mitsui USA), indicating that during the POR there was, in fact, one shipment of subject merchandise by Mitsui of Japan, sold to and entered by a U.S. customer.[13] Mitsui added that it regretted its error, and that it was seeking to withdraw its certification.[14] No other interested parties filed comments. Therefore, for the final results, we find that Mitsui had shipments of subject merchandise to the United States during the POR.

## Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted with this notice. The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

## Changes Since the *Preliminary Results*

Based on our review and analysis of the comments received from parties, we made certain changes to the margin calculations for both Nippon Steel and Tokyo Steel. For a discussion of these changes, *see* the Issues and Decision Memorandum.

## Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual

[3] *See* Petitioners' Letter, ''*Certain Hot-Rolled Steel Flat Products from Japan:* Case Brief Nucor Corporation,'' dated December 14, 2019; *see also* Nippon Steel's Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: NSSMC's Case Brief,'' dated December 14, 2019; Tokyo Steel's Letter, ''Case Brief of Tokyo Steel Manufacturing Co., Ltd: Certain Hot-Rolled Steel Flat Products from Japan,'' dated December 14, 2019; Petitioners' Letter, ''*Certain Hot-Rolled Steel Flat Products from Japan:* Rebuttal Brief Nucor Corporation,'' dated December 21, 2019; Nippon Steel's Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: NSSMC's Rebuttal Brief,'' dated December 21, 2019; and Tokyo Steel's Letter, ''Rebuttal Brief of Tokyo Steel Manufacturing Co., Ltd: Certain Hot-Rolled Steel Flat Products from Japan,'' dated December 21, 2019.

[4] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive 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.

[5] *See* Memoranda, ''Certain Hot-Rolled Steel Products from Japan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2016–2017,'' dated March 28, and May 22, 2019.

[6] See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders, 81 FR 67962 (October 3, 2016) (Order).

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Certain Hot-Rolled Steel Flat Products from Japan; 2016–2017,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[8] *See* Memorandum, ''No Shipment Inquiry with Respect to the Company Below During the Period 03/22/2016 through 09/30/2017,'' dated October 23, 2018 (Public Version).

[9] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[10] *See* Mitsui's Letter, ''Antidumping Administrative Review of Certain Hot-Rolled Steel Flat Products: Mitsui No Shipment Notification,'' dated January 5, 2018.

[11] *See* Memorandum, ''No Shipment Inquiry with Respect to the Company Below During the Period 03/22/2016 through 09/30/2017,'' dated October 23, 2018 (Proprietary Version).

[12] *See* Memorandum, ''Placing U.S. Entry Documents on the Record,'' dated December 20, 2018.

[13] *See* Mitsui's Letter, ''Antidumping Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Mitsui Comment on U.S. Entry Documents Placed on the Record,'' dated December 27, 2018.

[14] *Id.*

examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we calculated weighted-average dumping margins that are not zero, *de minimis,* or determined entirely on the basis of facts available for Nippon Steel and Tokyo Steel. Accordingly, Commerce has assigned to the companies not individually examined (*see* Appendix II, for a full list of these companies) a margin of 6.92 percent, which is the weighted-average of Nippon Steel's and Tokyo Steel's calculated weighted-average dumping margins for these final results.[15]

**Final Results of Review**

Commerce determines that the following weighted-average dumping margins exist for the period March 22, 2016 through September 30, 2017:

| Exporter/producer | Weighted-average dumping margin (percent) | |
|---|---|---|
| Nippon Steel & Sumitomo Metal Corporation [16] | 7.64 | |
| Nisshin Steel Co., Ltd.[17] | 3/22/2016 to 3/12/2017<br>6.92 [18] | 3/13/2017 to 9/30/2017.<br>7.64 [19] |
| Tokyo Steel Manufacturing Co., Ltd | 2.06 | |
| Non-examined companies [20] | 6.92 | |

**Disclosure**

We intend to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

**Assessment**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the **Federal Register**.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[21] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[22] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[23] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[24]

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section, above.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Nippon Steel, Tokyo Steel, or the non-examined companies for which the producer did not know that 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(ies) involved in the transaction.[25]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the

[15] This rate is based on the weighted-average of the margins calculated for those companies selected for individual review using the publicly-ranged U.S. quantities. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents Nippon Steel and Tokyo Steel. *See* Memorandum, ''Calculation of the Review-Specific Average Rate for Non-Examined Companies,'' dated concurrently with this notice (Non-Examined Companies Rate Memorandum).

[16] We collapsed Nippon Steel & Sumikin Bussan Corporation with Nippon Steel & Sumitomo Metal Corporation in the underlying investigation. *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 81 FR 15222 (March 22, 2016) and accompanying PDM at 6–7.

[17] In the *Preliminary Results* we collapsed Nisshin Steel Co., Ltd. and Nippon Steel & Sumitomo Metal Corporation as of March 13, 2017. *See Preliminary Results* PDM at 9. No parties commented on this, thus, we made no changes to this determination for these final results.

[18] Entries of subject merchandise produced/exported by Nisshin Steel Co., Ltd. made prior to March 13, 2017 are subject to the non-examined companies' rate calculated in this administrative review. *See* Non-Examined Companies Rate Memorandum.

[19] Entries of subject merchandise produced/exported by Nisshin Steel Co., Ltd. made on/or after March 13, 2017 are subject to the AD rate assigned to Nippon Steel in this administrative review.

[20] *See* Appendix II, for a full list of these companies.

[21] *See* 19 CFR 351.212(b)(1).

[22] *Id.*

[23] *Id.*

[24] *See* 19 CFR 351.106(c)(2).

[25] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.58 percent,[26] the all-others rate established in the LTFV investigation. These cash 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 POR. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Administrative Protective Order

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

### Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of Commerce's regulations.

Dated: June 21, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of Partial Facts Available and Use of Adverse Inference
V. Final Determination of No Shipments
VI. Changes Since the Preliminary Results
VII. Discussion of the Issues
*Tokyo Steel-Specific Issues*
Comment 1: Whether Commerce Should Apply Total AFA to Tokyo Steel for Failing to Explain Its Original Cost Reporting Methodology
Comment 2: Correction of Error in Tokyo Steel's Margin Calculation
*Nippon Steel-Specific Issues*
Comment 3: Whether Commerce Should Continue to Apply Partial AFA to Certain Nippon Steel's Affiliated Downstream Resales in the Home Market
Comment 4: Whether Commerce Should Grant a Constructed Export Price Offset to Nippon Steel
Comment 5: Processing Expenses Incurred by Nippon Steel's Affiliated Trading Company in Japan
Comment 6: Nippon Steel's Failure to Submit Full Translations of Requested Financial Statement
Comment 7: Nippon Steel's Failure to Provide a Separate Section A Response for Nisshin Steel Co., Ltd
Comment 8: Nippon Steel Refused to Report All the HM Sales in the Window Period that Are Necessary for the Margin Calculations
Comment 9: Nippon Steel Did Not Report Nisshin's Sales and Costs for the Entire POR
Comment 10: Whether Nippon Steel Failed to Report All of its U.S. Sales
Comment 11: Nisshin's G&A Expenses Ratio Calculation
Comment 12: Whether Nippon Steel Failed to Provide a Usable Section E Response
Comment 13: Whether Nippon Steel Reported Incorrect ''Mark-up'' Rates
Comment 14: Whether Nippon Steel Failed to Provide the Required Information on the Affiliated Suppliers of Major Inputs
Comment 15: Whether Nippon Steel Failed to Provide Requested Information on Affiliate's Assets
Comment 16: Whether Commerce Should Revise Its Major Input Rule Adjustment to Steelscape LLC's Costs Based on Steelscape Washington LLC's Full Cost of Production
Comment 17: Whether Commerce Should Revise the Reported G&A Expense Ratio for Steelscape LLC
VIII. Recommendation

## Appendix II

### List of Companies Not Individually Examined

Hanwa Co., Ltd.
JFE Steel Corporation [27]
JFE Shoji Trade America
Kanematsu Corporation
Kobe Steel, Ltd.
Mitsui & Co., Ltd.
Miyama Industry Co., Ltd.
Nippon Steel & Sumikin Logistics Co., Ltd.
Okaya & Co. Ltd.
Saint-Gobain KK
Shinsho Corporation
Sumitomo Corporation
Suzukaku Corporation
Toyota Tsusho Corporation Nagoya

[FR Doc. 2019–13863 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

[26] *See Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 81 FR 53409 (August 12, 2016).

[27] We collapsed JFE Shoji Trade Corporation with JFE Steel Corporation in the investigation. *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 81 FR 15222 (March 22, 2016) and accompanying PDM at 8–9 unchanged in *Hot-Rolled Japan Final Determination.*

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–830]**

### Carbon and Certain Alloy Steel Wire Rod From Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017

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

**SUMMARY:** The Department of Commerce (Commerce) determines that carbon and certain alloy steel wire rod (wire rod) from Mexico was sold in the United States at less than normal value (NV) during the period of review (POR) October 1, 2016 through September 30, 2017.

**DATES:** Applicable June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: 202–482–8362.

**SUPPLEMENTARY INFORMATION:**

### Background

On November 14, 2018, Commerce published the *Preliminary Results* of this review in the **Federal Register**.[1] For a summary of events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] 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.[3] On

[1] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 56800 (November 14, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Mexico; 2016–2017,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *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

February 12, 2019, Commerce extended the deadline for the final results to June 21, 2019.[4]

**Scope of the Order**

The merchandise subject to this order is carbon and certain alloy steel wire rod. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059. Although the HTS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[5]

**Final Determination of No Shipments**

As stated in the *Preliminary Results,* we received a no shipment claim from ArcelorMittal Mexico S.A. de C.V. (AMM) (successor-in-interest to ArcelorMittal Las Truchas, S.A. de C.V. (AMLT)) and we preliminarily determined that AMM/AMLT did not have any shipments during the POR.[6] We received no comments from interested parties with respect to this claim and U.S. Customs and Border Protection (CBP) did not report that it had any information to contradict the claim. Therefore, because the record indicates that this company did not export subject merchandise to the United States during the POR, we continue to find that AMM/AMLT had no shipments during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct CBP to liquidate any existing entries of subject merchandise made during the POR that were produced by AMM/AMLT, but exported by other parties without their own rate, at the all-others rate.[7]

**Analysis of Comments Received**

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted with this notice. The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

**Changes Since the *Preliminary Results***

Based on our analysis of the comments received from parties, we have made certain revisions to the margin calculation for Deacero.[8]

**Application of Adverse Facts Available With Regard to Ternium**

Because Ternium failed to respond to Commerce's questionnaire, we continue to find that necessary information is not on the record and that Ternium withheld information that was requested, failed to provide the requested information within the established deadlines, significantly impeded this review, and failed to cooperate to the best of its ability to comply with Commerce's request for information in this review. As a result, we based Ternium's dumping margin on facts otherwise available with an adverse inference (AFA), in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.308.[9] As AFA, we have assigned Ternium a dumping margin of 40.52 percent. For further discussion, *see* the Issues and Decision Memorandum.

**Final Results of Review**

Commerce determines that the following weighted-average dumping margins exist for the period October 1, 2016 through September 30, 2017:

| Producer/exporter | Weighted-average dumping margin (percent) |
|---|---|
| Deacero S.A.P.I. de C.V | 3.94 |
| Ternium Mexico S.A. de C.V. (Ternium) | 40.52 |

**Disclosure**

We intend to disclose the calculations performed to parties in this proceeding within five days after publication of these final results in the **Federal Register** in accordance with 19 CFR 351.224(b).

**Assessment Rates**

In accordance with the final results of this review, Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP 41 days after the date of publication of these final results of review.[10] For Deacero and Ternium, we will instruct CBP to apply an assessment rate to all entries they produced and/or exported equal to the dumping margin indicated above. For Deacero, Commerce has calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis.* Additionally, because Commerce determined that AMM/AMLT had no shipments of subject merchandise during the POR, any suspended entries that entered under AMM/AMLT's case number (*i.e.,* at that company's rate) will be liquidated at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

[4] *See* Memorandum, ''Carbon and Certain Alloy Steel Wire Rod from Mexico: Extension of Time Limit for Final Results,'' dated February 12, 2019.

[5] For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

[6] *See Preliminary Results,* 83 FR at 56801.

[7] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010); *see also Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See* Issues and Decision Memorandum; *see also* Memorandum, ''Carbon and Certain Alloy Steel Wire Rod from Mexico, 2016–2017: Deacero Final Results Sales Calculation Memorandum,'' dated concurrently with this notice; and Memorandum, ''Carbon and Certain Alloy Steel Wire Rod from Mexico, 2016–2017: Deacero Final Results Cost of Production Memorandum,'' dated concurrently with this notice.

[9] For additional information, *see* Final Sales Calculation Memorandum at ''Use of Facts Available and Adverse Inferences'' section.

[10] *See* 19 CFR 356.8(a).

[11] *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 65945, 65947 (October 29, 2002).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for Deacero and Ternium will be the rates established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 20.11 percent, the all-others rate established in the investigation.[12] These cash 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 also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: June 21, 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. Scope of the Order
IV. Use of Adverse Facts Available
V. Discussion of Comments
- Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to Deacero
- Comment 2: Whether Deacero's Reported Sales of Certain Wire Rod Products Were Made Outside the Ordinary Course of Trade
- Comment 3: Whether Commerce Should Remove the Sale of Certain Grades of Wire Rod from Deacero's Home Market and U.S. Sales Databases
- Comment 4: Whether Commerce Should Revise Deacero's Home Market Credit and Late Payment Expenses
- Comment 5: Whether to Use Mid Continent Steel & Wire, Inc.'s (Mid Continent) Revised General and Administrative (G&A) Expense Ratio
- Comment 6: Whether Commerce Should Correct Mid Continent's Cost Allocations Based on Machine Time Instead of Production Quantity
- Comment 7: Whether Commerce Erred in its Treatment of Deacero's Yield Losses in Calculating Further Manufacturing Cost
- Comment 8: Whether Commerce Erred in its Margin Calculations When it Merged Deacero's Further Manufacturing (FURMAN) Database with its U.S. Sales Database

VI. Recommendation

[FR Doc. 2019–13866 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–DS–P**

[12] *Id.*

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH076**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Northeast Trawl Advisory Panel (NTAP) of the Mid-Atlantic Fishery Management Council will hold a meeting.

**DATES:** The meeting will be held on Monday, July 29, beginning at 8 a.m. and conclude by 3:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held at the University of Massachusetts Dartmouth School for Marine Science & Technology (SMAST) East Building located at 836 South Rodney French Blvd., New Bedford, MA 02744 and available via webinar (*http://www.mafmc.org/ntap*).

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org*.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to: (1) Meet the Memorial University Flume Tank staff and receive an overview of the Flume Tank Facility; (2) receive an overview of the Northeast Fisheries Science Center trawl survey; (3) conduct trawl model flume tank experiments of net spread; and (4) determine other trawl model flume tank experiments.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 25, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–13898 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[0648–XR001]**

### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice; availability of a draft Environmental Assessment and Proposed Evaluation and Pending Determination for public comment.

**SUMMARY:** Notice is hereby given that NMFS has received four plans for

hatchery operations rearing and releasing Chinook salmon, coho salmon, and chum salmon in the Stillaguamish River basin, Washington. The four plans are submitted pursuant to the Section 4(d), Limit 6. The plans describe programs operated by the Stillaguamish Tribe of Indians (STI). This document serves to notify the public of the availability and opportunity to comment on a draft Environmental Assessment and proposed evaluation and pending determination (PEPD) on the proposed Hatchery and Genetic Management Plans (HGMPs).

**DATES:** Comments must be received at the appropriate address (see **ADDRESSES**) no later than 5 p.m. Pacific time on July 29, 2019. Comments received after this date may not be considered.

**ADDRESSES:** Written comments on the draft Environmental Assessment or PEPD should be addressed to Alan Olson; NMFS, West Coast Region; 510 Desmond Drive SE, Suite 107; Lacey, WA 98503. Comments may be submitted by email. The mailbox address for providing email comments is *hatcheries.public.comment@noaa.gov*. Include in the subject line of the email comment the following identifier: Comments on Stillaguamish River hatchery programs. The documents can be found at *www.westcoast.fisheries.noaa.gov/*.

**FOR FURTHER INFORMATION CONTACT:** Alan Olson, at phone number: (360) 753–4062, or via email: *alan.olson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

### ESA-Listed Species Covered in This Notice

- Puget Sound Chinook Salmon (*Oncorhynchus tshawytscha*): threatened, naturally and artificially propagated
- Puget Sound Steelhead (*Oncorhynchus mykiss*): threatened, naturally and artificially propagated

### Background

Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The ESA prohibits the take of endangered salmonids and, pursuant to ESA section 4(d), ESA regulations can be extended to prohibit the take of threatened salmonids. However, NMFS may make exceptions to the take prohibitions for hatchery programs that are approved by NMFS under the limits on the prohibitions outlined in 50 CFR 223.203(b). STI and Washington Department of Fish and Wildlife (collectively the co-managers) have submitted HGMPs to NMFS pursuant to the ESA 4(d) Rule for salmon and steelhead.

The hatchery programs are intended to contribute to the survival and recovery of Puget Sound Chinook Salmon, provide information on exploitation rates, and support returns of coho salmon and chum salmon to the Stillaguamish River basin.

### Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. Limit 6 of the updated 4(d) Rule (50 CFR 223.203(b)(6)) further provides that the prohibitions of paragraph (a) of the updated 4(d) Rule (50 CFR 223.203(a)) do not apply to activities described in a joint management plan provided that it has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005).

Dated: June 7, 2019.

**Angela Somma,**

*Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019–13762 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH073**

### Caribbean Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Caribbean Fishery Management Council's (Council) Outreach and Education Advisory Panel (OEAP) will hold a 2-day meeting in August to discuss the items contained in the agenda in the **SUPPLEMENTARY INFORMATION**.

**DATES:** The meetings will be held on August 7, 2019, from 10 a.m. to 4 p.m. and on August 8, 2019, from 10 a.m. to 4 p.m.

**ADDRESSES:** The meetings will be held at the CFMC Headquarters, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918.

**FOR FURTHER INFORMATION CONTACT:** Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

**SUPPLEMENTARY INFORMATION:**

**August 07, 2019, 10 a.m.–4 p.m.**

- Call to Order
- Adoption of Agenda
- OEAP Chairperson's Report
- Status of:
  - OEAP members meeting attendance
  - CFMC Report 165th Regular Meeting
  - USVI activities
  - Island-Based Fisheries Management Plans (IBFMPs)
  - Fishery Ecosystem Plan (FEP)
    - Stakeholders engagement
    - Ecosystem Based Fishery Management (EBFM) Work Group
    - —Outreach & Education initiatives for fishers and consumers
  - Responsible Seafood Consumption Campaign
    - Posters and placemats

**August 08, 2019, 10 a.m.–4 p.m.**

- 2020 Calendar
- Marine Fisheries Ecosystem Book
- CFMC Facebook and YouTube communications with Stakeholders
- PEPCO
- Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on August 7, 2019 at 10 a.m. and will end on August 8, 2019 at 4 p.m. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice.

### Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903,

telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 25, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–13895 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH075**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Hearings

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

**ACTION:** Notice of public hearings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold 4 public hearings, including one webinar hearing, to solicit public comments on the Draft Atlantic Surfclam and Ocean Quahog Excessive Shares Amendment to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP).

**DATES:** Written public comments must be received on or before 11:59 p.m. EST, September 14, 2019. The public hearings will be held between August 1, 2019 and September 10, 2019. For specific dates and times, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The hearing document is accessible electronically via the internet at: *http://www.mafmc.org/actions/scoq-excessive-shares-amendment* or by request to Dr. Chris Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

*Meeting addresses:* The public hearings will be held in Cape May, NJ; Salisbury, MD; Warwick, RI. One additional hearing will be held by internet webinar. For specific locations, see **SUPPLEMENTARY INFORMATION.**

*Public comments:* Written comments may be sent by any of the following methods:

- *Email to: jmontanez@mafmc.org.* Include ''SCOQ Excessive Shares Amendment Comments'' in the subject line.
- *Via web form at: http://www.mafmc.org/comments/scoq-excessive-shares-amendment.*
- *Mail to:* Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901. Mark the outside of the envelope ''SCOQ Excessive Shares Amendment Comments.''
- *Fax to:* (302) 674–5399.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The Mid-Atlantic Fishery Management Council is preparing an amendment to the Atlantic Surfclam and Ocean Quahog FMP, known as the ''Atlantic Surfclam and Ocean Quahog Excessive Shares Amendment.''

This amendment considers a variety of approaches to ensure that no individual, corporation, or other entity acquires an excessive share of the Atlantic surfclam and ocean quahog individual transferrable quota (ITQ) privileges. In addition, this action includes measures to revise the process for specifying multi-year management measures, require periodic review of the excessive share cap level, and allow adjustments to be made under the frameworkable provisions of the FMP. Lastly, this action may also revise the management objectives for the Atlantic Surfclam and Ocean Quahog FMP.

Additional information, including the amendment document are available at: *http://www.mafmc.org/actions/scoq-excessive-shares-amendment.*

The Council will hold 4 public hearings on this amendment, during which Council staff will brief the public on the contents of the amendment document and alternatives under consideration, prior to opening the hearing for public comments. The hearings schedule is as follows:

1. *Thursday, August 1, 2019 at 6:30 p.m.:* The Grand Hotel. 1045 Beach Avenue, Cape May, NJ 08204; telephone: (609) 884–5611.

2. *Wednesday, August 7, 2019 at 6:30 p.m.:* Internet webinar. Connection information to be posted at *www.mafmc.org/council-events* prior to the meeting.

3. *Monday, September 9, 2019 at 6:30 p.m.:* LaQuinta Inns & Suites, 300 S Salisbury Blvd., Salisbury, MD 21801; telephone: (410) 546–4400.

4. *Tuesday, September 10, 2019 at 6:30 p.m.:* Radisson Hotel Providence Airport. 2081 Post Rd., Warwick, RI 02886; telephone: (401) 739–3000.

#### Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office (302) 526–5251 at least 5 days prior to the hearing date.

Dated: June 25, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–13897 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XG612**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Off the Coast of North Carolina

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to Avangrid Renewables, LLC (Avangrid) to take small numbers of marine mammals, by harassment, incidental to high-resolution geophysical (HRG) survey investigations associated with marine site characterization activities off the coast of North Carolina in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0508) (the Lease Area) and the coastal waters off North Carolina and Virginia where one or more cable route corridors will be established.

**DATES:** This authorization is effective from June 1, 2019, through May 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as the issued IHA, 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 may be 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 in shorthand as ''mitigation''); and requirements pertaining to the monitoring and reporting of such takings must be set forth.

## Summary of Request

On October 4, 2018, NMFS received a request from Avangrid for an IHA to take marine mammals incidental to HRG survey investigations off the coast of North Carolina in the OCS–A 0508 Lease Area and in the coastal waters of Virginia and North Carolina where one or more cable route corridors will be established to support the development of an offshore wind project. The application was deemed adequate and complete on February 21, 2019. Avangrid's request is for take of small numbers of nine species by Level B harassment only. Neither Avangrid nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

## Description of the Specified Activity

### *Overview*

The purpose of the marine site characterization survey is to support the siting, design, and deployment of up to three meteorological data buoy deployment areas and obtain a baseline assessment of seabed/sub-surface soil conditions in the Lease Area and cable route corridors to support the siting of a planned wind farm. Underwater sound resulting from use of HRG equipment for site characterization purposes can have the potential to result in incidental take of marine mammals. The survey area extends along the coast from near the mouth of the Chesapeake Bay to Currituck, North Carolina. Up to 37 days of active HRG survey operations are planned and could take place any time during the one year authorization period. The surveys are planned to take place during the summer months. The IHA would be effective for one year. Take of marine mammals is anticipated to be in the form of Level B harassment only; no serious injury or mortality is anticipated or authorized. The IHA is effective from June 1, 2019, through May 31, 2020.

A detailed description of the planned survey activities, including types of survey equipment planned for use, is provided in the **Federal Register** notice for the proposed IHA (84 FR 17384; April 25, 2019). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not repeated here. Please refer to that **Federal Register** notice for the description of the specified activity.

## Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on April 25, 2019 (84 FR 17384). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission) and from a group of non-governmental organizations (NGOs) including Natural Resources Defense Council, National Wildlife Federation, Southern Environmental Law Center, North Carolina Wildlife Federation, Oceanic Preservation Society, Mass Audubon, Defenders of Wildlife, WDC North America, NY4WHALES, Gotham Whale, Ocean Conservation Research, Conservation Law Foundation, Inland Ocean Coalition, International Marine Mammal Project of the Earth Island Institute, and Sanctuary Education Advisory Specialists SEAS LLC. NMFS has posted the comments online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* The following is a summary of the public comments received and NMFS' responses.

*Comment 1:* The Commission recommended that, until the behavior thresholds are updated, NMFS require applicants to use the 120- rather than 160-dB re 1 µPa threshold for intermittent, non-impulsive sources (*i.e.,* parametric SBPs, chirps, echosounders, and other sonars). The Commission stated that general Level B harassment thresholds currently relate only to impulsive and continuous sources and that NMFS's characterization of the parametric SBPs and chirps as impulsive sources for the purpose of estimating the extent of the Level B harassment thresholds is incorrect. The Commission related that these sources are neither impulsive nor continuous sources, but rather should be described as non-impulsive, intermittent sources. Researchers have observed that various species of marine mammals, including harbor porpoises, respond to sound from sources with similar characteristics at received levels below 160 dB re 1 µPa. The Commission noted that the behavior thresholds currently used by NMFS do not reflect the current state of understanding regarding the temporal and spectral characteristics of various sound sources and their impacts on marine mammals. Therefore, NMFS should default to the more precautionary Level B harassment threshold of 120 dB re 1 µPa.

*Response:* NMFS has historically used generalized acoustic thresholds based on received levels to predict the occurrence of behavioral harassment, given the practical need to use a relatively simple threshold based on information that is available for most activities. Thresholds were selected in consideration largely of measured avoidance responses of mysticete whales to airgun signals and to industrial noise sources, such as drilling. The selected thresholds of 160 dB rms SPL and 120 dB rms SPL, respectively, have been extended for use since then for estimation of behavioral harassment associated with noise exposure from sources associated with other common activities as well.

Sound sources can be divided into broad categories based on various criteria or for various purposes. As discussed by Richardson *et al.* (1995), source characteristics include strength of signal amplitude, distribution of sound frequency and, importantly in context of these thresholds, variability over time. With regard to temporal properties, sounds are generally considered to be either continuous or transient (*i.e.,* intermittent). Continuous sounds, which are produced by the industrial noise sources for which the 120-dB behavioral harassment threshold was selected, are simply those whose sound pressure level remains above ambient sound during the observation

period (ANSI, 2005). Intermittent sounds are defined as sounds with interrupted levels of low or no sound (NIOSH, 1998). Simply put, a continuous noise source produces a signal that continues over time, while an intermittent source produces signals of relatively short duration having an obvious start and end with predictable patterns of bursts of sound and silent periods (*i.e.,* duty cycle) (Richardson and Malme, 1993). It is this fundamental temporal distinction that is most important for categorizing sound types in terms of their potential to cause a behavioral response. For example, Gomez *et al.* (2016) found a significant relationship between source type and marine mammal behavioral response when sources were split into continuous (*e.g.,* shipping, icebreaking, drilling) versus intermittent (*e.g.,* sonar, seismic, explosives) types. In addition, there have been various studies noting differences in responses to intermittent and continuous sound sources for other species (*e.g.,* Neo *et al.,* 2014; Radford *et al.,* 2016; Nichols *et al.,* 2015).

Sound sources may also be categorized based on their potential to cause physical damage to auditory structures and/or result in threshold shifts. In contrast to the temporal distinction discussed above, the most important factor for understanding the differing potential for these outcomes across source types is simply whether the sound is impulsive or not. Impulsive sounds, such as those produced by airguns, are defined as sounds which are typically transient, brief (<1 sec), broadband, and consist of a high peak pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998). These sounds are generally considered to have greater potential to cause auditory injury and/or result in threshold shifts. Non-impulsive sounds can be broadband, narrowband or tonal, brief or prolonged, continuous or intermittent, and typically do not have the high peak pressure with rapid rise/decay time that impulsive sounds do (ANSI, 1995; NIOSH, 1998). Because the selection of the 160-dB behavioral threshold was focused largely on airgun signals, it has historically been commonly referred to as the ''impulse noise'' threshold (including by NMFS). However, this longstanding confusion in terminology—*i.e.,* the erroneous impulsive/continuous dichotomy—presents a narrow view of the sound sources to which the thresholds apply, and inappropriately implies a limitation in scope of applicability for the 160-dB behavioral threshold in particular.

An impulsive sound is by definition intermittent; however, not all intermittent sounds are impulsive. Many sound sources for which it is generally appropriate to consider the authorization of incidental take are in fact either impulsive (and intermittent) (*e.g.,* impact pile driving) or continuous (and non-impulsive) (*e.g.,* vibratory pile driving). However, parametric SBPs and chirps present a less common case where the sound produced is considered intermittent but non-impulsive. Herein lies the crux of the Commission's argument, *i.e.,* that because HRG equipment used in site characterization surveys are not impulsive sound sources, they must be assessed using the 120-dB behavioral threshold appropriate for continuous noise sources. However, given the existing paradigm—dichotomous thresholds appropriate for generic use in evaluating the potential for behavioral harassment resulting from exposure to continuous or intermittent sound sources—the Commission does not adequately explain why potential harassment from an intermittent sound source should be evaluated using a threshold developed for use with continuous sound sources. As we have stated in prior responses to this recommendation, consideration of the preceding factors leads to a conclusion that the 160-dB threshold is more appropriate for use than is the 120-dB threshold.

As noted above, the Commission first claims generically that we are using an incorrect threshold, because parametric SBPs and chirps do not produce impulse noise. However, in bridging the gap from this generic assertion to their specific recommendation that the 120-dB continuous noise threshold should be used, the Commission makes several leaps of logic that we address here. The Commission's justification is in large part seemingly based on citation to examples in the literature of the most sensitive species responding at lower received levels to sources dissimilar to those considered here. There are three critical errors in this approach.

First, the citation of examples of animals ''responding to sound'' does not equate to behavioral harassment, as defined by the MMPA. As noted above under ''Background,'' the MMPA defines Level B harassment as acts with the potential to disturb a marine mammal by causing *disruption of behavioral patterns.* While it is possible that some animals do in fact experience Level B harassment upon exposure to intermittent sounds at received levels less than the 160-dB threshold, this is not in and of itself adequate justification for using a lower threshold. Implicit in the use of a step function for quantifying behavioral harassment is the realistic assumption, due to behavioral context and other factors, that some animals exposed to received levels below the threshold will in fact experience harassment, while others exposed to levels above the threshold will not. Moreover, a brief, transient behavioral response should not necessarily be considered as having the potential to disturb by disrupting behavioral patterns.

Many of the examples given by the Commission demonstrate mild responses, but not behavioral changes more likely to indicate Level B harassment. As an example, Kastelein *et al.* (2006a) describe the response of harbor porpoise to an experimental acoustic alarm (discussed below; power averaged source level of 145 dB), while also noting that a striped dolphin showed no reaction to the alarm, despite both species being able to clearly detect the signal.

Second, many of the cited studies do not present a relevant comparison. These studies discuss sources that are not appropriately or easily compared to the sources considered here and/or address responses of animals in experimental environments that are not appropriately compared to the likely exposure context here. For example, aside from the well-developed literature concerning ''acoustic harassment'' or ''acoustic deterrent'' devices—which are obviously designed for the express purpose of harassing marine mammals (usually specific species or groups)—Kastelein *et al.* (2006b) describe harbor seal responses to signals used as part of an underwater data communication network. In this case, seals in a pool were exposed to signals of relatively long duration (1–2 seconds) and high duty cycle for 15 minutes, with experimental signals of continuously varying frequency, three different sound blocks, or frequency sweeps. These seals swam away from the sound (though they did not attempt to reduce exposure by putting their heads out of the water), but this result is of questionable relevance to understanding the likely response of seals in the wild that may be exposed to a 1-ms single-frequency signal from an echosounder moving past the seal as a transient stimulus.

Third, the Commission relies heavily on the use of examples pertaining to the most sensitive species, which does not support an argument that the 120-dB threshold should be applied to all species. NMFS has acknowledged that the scientific evidence indicates that certain species are, in general, more acoustically sensitive than others. In particular, harbor porpoise and beaked

whales are considered to be behaviorally sensitive, and it may be appropriate to consider use of lower behavioral harassment thresholds for these species. NMFS is considering this issue in its current work of developing new guidelines for assessing behavioral harassment; however, until this work is completed and new guidelines are identified (if appropriate), the existing generic thresholds are retained. Moreover, as is discussed above for other reasons, the majority of examples cited by the Commission are of limited relevance in terms of comparison of sound sources. In support of their statement that numerous researchers have observed marine mammals responding to sound from sources claimed to be similar to those considered herein, the Commission indeed cites numerous studies; however, the vast majority of these address responses of harbor porpoise or beaked whales to various types of acoustic alarms or deterrent devices.

We acknowledge that the Commission presents legitimate points in support of defining a threshold specific to non-impulsive, intermittent sources and that, among the large number of cited studies, there are a few that show relevant results of individual animals responding to exposure at lower received levels in ways that could be considered harassment. As noted in a previous comment response, NMFS is currently engaged in an ongoing effort towards developing updated guidance regarding the effects of anthropogenic sound on marine mammal behavior. However, prior to conclusion of this effort, NMFS will continue using the historical Level B harassment thresholds (or derivations thereof) and will appropriately evaluate behavioral harassment due to intermittent sound sources relative to the 160-dB threshold.

*Comment 2:* The Commission and NGOs expressed concern that the Renewal process discussed in the notice for the proposed IHA is inconsistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA. The NGOs asserted that IHAs can be valid for not more than one year and both commenters stated that 30 days for comment, including on Renewal IHAs, is required.

*Response:* NMFS' IHA Renewal process meets all statutory requirements. All IHAs issued, whether an initial IHA or a Renewal, are valid for a period of not more than one year. And the public has 30 days to comment on proposed IHAs, with a cumulative total of 45 days for IHA Renewals. One commenter characterized the agency's request for comments as seeking comment on the Renewal process and the proposed IHA, but the request for comments was not so limited. The *Request for Public Comments* section made clear that the agency was seeking comment on both the initial proposed IHA for this project and the potential issuance of a Renewal. Because any Renewal (as explained in the *Request for Public Comments* section) is limited to another year of identical or nearly identical activities (as described in the *Description of Proposed Activity*) or the same activities that were not completed within the one-year period of the initial IHA, reviewers have the information needed to effectively comment on both the immediate proposed IHA and a possible one-year Renewal, should the IHA holder choose to request one in the coming months. Minor changes have been made to the description of the Renewal process to make this even clearer.

While there will be additional documents submitted with a Renewal request, for a qualifying Renewal these will be limited to documentation verifying that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities analyzed and authorized but not completed under the initial IHA. The Renewal request will also contain a preliminary monitoring report, but that is to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. An additional 15-day public comment period provides the public an opportunity to review these documents and any additional pertinent information and comment on whether they think the criteria for a Renewal have been met. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a Renewal is 45 days.

*Comment 3:* The NGOs stated that NMFS should explain why applicants whose activities may result in incidental take of marine mammals over more than one year should not be required to apply for incidental take authorization under section 101(a)(5)(A), which provides for authorizations for up to five years.

*Response:* It is up to an applicant to decide which authorization process it wants to pursue. While it is correct that MMPA authorizations under section 101(a)(5)(A) can be issued for up to five years (seven years for military readiness activities), the agency cannot require an applicant to apply under this provision. An applicant whose activities qualify for an IHA has the right to choose that course of action, including requesting a second year of authorization if they meet all of the criteria for an IHA Renewal.

*Comment 4:* The Commission and NGOs also argued that the 15-day comment period places a burden on reviewers, who will need to review the original authorization and numerous supporting documents and then formulate comments very quickly. The Commission stated that if proposed renewals are complex or occur frequently, reviewers who attempt to comment on all proposed authorizations and renewals would be hard pressed to do so within the 15-day comment period.

*Response:* NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on Renewal IHAs within the limitations of processing Renewal requests efficiently. **Federal Register** notices for proposed initial IHAs identify the conditions under which a one-year Renewal IHA could be appropriate. This information would have been presented in the *Request for Public Comments* section, which encouraged submission of comments on a potential one-year Renewal in addition to the initial IHA during the initial 30-day comment period. With this information about the Renewal process and the project-specific information provided in the **Federal Register** notice, reviewers have the information needed to provide information and comment on both the initial IHA and a potential Renewal for the project. Thus reviewers interested in submitting comments on a proposed Renewal will have already reviewed the activities and mitigation and monitoring measures, which will not change from the IHA issued, and the anticipated effects of those activities on marine mammals and provided their comments during the initial 30-day comment period. When we receive a request for a Renewal IHA, we will publish notice of the proposed IHA Renewal in the **Federal Register** and provide an additional 15 days for public comment to allow review of the additional documents (preliminary monitoring report, Renewal request, and proposed Renewal), which should confirm that the activities have not changed (or only minor changes), commit to continue the same mitigation and monitoring measures, and document that monitoring does not indicate any impacts of a scale or nature not previously analyzed. In addition, to minimize any burden on reviewers, NMFS will directly contact all

commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them direct notice about the opportunity to submit any additional comments on the proposed Renewal IHA.

*Comment 5:* The NGOs commented that NMFS apparently intends for the IHA Renewal process to become the rule rather than the exception. The Commission recommended that NMFS use the renewal process sparingly and limit its use to only those proposed IHAs that are expected to have the lowest levels of impacts to marine mammals and that require the least complex analyses.

*Response:* As described in the **Federal Register** notice for the proposed IHA and on NMFS' website where information on all MMPA incidental take authorization processes is provided, requests for Renewal IHAs are appropriate only in the limited circumstances described in the response to Comment 2. NMFS does not anticipate many projects that would meet all the criteria for a Renewal. Nonetheless, information about the Renewal process and the opportunity to comment on a potential Renewal is included in every notice of a proposed IHA because NMFS cannot necessarily predetermine who may seek or qualify for a Renewal. NMFS has also explained that the possibility of a Renewal must be included in the notice of the initial proposed IHA for the agency to consider a Renewal request, for the purpose of providing adequate opportunity for public comment as discussed in the response above. Where the commenter has likely already reviewed and commented on the initial proposed IHA and a potential Renewal for these same activities, the abbreviated additional comment period is sufficient for consideration of the results of the preliminary monitoring report and new information (if any) from the past months.

NMFS' purpose in providing for Renewals is two-fold. First and foremost, the efficiencies in dealing with these simple, low-impact projects (which have already been fully described and analyzed in the initial IHA) frees up limited staff resources to increase focus on more complex and impactful projects, creating opportunities for increased conservation value and even better utilization of new science and evolving technologies. In addition, while the agency has always striven for efficiency in regulatory processes, recent directives have called for agencies to put processes in place that reduce regulatory timelines and the regulatory burden on the public. The Renewal process reduces the effort needed by both applicants and NMFS staff for simple, relatively low impact projects with little to no uncertainty regarding effects that have already been analyzed by the agency and considered by the public—with no reduction in protection to marine mammals.

*Comment 6:* The Commission recommended that, in the future, NMFS take all steps necessary to ensure that it publishes and finalizes proposed incidental harassment authorizations far enough in advance of the planned start date of the proposed activities to ensure full consideration is given to any and all comments received.

*Response:* NMFS encourages all applicants to submit applications for IHAs five to eight months in advance of the intended project start date and for rulemakings/LOAs at least nine months, and preferably 15 months, in advance of the intended project start date. More generally, NMFS publishes FR notices for proposed IHAs as quickly as possible once the application is received and aims to allow more time on the back end of the comment period, but there are situations where the length of processing times are driven by the exigency of an applicant's activity start date or by the need to work with applicants to ensure we have the necessary information to deem an application adequate and complete. Here, NMFS provided the required 30-day notice for public comment, and has adequately considered the comments received in making the necessary findings for this IHA.

*Comment 7:* The NGOs recommended that NMFS impose a restriction on site assessment and characterization activities that have the potential to harass the North Atlantic right whale from November 1st to April 30 in case of delay of planned surveys beyond summer.

*Response:* In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat; and (2) the practicability of the measures for applicant implementation, which may consider such things as relative cost and impact on operations.

Avangrid determined the planned duration of the survey based on their data acquisition needs, which are largely driven by the Bureau of Ocean Energy Management's (BOEM) data acquisition requirements prior to required submission of a construction and operations plan (COP). Even though Avangrid plans to conduct the survey during summer of 2019, unexpected delays may occur. Our analysis of the potential impacts of the survey on right whales does not indicate that such closures are warranted, as we do not anticipate any potential impacts to right whales from the survey activities during any time of the year particularly with the mitigation requirements. No behavioral disturbance or injury to right whales is expected and none is authorized in the IHA. Therefore, NMFS has determined that time and area restrictions are not warranted in this case. Existing mitigation measures, including exclusion zones, ramp-up of survey equipment, and vessel strike avoidance measures, are sufficiently protective to ensure the least practicable adverse impact on species or stocks and their habitat.

*Comment 8:* The NGOs recommended that geophysical surveys should commence, with ramp up, during daylight hours only to maximize the probability that marine mammals are detected and confirmed clear of the exclusion zone (''EZ''). They state that if a right whale is detected in the EZ at night and the survey shuts down, the survey should not resume until daylight hours.

*Response:* We acknowledge the limitations inherent in detection of marine mammals at night. However, similar to the discussion above regarding time closures, restricting the ability of the applicant to ramp-up surveys only during daylight hours would have the potential to result in lengthy shutdowns of the survey equipment, which could result in the applicant failing to collect the data they have determined is necessary, which could result in the need to conduct additional surveys the following year. This would result in significantly increased costs incurred by the applicant. Thus the restriction suggested by the commenters would not be practicable for the applicant to implement. In addition, potential impacts to marine mammals authorized for take would be limited to short-term behavioral responses. Restricting surveys in the manner suggested by the commenters may reduce marine mammal exposures by some degree in the short term, but would not result in any significant reduction in either intensity or duration of noise exposure. No injury is expected to result even in the absence of mitigation, given the very small estimated Level A harassment

zones. In the event that NMFS imposed the restriction suggested by the commenters, vessels would potentially be on the water for an extended time introducing noise into the marine environment. Therefore, in addition to practicability concerns for the applicant, the restrictions recommended by the commenters could result in the surveys spending increased time on the water, which may result in greater overall exposure to sound for marine mammals; thus the commenters have not demonstrated that such a requirement would result in a net benefit. Furthermore, it is not anticipated that right whales would be exposed to sound levels that would result in take by Level A or Level B harassment. Therefore, in consideration of potential effectiveness of the recommended measure and its practicability for the applicant, NMFS has determined that restricting survey start-ups to daylight hours is not warranted in this case.

*Comment 9:* The NGOs recommended that NMFS encourage developers to partner with scientists to collect data that would increase the understanding of the effectiveness of night vision and infrared technologies off North Carolina, Virginia, and the broader mid-Atlantic region, with a view towards greater reliance on these technologies to commence surveys during nighttime hours in the future.

*Response:* NMFS agrees with the NGOs that improved data on relative effectiveness of night vision and infrared technologies would be beneficial and could help to inform future efforts at detection of marine mammals during nighttime activities. The commenters have not provided us with any specific recommendations to evaluate beyond a broad recommendation. However, we will encourage coordination and communication between offshore wind developers and researchers on effectiveness of night vision and infrared technologies, to the extent possible.

*Comment 10:* The NGOs recommended that NMFS require a 500 m EZ for marine mammals and that protected species observers (PSOs) monitor to an extended 1,000 m EZ for North Atlantic right whales. Another comment from the NGOs suggested that survey activity should be shut down upon the visual detection of a North Atlantic right whale, presumably at any distance.

*Response:* Regarding the recommendation for a 1,000 m EZ specifically for North Atlantic right whales, we have determined that the 500 m EZ, as required in the IHA, is sufficiently protective. We note that the 500 m EZ exceeds by two times the modeled distance to the largest Level B harassment isopleth (200 m). Thus for North Atlantic right whales detected by PSOs this EZ would be expected to effectively minimize potential instances of injury and behavioral harassment. For the same reason we are not requiring shutdown if a right whale is observed beyond 500 m. Similarly, the recommended 500 m EZ for other species is overly conservative when a 200 m isopleth has been modeled for behavioral harassment.

*Comment 11:* PSOs should adhere to a shift schedule of two-on/two-off to ensure no individual PSO is responsible for monitoring more than 180° of the EZ at any one time.

*Response:* Previous IHAs issued for HRG surveys have required that a single PSO must be stationed at the highest vantage point and engaged in general 360-degree scanning during daylight hours. A number of marine mammal monitoring reports submitted to NMFS have effectively employed this approach. NMFS sees no reason to deviate from this practice at the present time.

*Comment 12:* The NGOs recommended that a combination of visual monitoring by PSOs and passive acoustic monitoring should be used at all times.

*Response:* We do not think the use of PAM is necessarily warranted for surveys using the sound sources proposed for use by Avangrid, due to relatively small areas that are expected to be ensonified to the Level A harassment threshold. Given that the effects to marine mammals from the types of surveys authorized in this IHA are expected to be limited to behavioral harassment even in the absence of mitigation, we have determined the current requirements for visual monitoring are sufficient to ensure the EZs and monitoring zones are adequately monitored for this particular activity.

*Comment 13:* The NGOs recommended that all vessels operating within the survey area, including support vessels, should maintain a speed of 10 knots or less during the entire survey period. If site characterization and assessment activities are delayed into the fall and winter, a 10-knot speed restriction on all project-associated vessels transiting to/from the survey area from November 1 through April 30 should also be required.

*Response:* NMFS has analyzed the potential for ship strike resulting from Avangrid's activity and has determined that the mitigation measures specific to ship strike avoidance are sufficient to avoid the potential for ship strike. These include: A requirement that all vessel operators comply with 10 knot (18.5 kilometer (km)/hour) or less speed restrictions in any SMA or Dynamic Management Area (DMA); a requirement that all vessel operators reduce vessel speed to 10 knots (18.5 km/hour) or less when any large whale, any mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed within 100 m of an underway vessel; a requirement that all survey vessels maintain a separation distance of 500 m or greater from any sighted North Atlantic right whale; a requirement that, if underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots or less until the 500 m minimum separation distance has been established; and a requirement that, if a North Atlantic right whale is sighted in a vessel's path, or within 500 m of an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Additional measures to prevent the potential for ship strike are discussed in more detail below (see the Mitigation section). We have determined that the ship strike avoidance measures are sufficient to ensure the least practicable adverse impact on species or stocks and their habitat. We also note that vessel strike during surveys is extremely unlikely based on the low vessel speed of approximately 4 knots (7.4 km/hour) while transiting survey lines.

*Comment 14:* The NGOs recommended that NMFS account for the potential for indirect ship strike risk resulting from habitat displacement.

*Response:* NMFS determined that habitat displacement was not an expected outcome of the specified activity, therefore an analysis of potential impacts to marine mammals from habitat displacement is not warranted in this case.

*Comment 15:* The NGOs commented that Lease Area lies to the west of the Cape Hatteras Special Research Area (CHSRA) which is a highly diverse and biologically productive marine ecosystem. Therefore, it is crucial that that NMFS afford special attention to the general importance of the waters off North Carolina to marine mammals when permitting offshore wind development activities in this region, and requires strong mitigation measures capable of protecting multiple species in the Lease Area and cable route corridors.

*Response:* NMFS is requiring mitigation measures as part of the IHA which do protect multiple marine mammal species.

*Comment 16:* The NGOs expressed concern regarding the marine mammal density estimates used to calculate take. Specifically, they commented that the density maps produced by Roberts *et al.* do not fully reflect the abundance, distribution, and density of marine mammals, including North Atlantic right whales, for the U.S. East Coast and therefore should not be the only information source relied upon when estimating take.

*Response:* NMFS has determined that the data provided by Roberts *et al.* represents the best available information concerning marine mammal density in the survey area and has used it accordingly. NMFS has considered other available information, including that cited by the commenters, and determined that it does not contradict the information provided by Roberts *et al.* (2016). Furthermore, the information discussed by the commenters does not provide data in a format that is directly usable in an acoustic exposure analysis, and the commenters make no useful recommendation regarding how to do so.

*Comment 17:* The NGOs recommended that NMFS' top priority should be to consider any initial data from State monitoring efforts, passive acoustic monitoring data, opportunistic marine mammal sightings data, and other data sources, and to take steps now to develop a dataset that more accurately reflects marine mammal presence so that it is in hand for future IHA authorizations and other work.

*Response:* As noted above, we will review any recommended data sources and will continue to use the best available information. We welcome future input, even outside the comment period for this particular IHA, from interested parties on data sources that may be of use in analyzing the potential presence and movement patterns of marine mammals, including North Atlantic right whales, in the mid-Atlantic area.

*Comment 18:* The NGOs stated that NMFS should not adjust take numbers for endangered whales based on the effectiveness of mitigation measures. NMFS' assumptions regarding mitigation effectiveness are unfounded according to the NGOs. They also do not believe it is possible to mitigate all potential for Level B harassment though implementation of an EZ for right whales or fin whales.

*Response:* NMFS reduced authorized take for these whale species to zero down for right whale and fin whale. The NGOs' arguments against reduction are: (i) The agency's reliance on a 160 dB threshold for behavioral harassment is not supported by best available scientific information and (ii) the monitoring protocols the agency prescribes for the EZ are under-protective. NMFS addressed the first item in the response to *Comment 1* and the second item is addressed in responses to *Comment 8* and *Comment 9.*

Additionally, NMFS referenced monitoring reports from previous HRG action to justify the effectiveness of mitigation measures and reduction of right and fin whale take numbers. We acknowledge that visual monitoring may not capture all of the animals that enter into a harassment zone, especially during nighttime operations and adverse weather conditions. Nevertheless, we believe it provides a reasonably accurate depiction of observed take levels and supports the efficacy of required mitigation measures. Also, note that the 200 m Level B harassment isopleth is considered to be conservative based on sound source verification testing. As such, NMFS has determined that given the density of these species in the area and the size of the Level B harassment zone (resulting in a very low likelihood of exposure absent mitigation) combined with the likely effectiveness of the mitigation should an unexpected encounter with either of these species occur—it is reasonable to expect that Level B harassment of right and fin whales will not occur.

*Comment 19:* The NGOs recommended that NMFS acknowledge the potential for Level A harassment take on small cetaceans and reconsider its analysis of Level A harassment take on harbor porpoise and other acoustically sensitive species.

*Response:* Small cetaceans and harbor porpoises are highly mobile species existing in an environment where HRG sound sources are non-stationary. We find it unlikely that these marine mammals would remain within the small injury zones long enough such that their cumulative exposure would result in permanent threshold shift (PTS) as defined in NMFS' Technical Guidance (2018).

*Comment 20:* The NGOs stated that is incumbent upon the agency to address potential impacts to other endangered and protected whale species, particularly in light of the UMEs declared for right whales, humpback whales and minke whales, as well as the several strategic and/or depleted stocks of small cetaceans that inhabit the region.

*Response:* We discuss the potential impacts of HRG surveys on species experiencing UMEs and for which take is authorized (*i.e.,* humpback whale, minke whale) in the *Negligible Impact Determination* section. Please refer to that discussion.

*Comment 21:* The NGOs recommended NMFS: (1) Fund analyses of recently collected sighting and acoustic data for all data-holders; and (2) continue to fund and expand surveys and studies to improve our understanding of distribution and habitat use of marine mammals in the mid-Atlantic region.

*Response:* We agree with the NGOs that analyses of recently collected sighting and acoustic data, as well as continued marine mammal surveys, are warranted, and we welcome the opportunity to participate in fora where implications of such data for potential mitigation measures would be discussed; however, we have no statutory authority or ability to require funding of such analyses and surveys. Additionally, NMFS will fund pertinent surveys in the mid-Atlantic region based on agency priorities and budgetary considerations.

**Description of Marine Mammals in the Area of Specified Activities**

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists species with expected potential for take in the survey area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality or serious injury is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs (*e.g.,* Hayes *et al.,* 2018). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2017 SARs (Hayes *et al.,* 2018) and draft 2018 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 1—MARINE MAMMAL SPECIES THAT MAY OCCUR NEAR THE SURVEY AREA

| Common name | Scientific name | Stock | ESA/ MMPA status; strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR | Annual M/SI [3] |
|---|---|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)** | | | | | | |
| Family Balaenidae: | | | | | | |
| North Atlantic Right whale | *Eubalaena glacialis* | Western North Atlantic (WNA) | E/D; Y | 451 (0; 445; 2017) | 0.9 | 5.56 |
| Family Balaenopteridae (rorquals): | | | | | | |
| Humpback whale | *Megaptera novaeangliae* | Gulf of Maine | -/-; N | 896 (0; 896; 2012) | 14.6 | 9.8 |
| Fin whale | *Balaenoptera physalus* | WNA | E/D; Y | 1,618 (0.33; 1,234; 2011) | 2.5 | 2.5 |
| Sei whale | *Balaenoptera borealis* | Nova Scotia | E/D; Y | 357 (0.52; 236 | 0.5 | 0.6 |
| Minke whale | *Balaenoptera acutorostrata* | Canadian East Coast | -/-; N | 2,591 (0.81; 1,425 | 14 | 7.5 |
| **Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | | |
| Family Delphinidae: | | | | | | |
| Short-finned pilot whale | *Globicephala macrorhynchus* | WNA | -/-; Y | 21,515 (0.37; 15,913:2011). | 159 | 192 |
| Long-finned pilot whale | *Globicephala melas* | WNA | -/-; Y | 5,636 (0.63; 3,464) | 35 | 38 |
| Bottlenose dolphin | *Tursiops spp.* | WNA Offshore | -/-; N | 77,532 (0.40; 56053; 2016). | 561 | 39.4 |
| | | WNA Southern Migratory Coastal. | -/-; Y | 3,751 (0.060; 2,353; 2017). | 23 | 0–12.3 |
| Short beaked common dolphin. | *Delphinus delphis* | WNA | -/-; N | 70,184 (0.28; 55,690; 2011). | 557 | 406 |
| Atlantic white-sided dolphin | *Lagenorhynchus acutus* | WNA | -/-; N | 48,819 (0.61; 30,403; 2011). | 304 | 30 |
| Atlantic spotted dolphin | *Stenella frontalis* | WNA | -/-: N | 44,715 (0.43; 31,610; 2013). | 316 | 0 |
| Risso's dolphin | *Grampus griseus* | WNA | -/-; N | 18,250 (0.5; 12,619; 2011). | 126 | 49.7 |
| Family Phocoenidae (porpoises): | | | | | | |
| Harbor porpoise | *Phocoena phocoena* | Gulf of Maine/Bay of Fundy | -/-; N | 79,833 (0.32; 61,415; 2011). | 706 | 255 |

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region/*. CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

A detailed description of the species likely to be affected by Avangrid's survey, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 17384; April 25, 2019) since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not repeated here. Please refer to the **Federal Register** notice for the proposed IHA for descriptions of other species. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

## Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from Avangrid's survey activities have the potential to result in take of marine mammals by harassment in the vicinity of the survey area. The **Federal Register** notice for the proposed IHA (84 FR 17384; April 25, 2019) included a discussion of the effects of anthropogenic noise on marine mammals and their habitat, and that information is not repeated here. No instances of serious injury or mortality are expected as a result of the planned activities.

## Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption

of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) and the number of days of activities. We note that while these basic factors can contribute to a calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the calculated take estimate.

*Acoustic Thresholds*

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Avangrid's activity includes the use of impulsive and/or intermittent sources (HRG equipment) and, therefore, the 160 dB re 1 µPa (rms) is applicable.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Avangrid's activity includes the use of impulsive sources (medium penetration sub-bottom profiler) and non-impulsive sources (shallow penetration sub-bottom profiler).

These thresholds are provided in Table 2. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

| Hearing group | PTS onset acoustic thresholds * (received level) | |
|---|---|---|
| | Impulsive | Non-impulsive |
| Low-Frequency (LF) Cetaceans | *Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB | *Cell 2:* $L_{E,LF,24h}$: 199 dB. |
| Mid-Frequency (MF) Cetaceans | *Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB | *Cell 4:* $L_{E,MF,24h}$: 198 dB. |
| High-Frequency (HF) Cetaceans | *Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB | *Cell 6:* $L_{E,HF,24h}$: 173 dB. |
| Phocid Pinnipeds (PW) (Underwater) | *Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB | *Cell 8:* $L_{E,PW,24h}$: 201 dB. |
| Otariid Pinnipeds (OW) (Underwater) | *Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB | *Cell 10:* $L_{E,OW,24h}$: 219 dB. |

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure ($L_{pk}$) has a reference value of 1 µPa, and cumulative sound exposure level ($L_E$) has a reference value of 1µPa$^2$s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Ensonified Area*

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Previously we explained that auditory injury of marine mammals is unlikely given the higher level of sound and/or longer durations of exposure necessary to cause PTS and the small zone within which sound levels would exceed criteria for onset of PTS. The information provided in Tables 4 and 5 support this position and demonstrate that the mitigation measures are based on a highly conservative evaluation of potential acoustic impacts.

When the NMFS Technical Guidance was first published in 2016, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we

anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available. NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For mobile sources, including the HRG survey equipment, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed. Note however, that use of the spreadsheet is generally not appropriate for use in assessing potential for Level A harassment for very highly directional sources, such as the Innomar SES–2000, for reasons explained below. Inputs used in the User Spreadsheet and the resulting isopleths are reported in Table 3.

TABLE 3—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS

| Spreadsheet tab used | USBL | Shallow penetration SBP | Medium penetration SBP |
|---|---|---|---|
| | D: Mobile source: Non-impulsive, intermittent | D: Mobile source: Non-impulsive, intermittent | F: Mobile source: Impulsive, intermittent |
| Source Level (dB) | 188 RMS SPL | 179 RMS SPL | 206 RMS SPL |
| Weighting Factor Adjustment (kHz) | 26.5 | 2.6 | 1.4 |
| Source Velocity (m/s) | 2.058 | 2.058 | 2.058 |
| Pulse Duration (seconds) | 0.016 | 0.0658 | 0.008 |
| 1/Repetition rate^ (seconds) | 0.33 | 0.25 | 0.25 |
| Source Level (PK SPL) | | | 215 |
| Propagation (xLogR) | 20 | 20 | 20 |

Note that the Innomar SES–2000 is a specialized type of HRG sub-bottom profiler that uses the principle of ''parametric'' or ''nonlinear'' acoustics to generate short narrow-beam sound pulses. As no field data currently exists for the Innomar sub-bottom profiler acoustic modeling was completed using a version of the U.S. Naval Research Laboratory's Range-dependent Acoustic Model (RAM) and BELLHOP Gaussian beam ray-trace propagation model (Porter and Liu 1994). Calculations of the ensonified area are conservative due to the directionality of the sound sources. Due to the short sound pulses and the highly directional sound pulse transmission (1° beamwidth) of parametric sub-bottom profilers, the volume of area affected is much lower than using conventional (linear) acoustics devices such as sparker and chirp systems. Level A harassment zones of less than 5 meters (Table 4) for HF cetaceans were calculated for this HRG equipment in the planned survey area while Level B harassment isopleths were found to range from 120 to 135 meters (Table 5).

TABLE 4—MAXIMUM DISTANCES TO LEVEL A HARASSMENT THRESHOLDS BY EQUIPMENT CATEGORY

| Representative HRG survey equipment | Marine mammal group | PTS onset | Lateral distance (m) |
|---|---|---|---|
| **USBL/GAPS Positioning Systems** | | | |
| Sonardyne Ranger 2 USBL HPT 5/7000 | LF cetaceans | 199 dB $SEL_{cum}$ | — |
| | MF cetaceans | 198 dB $SEL_{cum}$ | — |
| | HF cetaceans | 173 dB $SEL_{cum}$ | 3 |
| **Shallow Sub-Bottom Profiler** | | | |
| Edgetech 512i | LF cetaceans | 199 dB $SEL_{cum}$ | — |
| | MF cetaceans | 198 dB $SEL_{cum}$ | — |
| | HF cetaceans | 173 dB $SEL_{cum}$ | — |
| **Shallow Parametric Sub-Bottom Profiler** | | | |
| Innomar SES–2000 Standard Parametric Sub-Bottom Profiler. | LF cetaceans | 199 dB $SEL_{cum}$ | N/A |
| | MF cetaceans | 198 dB $SEL_{cum}$ | — |
| | HF cetaceans | 173 dB $SEL_{cum}$ | — <5 |
| **Medium Penetration Sub-Bottom Profiler** | | | |
| SIG ELC 820 Sparker | LF cetaceans | 219 dBpeak, 183 dB $SEL_{cum}$ | —, 10 |
| | MF cetaceans | 230 dBpeak, 185 dB $SEL_{cum}$ | —, — |
| | HF cetaceans | 202 dBpeak, 155 dB SELcum | 5, 4 |

**Notes:** The peak SPL criterion is un-weighted (*i.e.,* flat weighted), whereas the cumulative SEL criterion is weighted for the given marine mammal functional hearing group.

The calculated sound levels and results are based on NMFS Technical Guidance's companion User Spreadsheet except as indicated.

— indicates that no injury was predicted for the given HRG equipment noise profile.

N/A indicates not applicable as the HRG sound source operates outside the effective marine mammal hearing range.

Distances to Level B harassment noise thresholds were calculated using the conservative practical spreading model (transmission loss (TL) equation: TL = $15\log_{10}r$), with the exception of the Innomar SES–2000 described previously. The Sig ELC 820 Sparker was calculated to have the largest Level B harassment isopleth of 200 m (656.2 ft). To account for some of the potential variation of operating conditions, the maximum distance of 200 m to the harassment thresholds is used to determine estimated exposure. The 200 m distance to the medium penetration sub-bottom profiler represents the largest distance and is likely a very conservative estimate based on sound source field verification assessments of similar sparker electrode equipment.

The 200 m distance to the medium penetration sub-bottom profiler represents the largest distance and is likely a very conservative estimate based on sound source field verification assessments of similar sparker electrode equipment.

TABLE 5—DISTANCES TO LEVEL B HARASSMENT THRESHOLDS

[160 $dB_{RMS}$]

| Survey equipment | Marine mammal level B harassment 160 $dB_{RMS}$ re 1 µPa (m) |
|---|---|
| **USBL** | |
| Sonardyne Ranger 2 USBL | 25 |
| **Shallow Penetration Sub-Bottom Profiler** | |
| EdgeTech 512i | 10 |
| Innomar parametric SES–2000 Standard | 120–135 |
| **Medium Penetration Sub-Bottom Profiler** | |
| SIG ELC 820 Sparker | 200 |

*Marine Mammal Occurrence*

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. The data used as the basis for estimating cetacean density (''D'') for the survey area are sightings per unit effort (SPUE) derived by Duke University (Roberts *et al.* 2016a), updated with new modeling results (Roberts *et al.* 2016b; 2017; 2018). SPUE (or, the relative abundance of species) is derived by using a measure of survey effort and number of individual cetaceans sighted. SPUE allows for comparison between discrete units of time (*i.e.* seasons) and space within a project area (Shoop and Kenney, 1992). The Duke University (Roberts *et al.* 2016) cetacean density data represent models derived from aggregating line-transect surveys conducted over 23 years by five institutions (NOAA NMFS Northeast Fisheries Science Center, New Jersey Department of Environmental Protection, NOAA NMFS Southeast Fisheries Science Center, University of North Carolina Wilmington, and Virginia Aquarium & Marine Science Center). Model versions discussed in Roberts *et al.* (2016a) are freely available online at the Ocean Biogeographic Information System Spatial Ecological Analysis of Megavertebrate Populations (OBISSEAMAP) repository. Monthly mean density values within the survey area were averaged by season (Winter (December, January, February), Spring (March, April, May), Summer (June, July, August), Fall (September, October, November)) to provide seasonal density estimates for those taxa for which monthly model results are available. The highest seasonal density estimates during the duration of the survey were used to estimate take (*i.e.,* summer or fall). (2016b; 2017; 2018).

*Take Calculation and Estimation*

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to harassment thresholds are calculated, as described above. Those distances are then used to calculate the area(s) around the HRG survey equipment predicted to be ensonified to sound levels that exceed harassment thresholds. The area estimated to be ensonified to relevant thresholds in a single day of the survey is then calculated, based on areas predicted to be ensonified around the HRG survey equipment and the estimated survey vessel trackline distance traveled per day.

The survey activities that have the potential to cause Level B harassment (160 $dB_{RMS}$ re 1 µPa) are listed in Table 5. Based on the results of this assessment, the furthest distance to the Level B harassment criteria is 200 m from the use of the SIG ELC 820 Sparker. As a conservative measure to account for some of the potential variation of operating conditions, the maximum distance of 200 m to the Level B harassment isopleth for the SIG ELC 820 Sparker is used to determine estimated exposure for the entire HRG survey.

The estimated distance of the daily vessel trackline was determined using the estimated average speed of the vessel (4 knots) and the 24-hour operational period. Using the maximum distance to the Level B harassment threshold of 200 m (656 ft) and estimated daily vessel track of approximately 177.8 km (110.5 mi), estimates of take by survey equipment has been based on an ensonified area around the survey equipment of 71.2 $km^2$ (27.5 $mi^2$) per day over a projected survey period for each survey segment as shown in Table 6.

TABLE 6—SURVEY SEGMENT DISTANCES AND LEVEL B HARASSMENT ZONES

| Survey segment | Number of active survey days | Estimated distances per day (km) | Estimated total line distance | Calculated Level B harassment zone per day ($km^2$) |
|---|---|---|---|---|
| Lease Area | 29 | 177.8 | 5,156 | 71.2 |
| Cable Route Corridor | 8 | 177.8 | 1,422 | 71.2 |

The parameters in Table 6 were used to estimate the potential take by incidental harassment for each segment of the HRG survey. Density data from Roberts *et al.* (2016b; 2017; 2018) were mapped within the boundary of the survey area for each segment (Figure 1 in application) using geographic information systems. For both survey segments, species densities, as reported by Roberts *et al.* (2016) within the maximum survey area, were averaged by

season (spring and summer) based on the planned HRG survey schedule (commencing no earlier than June 1, 2019). Potential take calculations were then based on the maximum average seasonal species density (between spring and summer) within the maximum survey area, given the survey start date and duration. Results of the take calculations by survey segment are provided in Table 7.

TABLE 7—MARINE MAMMAL DENSITY AND ESTIMATED TAKE BY LEVEL B HARASSMENT

| Species | Lease area | | Cable corridor route | | Totals | |
|---|---|---|---|---|---|---|
| | Maximum average seasonal density [1] (No./100 km$^2$) | Calculated take (number) | Maximum average seasonal density [1] (No./100 km$^2$) | Calculated take (number) | Total take authorization (number) | Percent of population |
| North Atlantic right whale | 0.051 | 1.063 | 0.051 | 0.288 | [3] 0 | ..... |
| Humpback whale | 0.466 | 9.631 | 0.102 | 0.581 | 10 | 1.11 |
| Fin whale | 0.328 | 6.773 | 0.128 | 0.729 | [3] 0 | ..... |
| Sei whale | 0.020 | 0.406 | 0.003 | 0.018 | 0 | ..... |
| Minke whale | 0.757 | 15.643 | 0.171 | 0.9722 | 17 | 0.65 |
| Pilot whale | 0.100 | 2.073 | 0.034 | 0.195 | [4 5] 10 | <0.01 |
| Harbor porpoise | 1.252 | 25.874 | 0.690 | 3.931 | 30 | <0.01 |
| Bottlenose dolphin (WNA southern migratory coastal) [2] | 0.000 | 0.000 | 49.102 | 104.944 | 105 | 2.8 |
| Bottlenose dolphin (offshore) [2] | 6.409 | 132.413 | 49.102 | 174.906 | 307 | <0.01 |
| Short beaked common dolphin | 5.241 | 108.275 | 2.144 | 12.221 | 120 | 0.17 |
| Atlantic white-sided dolphin | 2.482 | 51.288 | 0.320 | 1.826 | 53 | 0.11 |
| Atlantic spotted dolphin | 8.895 | 183.772 | 3.493 | 19.910 | 204 | 0.46 |
| Risso's dolphin | 0.074 | 1.525 | 0.074 | 0.421 | [4] 40 | 0.21 |

[1] Density values from Duke University (Roberts *et al.* 2016b; 2017; 2018).
[2] Estimates split based on bottlenose dolphin stock preferred water depths (Reeves *et al.* 2002; Waring *et al.* 2016).
[3] No take authorized, as discussed below.
[4] Adjusted for group size.
[5] For short-finned and long-finned pilot whales, percentage of stock taken is <0.01percent both species if all 10 takes are allocated separately to each species.

Since the calculated take value for pilot whales (2) is less than the mean group size (9.4), NMFS assumed that take of at least one group of pilot whales could occur (Silva *et al.,* 2014). For bottlenose dolphin densities, Roberts *et al.* (2016b; 2017; 2018) does not differentiate by individual stock. Given the southern coastal migratory stock's propensity to be found in waters shallower than the 20 m depth isobath north of Cape Hatteras (Reeves *et al.,* 2002; Waring *et al.,* 2016), the Export Cable Corridor segment was roughly divided along the 20 m depth isobath. The Lease Area is located within depths exceeding 20 m, where the southern coastal migratory stock would be unlikely to occur. Roughly 40 percent of the Export Cable Corridor is 20 m or less in depth. Given the Export Cable Corridor area is estimated to take 8 days to complete survey activity, 3 days have been estimated for depths shallower than 20 m. Therefore, to account for the potential for mixed stocks within the Export Cable Corridor, 3 days has been applied to the take estimation equation for the southern coastal migratory stock and the remaining applied to the offshore stock (5 days). The offshore stock is the only stock of bottlenose dolphins that may occur in the lease area; therefore bottlenose dolphin densities within the Lease Area have been considered part of the offshore stock only for purposes of take estimation.

For Risso's dolphins, NMFS adjusted the calculated take number to account for group size. These dolphins are usually seen in groups of 12 to 40, but loose aggregations of 100 to 200 or more are seen occasionally (Reeves *et al.,* 2002). NMFS conservatively assumed that a group of 40 or several smaller groups not exceeding a total of 40 takes by Level B harassment.

The three ESA-listed large whales that could potentially be present in the survey area occur at very low densities, and the calculated numbers of potential acoustic exposures above the 160–dB threshold are small, *i.e.,* one right whale exposure, zero sei whale exposures, and eight fin whale exposures. In addition, Avangrid will implement a 500 m (1,640 ft) exclusion zone for the right whale and a 200 m (656 ft) exclusion zone for sei and fin whales. Both of these measures are incorporated into the issued IHA. These exclusion zones exceed (in the case of right whales) or equal (in the case of sei and fin whales) the distance to the conservatively calculated Level B harassment isopleths. Given the low likelihood of exposure in context of the mitigation requirements (with relatively high detection probabilities for large whales at these distances during good visibility), we do not believe that there is a reasonably anticipated potential for the specified activity to cause the disruption of behavioral patterns for these species. Therefore, we did not authorize take by Level B harassment for these species.

**Mitigation**

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on

species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned) and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Avangrid's application included a list of proposed mitigation measures during site characterization surveys utilizing HRG survey equipment. NMFS required the additional measure of establishing an exclusion zone of 200 m for sei and fin whales. The mitigation measures outlined in this section are based on protocols and procedures that have been successfully implemented and previously approved by NMFS (DONG Energy, 2016, ESS, 2013; Dominion, 2013 and 2014).

*Visual Monitoring*

Visual monitoring of designated exclusion and Level B harassment zones will ensure that (1) Any take of ESA-listed species would be limited; (2) exposure to underwater noise does not result in injury (Level A harassment), and (3) the number of instances of take does not exceed the authorized amounts. PSOs will coordinate to ensure 360° visual coverage around the vessel and conduct visual observations while free from distractions and in a consistent, systematic, and diligent manner. Visual PSOs shall immediately communicate all observations of marine mammals to the on-duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammal species by crew members aboard any vessel associated with the survey shall be relayed to the PSO team.

PSOs will establish and monitor applicable exclusion zones. During use of HRG acoustic sources (*i.e.,* anytime the acoustic source is active,), occurrences of marine mammal species approaching the relevant exclusion zone will be communicated to the operator to prepare for the potential shutdown of the acoustic source. Exclusion zones are defined, depending on the species and context, below:

- 500 m (1,640 ft) exclusion zone for North Atlantic right whales;
- 200 m (656 ft) exclusion zone for sei and fin whales; and
- 100 m (328 ft) exclusion zone for other large cetaceans (*i.e.* humpback whale, minke whale, pilot whale, Risso's dolphin).

The Level B harassment zone represents the zone within which marine mammals would be considered taken by Level B harassment and will encompass a distance of 200 m (656 ft) from survey equipment for all marine mammal species.

*Pre-Clearance*

Avangrid will implement a 30-minute clearance period of the exclusion zones. This will help ensure marine mammals are not in the exclusion zones prior to startup of HRG equipment. During this period the exclusion zones will be monitored by the PSOs, using the appropriate visual technology for a 30-minute period. The intent of pre-clearance observation is to ensure no marine mammal species are observed within the exclusion zones prior to the beginning of operation of HRG equipment. A PSO conducting pre-clearance observations must be notified immediately prior to initiating start of HRG equipment and the operator must receive confirmation from the PSO to proceed.

Activation of HRG equipment may not be initiated if any marine mammal is observed within the applicable exclusion zones as described above. If a marine mammal is observed within the applicable exclusion zone during the 30 minute pre-clearance period, activation of HRG equipment may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small delphinoid cetaceans and 30 minutes for all other species). Activation of HRG equipment may occur at times of poor visibility, including nighttime, if continuous visual observation and has occurred with no detections of marine mammals in the 30 minutes prior to beginning of start-up.

*Shutdown Procedures*

An immediate shutdown of the HRG survey equipment will be required if a marine mammal is sighted at or within its respective exclusion zone to minimize or avoid behavioral impacts to ESA-listed species. The vessel operator must comply immediately with any call for shutdown by the lead PSO. The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation.

Should there be any uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger exclusion zone), visual PSOs may use best professional judgment in making the decision to call for a shutdown. If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the 200 m Level B harassment zone, shutdown must occur.

Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective exclusion zone within 30 minutes of the shutdown or an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and 30 minutes for all other species).

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again without pre-clearance protocols, if PSOs have maintained constant observation and no detections of any marine mammal have occurred within the respective exclusion zones.

*Vessel Strike Avoidance*

In order to avoid striking animals, vessel operators and crews must maintain a vigilant watch for all marine mammal species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members

responsible for these duties must be provided sufficient training to distinguish marine mammal species from other phenomena and broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal. Vessel strike avoidance measures will include the following:

- All vessels (*e.g.,* source vessels, chase vessels, supply vessels), regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes: Any Dynamic Management Areas (DMA) when in effect, and the Mid-Atlantic Seasonal Management Areas (SMA) (from November 1 through April 30). See 50 CFR 224.105 and *www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-ship-strikes-north-atlantic-right-whales* for specific detail regarding these areas.
- Vessel speeds must also be reduced to 10 knots or less, regardless of location, when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel;
- All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action;
- All vessels must maintain a minimum separation distance of 100 m from all other baleen whales and sperm whales;
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel);
- When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance, *e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area. If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained; and
- These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Based on our evaluation of the applicant's measures, as well as other measures considered by NMFS, we haves determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

*Visual Monitoring*

Visual monitoring shall be conducted by NMFS-approved PSOs. PSO resumes shall be provided to NMFS for approval prior to commencement of the survey. Avangrid must use independent, dedicated, trained PSOs, meaning that the PSOs must be employed by a third-party observer provider, must have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards).

Observations shall take place from the highest available vantage point on the survey vessel. General 360-degree scanning shall occur during the monitoring periods, and target scanning by the PSO shall occur when alerted of a marine mammal presence. An observer team comprising a minimum of four NMFS-approved PSOs, operating in shifts, will be stationed aboard the survey vessel. PSO's will work in shifts such that no one monitor will work more than 4 consecutive hours without a 2-hour break or longer than 12 hours during any 24-hour period. During daylight hours the PSOs will rotate in shifts of 1 on and 3 off, and during nighttime operations PSOs will work in pairs.

PSOs must have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals. PSOs will be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to their established zones using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the siting and monitoring of marine species. Cameras of appropriate quality will be used for photographs and video to record sightings and verify species identification. Each PSO must have a camera and backup cameras should be available. During night operations, night-vision equipment (night-vision goggles with thermal clip-ons) and infrared technology will be used. Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting.

Radios for each PSO are required in order to communicate among vessel crew and PSOs. PSO must also have compasses and any other tools necessary to perform other PSO tasks.

PSOs shall be responsible for visually monitoring and identifying marine mammals approaching or entering the established monitoring zones as well as beyond the monitoring zones to the maximum extent possible. PSOs will record animals both within and beyond the monitoring zones during survey activities.

Data on all PSO observations must be recorded based on standard PSO collection requirements. PSOs must use standardized data forms, whether hard copy or electronic. This shall include the following:

- Vessel names (source vessel and other vessels associated with survey), vessel size and type, maximum speed capability of vessel, port of origin, and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Date and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions);
- Survey activity information, such as acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, ramp-up completion, end of operations, etc.);
- If a marine mammal is sighted, the following information should be reported:

(a) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(b) PSO who sighted the animal;

(c) Time of sighting;

(d) Vessel location at time of sighting;

(e) Water depth;

(f) Direction of vessel's travel (compass direction);

(g) Direction of animal's travel relative to the vessel;

(h) Pace of the animal;

(i) Estimated distance to the animal and its heading relative to vessel at initial sighting;

(j) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;

(k) Estimated number of animals (high/low/best);

(l) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

(m) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(n) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

(o) Animal's closest point of approach and/or closest distance from the center point of the acoustic source;

(p) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and

(q) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

*Reporting Measures*

Within 90 days after completion of survey activities, a final report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of marine mammals estimated to have been taken during survey activities, and provides an interpretation of the results and effectiveness of all mitigation and monitoring. All raw observational data shall be made available to NMFS. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. A final report must be submitted within 30 days following resolution of any comments on the draft report.

*Notification of Injured or Dead Marine Mammals*

In the unanticipated event that the specified HRG activities lead to an injury of a marine mammal (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), Avangrid would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Southeast Regional Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with Avangrid to minimize reoccurrence of such an event in the future. Avangrid would not resume activities until notified by NMFS.

In the event that Avangrid discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), Avangrid would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Southeast Regional Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Avangrid to determine if modifications in the activities are appropriate.

In the event that Avangrid discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass

with moderate to advanced decomposition, or scavenger damage), Avangrid would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, and the NMFS Southeast Regional Stranding Coordinator, within 24 hours of the discovery. Avangrid would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Avangrid may continue its operations under such a case.

**Negligible Impact Analysis and Determination**

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 7, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

As explained the in the **Federal Register** notice of proposed IHA (84 FR 17384; April 25, 2019), PTS, masking, non-auditory physical effects, and vessel strike are not expected to occur. Marine mammal habitat may be impacted by elevated sound levels but these impacts would be short term. Feeding behavior is not likely to be significantly impacted. Prey species are mobile, and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced within the comparatively small ensonified area during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. Additionally, there are no feeding areas or mating grounds known to be biologically important to marine mammals within the project area with the exception of a migratory BIA for North Atlantic right whales described below.

*Biologically Important Areas (BIA)*

The survey area overlaps with a biologically important migratory area for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LaBrecque, *et al.,* 2015). As previously noted, no take of North Atlantic right whales has been authorized, and HRG survey operations will be required to shut down at 500 m to further minimize any potential effects to this species. The fact that the spatial acoustic footprint of the survey is very small relative to the spatial extent of the available migratory habitat, combined with the fact that no takes of right whales are anticipated, leads us to expect that right whale migration will not be impacted by the survey.

*Unusual Mortality Events (UME)*

A UME is defined under the MMPA as a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response. Two UMEs are ongoing and under investigation relevant to the HRG survey area for species for which take has been authorized. These involve humpback whales and minke whales. There is currently no direct connection between the UMEs, as there is no evident cause of stranding or death that is common across the species involved in the UMEs. Additionally, strandings across the two species are not clustering in space or time. We are authorizing take of only limited numbers of humpback (10) and minke whale (17) by Level B harassment in the form of minor, short-term behavioral modifications that are unlikely to directly or indirectly result in strandings or mortality.

Based on the foregoing information, direct physical interactions (ship strikes and entanglements) appear to be responsible for many of the UME mortalities recorded. The planned HRG survey with the required mitigation and monitoring is not likely to result in any mortalities, nor combine with the effects of the ongoing UMEs to result in any additional impacts not analyzed here. Fishing gear and in-water lines will not be employed by the survey vessel, and ship speed and avoidance mitigation measures will minimize risk of ship strikes.

The required mitigation measures are expected to reduce the number and/or severity of takes by giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy and preventing animals from being exposed to sound levels that have the potential to cause injury (Level A harassment) and more severe Level B harassment during HRG survey activities. Vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the survey area.

Avangrid did not request, and NMFS is not authorizing, take of marine mammals by serious injury or mortality. NMFS expects that most takes would primarily consist of short-term Level B behavioral harassment in the form of temporary vacating of the area or decreased foraging (if such activity were occurring). These reactions are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Since the source is mobile, a specified area would be ensonified by sound levels that could result in take for only a short period. Additionally, required mitigation measures would reduce exposure to sound that could result in more severe forms of harassment.

In summary, and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species

or stock through effects on annual rates of recruitment or survival:

- No mortality or injury is anticipated or authorized;
- Take is anticipated to be by Level B behavioral harassment only, consisting of brief startling reactions and/or temporary avoidance of the survey area;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal and the project area does not overlap any known important feeding areas;
- The availability of alternate areas of similar habitat value will allow marine mammals to temporarily vacate the survey area to avoid exposure to sounds generated by operation of HRG equipment.
- While the survey area is within areas noted as biologically important for migration of the North Atlantic right whale, migration would not be affected since project activities would occur in such a comparatively small area and no takes of right whales are expected or authorized. In addition, mitigation measures will be required to shut down sound sources at 500 m to further minimize any potential for effects to this species; and
- The mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals, particularly in light of the small size of the take zones.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

**Small Numbers**

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities relative to the species.

The numbers of marine mammals that we have authorized for take, for all species and stocks, would be considered small relative to the relevant stocks or populations (less than 3 percent for the bottlenose dolphin Western North Atlantic, southern migratory coastal stock and less than one percent for all other species and stocks proposed for authorization). See Table 7. Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population sizes of the affected species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. Accordingly, NMFS prepared an Environmental Assessment (EA) and analyzed the potential impacts to marine mammals that would result from the project. A Finding of No Significant Impact (FONSI) was signed in May 2019. A copy of the EA and FONSI is available *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.*

**Endangered Species Act (ESA)**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

No incidental take of ESA-listed species is expected or authorized for this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

**Authorization**

NMFS has issued an IHA to Avangrid for conducting marine site characterization surveys off the Coast of Virginia and North Carolina from June 1, 2019, through May 31, 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 25, 2019.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019–13874 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH074**

### Caribbean Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Caribbean Fishery Management Council's (Council) District Advisory Panels (DAPs) of Puerto Rico, St. Thomas/St. John and St. Croix, USVI, will hold a one-day meeting in July for each of its panels to discuss the items contained in the agenda **SUPPLEMENTARY INFORMATION**.

**DATES:** The meetings will be held as follows:

- DAP/PR—July 30, 2019, from 10 a.m. to 5 p.m., at the Condado Palm Hotel, in Condado, P.R.
- DAP/STT/STJ—July 30, 2019, from 10 a.m. to 5 p.m., at the Windward Passage Hotel, St. Thomas, U.S.V.I.
- DAP/STX—July 31, 2019, from 10 a.m. to 5 p.m., at The Buccaneer Hotel, St. Croix, U.S.V.I.

**ADDRESSES:**

- The meeting in Puerto Rico will be held at the Condado Palm Hotel, 55 Condado Avenue, San Juan, Puerto Rico.
- The meeting in St. Thomas will be held at the Windward Passage Hotel, Veterans Drive, Charlotte Amalie, St. Thomas, U.S.V.I.
- The meeting in St. Croix will be held at The Buccaneer Hotel, 5007 Estate Shoys, Christiansted, St. Croix, U.S.V.I.

**FOR FURTHER INFORMATION CONTACT:** Miguel A. Rolón, Caribbean Fishery Management Council, 270 Muñoz

Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

**SUPPLEMENTARY INFORMATION:** The agenda for the meeting is as follows:

—Call to Order
—Review and Finalize the Ecosystem Conceptual Models
—Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice

**Special Accommodations**

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

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

Dated: June 25, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–13896 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH072**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold a webinar-based meeting with its Advisory Panel members and the public to provide information and gather input regarding an upcoming Council Omnibus Framework action that could require electronic reporting of Vessel Trip Reports (VTRs) for all Council-managed commercial fisheries.

**DATES:** The meeting will be held Tuesday, July 23, 2019, from 8:30 a.m. to 10:30 a.m. EDT.

**ADDRESSES:** The meeting will be held via webinar (*http://mafmc.adobeconnect.com/evtr_app_overview/*) with a telephone audio connection (provided when connecting). Audio only access via conference phone number: 1–800–832–0736, Room Number: 5765379.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the proposed agenda, webinar access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The Council is considering requiring electronic reporting of commercial fishery Vessel Trip Reports (VTRs). This action would change the method of transmitting VTRs—the required data elements would not change. Existing regulations requiring that VTRs be completed before arriving at the dock would not change, but the timeline for submitting electronic reports may change. This meeting will provide a review of eVTR applications and gather input from the Council's commercial fishery advisory panel members and the public in preparation for Council action.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: June 25, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–13894 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[0648–XR005]**

### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice; availability of a draft Environmental Assessment, Proposed Evaluation and Pending Determination, and Hatchery and Genetic Management Plans for public comment.

**SUMMARY:** Notice is hereby given that NMFS has received 16 plans for hatchery programs rearing and releasing Chinook salmon, coho salmon, and summer steelhead in the Snake River basin. The plans describe hatchery programs operated by the Idaho Department of Fish and Game (IDFG), Nez Perce Tribe (NPT), and Washington Department of Fish and Wildlife (WDFW). This document serves to notify the public of the availability and opportunity to comment on a draft Environmental Assessment (EA), four Hatchery and Genetic Management Plans (HGMPs), and three Proposed Evaluation and Determination Documents (PEPDs) on the proposed hatchery programs.

**DATES:** Comments must be received at the appropriate address (see **ADDRESSES**) no later than 5:00 p.m. Pacific time on July 29, 2019. Comments received after this date may not be considered.

**ADDRESSES:** Written comments should be addressed to the NMFS Sustainable Fisheries Division, 1201 NE Lloyd Blvd., Portland, OR 97232. Comments may be submitted by email. The mailbox address for providing email comments is: *Hatcheries.Public.Comment@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on Snake River hatchery programs.

**FOR FURTHER INFORMATION CONTACT:** Emi Kondo at (503) 736–4739 or by email at *emi.kondo@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**ESA-Listed Species Covered in This Notice**

- Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally and artificially propagated;
  - Snake River Fall-run (*O. tshawytscha*): threatened, naturally and artificially propagated;
  - Snake River Spring/Summer run: threatened, naturally and artificially propagated;
- Snake River Steelhead (*O. mykiss*): threatened, naturally and artificially propagated;
- Snake River Sockeye (*O. nerka*): endangered, naturally and artificially propagated.

**Background**

Section 9 of the Endangered Species Act (ESA) and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term

''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may make exceptions to the take prohibitions in section 9 of the ESA for programs that are approved by NMFS under section 4(d) of the ESA (50 CFR 223.203(b)).

Twelve of the plans are submitted pursuant to the Tribal 4(d) Rule or limit 6 of the 4(d) Rule. Four of the plans are submitted pursuant to limit 5 of the 4(d) Rule. The plans describe hatchery programs operated by the Idaho Department of Fish and Game (IDFG), Nez Perce Tribe (NPT), and Washington Department of Fish and Wildlife (WDFW). The programs are funded by the United States Fish and Wildlife Service (USFWS) through the Lower Snake Compensation Plan (LSRCP), Idaho Power Company (IPC), and the Bonneville Power Administration (BPA). The operators and funding agencies, including the NPT, WDFW, IDFG, LSRCP, IPC, and BPA, have submitted HGMPs to NMFS pursuant to NMFS' 4(d) Rule of the ESA for hatchery activities in the Snake River basin.

The programs are intended to contribute to the survival and recovery of Snake River Spring/summer Chinook salmon and Snake River Basin steelhead in the Snake River basin, and enhance fishing opportunity.

## Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The Tribal 4(d) Rule (65 FR 42481, July 10, 2000) (50 CFR 223.204) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: June 7, 2019.

**Angela Somma,**

*Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019–13759 Filed 6–27–19; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and deletions from the Procurement List.

**SUMMARY:** This action adds a product and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product and services from the Procurement List previously furnished by such agencies.

**DATES:** *Date added to and deleted from the Procurement List:* July 28, 2019.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

### Additions

On 3/29/2019, 4/26/2019, 5/10/2019 and 5/17/2019, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services proposed for addition to the Procurement List.

### End of Certification

Accordingly, the following product and services are added to the Procurement List:

*Product*

*NSN—Product Name:* 8540–01–378–6218—Tissue, Toilet, Jumbo, 1-Ply, 3.5″ x 4000″, White, 6 Rolls
*Mandatory for:* Total Government Requirement
*Mandatory Source of Supply:* Outlook Nebraska, Inc, Omaha, NE
*Contracting Activity:* FEDERAL ACQUISITION SERVICE, GSA/FAS ADMIN SVCS ACQUISITION BR(2

*Services*

*Service Type:* Records digitization
*Mandatory for:* Ohio Army Reserve National Guard Element, Joint Forces Headquarters, Columbus, Ohio
*Mandatory Source of Supply:* Coleman Professional Services, Kent, OH
*Contracting Activity:* DEPT OF THE ARMY, W7NU USPFO ACTIVITY OH ARNG

*Service Type:* Mail Center Operations
*Mandatory for:* US Air Force, Arnold Engineering Development Complex, Official Mail Center, Arnold Air Force Base, TN
*Mandatory Source of Supply:* CW Resources, Inc., New Britain, CT
*Contracting Activity:* DEPT OF THE AIR FORCE, FA9101 AEDC PKP PROCRMNT BR

*Service Type:* Custodial Service
*Mandatory for:* US Air Force, Joint Base Elmendorf-Richardson, Anchorage, AK
*Mandatory Source of Supply:* CW Resources, Inc., New Britain, CT
*Contracting Activity:* DEPT OF THE AIR FORCE, FA5000 673 CONS LGC

### Deletions

On 5/3/2019 and 5/24/2019, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services deleted from the Procurement List.

**End of Certification**

Accordingly, the following product and services are deleted from the Procurement List:

*Product*

*NSN—Product Name:* 7210–00–492–8381—Tablecloth, Momie
*Mandatory Source of Supply:* Cambria County Association for the Blind and Handicapped, Johnstown, PA
*Contracting Activity:* GSA/FSS GREATER SOUTHWEST ACQUISITI

*Service*

*Service Type:* Custodial Services
*Mandatory for:* J. Allen Frear Federal Building, Dover, DE
*Mandatory Source of Supply:* Opportunity Center, Incorporated, Wilmington, DE
*Contracting Activity:* PUBLIC BUILDINGS SERVICE, GSA/PBS/R03 DELAWARE VALLEY FO

*Service Type:* Supply and Warehousing Service
*Mandatory for:* E/27th Main Support Battalion: 1st Cavalry, Division, Fort Hood, TX
*Mandatory Source of Supply:* Professional Contract Services, Inc., Austin, TX
*Contracting Activity:* DEPT OF THE ARMY, W6QM MICC–FDO FT HOOD

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2019–13818 Filed 6–27–19; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add a product to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes services previously furnished by such agencies.

**DATES:** *Comments must be received on or before:* July 28, 2019.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

**Additions**

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product is proposed for addition to the Procurement List for production by the nonprofit agencies listed:

*Product*

*NSNs—Product Name:*
7920–00–NIB–0728—Dust Mop, Microfiber with Handle, Blue, 13″ x 10″
*Mandatory Source of Supply:* Mississippi Industries for the Blind, Jackson, MS
*Mandatory For:* Total Government Requirement
*Contracting Activity:* FEDERAL ACQUISITION SERVICE, GSA/FSS GREATER SOUTHWEST ACQUISITI

**Deletions**

The following services are proposed for deletion from the Procurement List:

*Services*

*Service Type:* Janitorial/Custodial & Laundry Service
*Mandatory for:* National Defense University: Fort McNair, Health Fitness, Washington, DC
*Mandatory Source of Supply:* ServiceSource, Inc., Oakton, VA
*Contracting Activity:* DEPT OF THE ARMY, W37W USA ELE NATL DEF UNIV

*Service Type:* Janitorial/Custodial
*Mandatory for:* Fort Shafter: Buildings 344 and 1507, Fort Shafter, HI
*Mandatory for:* Schofield Barracks: Buildings 690, 692 and 1087, Fort Shafter, HI
*Mandatory Source of Supply:* Network Enterprises, Inc., Honolulu, HI
*Contracting Activity:* DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

*Service Type:* Janitorial Services
*Mandatory for:* Muskogee Armed Force Reserve Center, Muskogee, OK
*Mandatory Source of Supply:* Golden Rule Industries of Muskogee, Inc., Muskogee, OK
*Contracting Activity:* DEPT OF THE ARMY, W7NV USPFO ACTIVITY OK ARNG

*Service Type:* Custodial service
*Mandatory for:* USMA, Warrior Transition Unit Bldg #624, West Point, NY
*Mandatory Source of Supply:* Access: Supports for Living Inc., Middletown, NY
*Contracting Activity:* DEPT OF THE ARMY, W6QM MICC–WEST POINT

*Service Type:* Janitorial/Custodial
*Mandatory for:* Lewisville Lake Park, Lewisville, TX
*Mandatory Source of Supply:* Goodwill Industries of Dallas, Inc.—Deleted, Dallas, TX
*Contracting Activity:* DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

*Service Type:* Warehousing
*Mandatory for:* U.S. Army Logistics Management College (ALMC), Fort Lee, VA
*Mandatory Source of Supply:* SOAR 365, Richmond, VA
*Contracting Activity:* DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

*Service Type:* Grounds Maintenance
*Mandatory for:* Veterans Affairs Medical Center: 1601 Perdido Street, New Orleans, LA
*Mandatory Source of Supply:* Goodworks, Inc., New Orleans, LA
*Contracting Activity:* VETERANS AFFAIRS, DEPARTMENT OF, NAC

*Service Type:* Food Service
*Mandatory for:* Fort Lee, Fort Lee, VA
*Mandatory Source of Supply:* VersAbility Resources, Inc., Hampton, VA
*Contracting Activity:* DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

*Service Type:* Document Destruction Services
*Mandatory for:* Dallas Finance Center—Dept of Homeland Security (ICE), 1460 Prudential Drive, Dallas, TX
*Mandatory Source of Supply:* Expanco, Inc., Fort Worth, TX
*Contracting Activity:* U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MISSION SUPPORT DALLAS

*Service Type:* Laundry Service
*Mandatory for:* Federal Bureau of Prisons, FMC Carswell, J Street, Building 3000, Fort Worth, TX
*Mandatory Source of Supply:* Goodwill Industrial Services of Fort Worth, Inc., Fort Worth, TX
*Contracting Activity:* FEDERAL PRISON SYSTEM, CARSWELL, FMC

*Service Type:* Janitorial/Custodial
*Mandatory for:* U.S. Fish & Wildlife Service: Santa Ana National Wildlife Refuge, Alamo, TX
*Mandatory Source of Supply:* Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX
*Contracting Activity:* OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

*Service Type:* Housekeeping Services
*Mandatory for:* Veterans Affairs Medical Center, Clarksburg, WV

*Mandatory Source of Supply:* Job Squad, Inc., Bridgeport, WV
*Contracting Activity:* VETERANS AFFAIRS, DEPARTMENT OF, NAC
*Service Type:* Janitorial/Custodial
*Mandatory for:* Minnesota Valley National Wildlife Refuge: Visitors Center, Bloomington, MN
*Mandatory Source of Supply:* AccessAbility, Inc., Minneapolis, MN
*Contracting Activity:* OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2019–13819 Filed 6–27–19; 8:45 am]

**BILLING CODE 6353–01–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID USA–2019–HQ–0023]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of the Army for Civil Works (ASA(CW)), U.S. Army Corps of Engineers, DoD.

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Secretary of the Army for Civil Works (ASA(CW)) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by August 27, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

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

*Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Corps of Engineers, Directorate of Civil Works, Office of Planning and Policy, ATTN: Jeffrey Strahan, 441 G Street, Washington, DC 20314, or call (202) 761–8643. Another point of contact is the U.S. Army Corps of Engineers, Institute for Water Resources, ATTN: Kevin Knight, 7701 Telegraph Road, Alexandria, VA 22315, or call (703) 428–7250.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Corps of Engineers Navigation Surveys; OMB Control Number 0710–XXXX.

*Needs and Uses:* The data obtained from these surveys are used by the Army Corps of Engineers to estimate the shipper's response to changes in waterway attributes (such as congestion, reliability, rates and travel time). Hence, the overall objective of the proposed research is to develop shipper response function estimates for the Ohio River Waterway System.

*Affected Public:* Business or other For-Profit. All commercial commodity shippers, with a focus on grain as the primary commodity in the Ohio River Navigational system. For the purposes of this study, a shipper is defined as a company that sends or transports the good.

*Annual Burden Hours:* 293.5.

*Number of Respondents:* 1,174.

*Responses per Respondent:* 1.

*Annual Responses:* 1,174.

*Average Burden per Response:* 15 minutes.

*Frequency:* On occasion.

Dated: June 25, 2019.

**Aaron T. Siegel,**

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

[FR Doc. 2019–13843 Filed 6–27–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Notice of Investigation and Record Requests

**AGENCY:** Office of the General Counsel, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department publishes these letters, dated June 13, 2019, notifying Georgetown University and Texas A&M University of investigations related to the universities' reports of defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source.

**FOR FURTHER INFORMATION CONTACT:** Patrick Shaheen, U.S. Department of Education, Office of the General Counsel, 400 Maryland Ave. SW, Room 6E300, Washington, DC 20202. Telephone: (202) 453–6339. Email: *Patrick.Shaheen@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:** The Department publishes these letters, dated June 13, 2019, notifying Georgetown University and Texas A&M University of investigations related to the universities' reports of defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source. The letter to Georgetown University is in Appendix A of this notice. The letter to Texas A&M University is in Appendix B of this notice.

*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.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

your search to documents published by the Department.

*Program Authority:* 20 U.S.C. 1011f.

**Reed D. Rubinstein,**

*Acting General Counsel.*

**Appendix A—Letter to Georgetown University**

John J. DeGioia, President
Georgetown University
37th and O Streets, N.W.
Washington, DC 20057

Re: Notice of 20 U.S.C. § 1011f Investigation and Record Request/ Georgetown University

Dear President DeGioia:

Section 117 of the Higher Education Act of 1965, 20 U.S.C. § 1011f, requires certain institutions, including Georgetown University, to report statutorily defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source, to the U.S. Department of Education. These reports may be found at *https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts.*

The Department believes Georgetown University's reporting may not fully capture all gifts, contracts, and/or restricted and conditional gifts or contracts from or with all foreign sources (*e.g.,* Chinese nationals and agents who fund the Georgetown Initiative for U.S.-China Dialogue on Global Issues; the government of the People's Republic of China, its agencies, and agents, including but not limited to, the persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, their employees, subsidiaries, agents, and affiliates; the government of Saudi Arabia, its agencies, and agents; the government of Qatar, its agencies, and agents, including but not limited to the Qatar Foundation for Education, Science and Community Development). For example, Georgetown University's Section 117 reporting should have included Georgetown University Qatar; all other Georgetown University locations, *see https://www.georgetown.edu/locations.html;* and all of Georgetown University's affiliated foundations and non-profit organizations, whether or not organized under the laws of the United States (*e.g.,* the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding), that receive gifts, enter into contracts, and/or receive or enter into restricted or conditional gifts or contracts from or with a foreign source and that operate substantially for the benefit or under the auspices of Georgetown University.

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet our statutory duty, the Department has opened an administrative investigation of your institution and requests production of these records within thirty days:

1. All records of (a) gifts from, (b) contracts with, and/or (c) restricted or conditional gifts from or contracts with, foreign sources. The time frame for this request is January 1, 2010, to the present.
2. All records of, regarding, or referencing (a) gifts from, (b) contracts with, and/or (c) restricted or conditional gifts from or contracts with (i) the government of the People's Republic of China, its agencies, and agents, including but not limited to, the persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, their subsidiaries, agents, and affiliates; (ii) the government of Saudi Arabia, its agencies, and agents; (iii) the government of Qatar, its agencies, and agents, including but not limited to the Qatar Foundation for Education, Science and Community Development; and (iv) the government of Russia, its agencies, and agents, including but not limited to Kaspersky Lab and Kaspersky Lab US, its agents, employees, and affiliates. The time frame for this request is January 1, 2010, to the present.
3. All records of, regarding, or referencing foreign sources of gifts, contracts, and/or restricted and conditional gifts or contracts related to or for the benefit of Georgetown University Qatar. The time frame for this request is January 1, 2010, to the present.
4. All records of, regarding, or referencing activities taken by Georgetown University to comply with 20 U.S.C. §§ 1011f(a), (b), (c), and (e). The time frame for this request is January 1, 2014, to the present.
5. All records of, regarding, or referencing communications with foreign sources regarding the Georgetown Initiative for U.S.-China Dialogue on Global Issues and the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding. The time frame for this request is January 1, 2014, to the present.
6. All records of, regarding, or referencing communications between Prof. Theodore Moran and Huawei Technologies Co. Ltd., its agents, subsidiaries, and affiliates, including but not limited to Huawei Technologies USA, Inc. The time frame for this request is January 1, 2010, to the present.
7. All records of, regarding, or referencing ''Hanban'', the Office of Chinese Language Council International, or the Confucius Institute, their agents, employees, affiliates, or subsidiaries. The time frame for this request is January 1, 2015 to the present.
8. All records of, regarding, or referencing activities taken by or required of Georgetown University to confirm the foreign sources of gifts, contracts, and/or restricted or conditional gifts or contracts (*e.g.,* the government of Qatar, its agencies, and agents; the Qatar Foundation for Education, Science and Community Development; and or persons funding or providing services to the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding) (a) do not engage in, or provide material support to any person who engages in, activities prohibited by 18 U.S.C. §§ 2339, 2339A, 2339B, 2339C, and 2339D; and (b)(i) are not owned or controlled by, (ii) do not act for or on behalf of, assist, sponsor, or provide financial, material, or technological support or other services to, or in support of, and (iii) are not otherwise associated with, any person who is a ''Specially Designated Global Terrorist'' under Executive Order 13224. The time frame for this request is January 1, 2010, to the present.
9. All IRS Form 990s and schedules, including but not limited to Schedules F and R, for tax years 2014, 2015, 2016, 2017, and 2018, for Georgetown University and Georgetown University Qatar.

As used in this Notice of Investigation and Information Request:

''Contract'' is defined at 20 U.S.C. § 1011f(h)(1).

''Foreign source'' is defined at 20 U.S.C. § 1011f(h)(2).

''Gift'' is defined at 20 U.S.C. § 1011f(h)(3).

''Institution'' is at 20 U.S.C. § 1011f(h)(4) and includes all affiliated

foundations and non-profit organizations (*e.g.,* the Prince Alwaleed bin Talal Center for Muslim-Christian Understanding), whether or not organized under the laws of the United States, that operate substantially for the benefit or under the auspices of Georgetown University.

''Restricted or conditional gift or contract'' is defined by reference to 20 U.S.C. § 1011f(h)(5).

''Record'' means all recorded information, regardless of form or characteristics, made or received by you, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term ''recorded information'' also includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form.

Your record and data preservation obligations are outlined at Exhibit A. If you claim attorney-client or attorney-work product privilege for a given record, then you must prepare and submit a privilege log expressly identifying each such record and describing the nature of the emails, documents, communications, or tangible things not produced or disclosed in a manner that, without revealing information itself privileged, will enable the Department to assess the validity of your claim. Please note no other privileges apply to this records request.

This investigation will be directed by the Department's Office of General Counsel with support from Federal Student Aid. Your legal counsel should contact:

*Reed D. Rubinstein,*
Acting General Counsel
U.S. Department of Education
400 Maryland Ave., S.W.
Room 6E300
Washington, D.C. 20202
*Reed.Rubinstein@ed.gov*

Sincerely,

Mitchell M. Zais, Ph.D.

**Appendix B—Letter to Texas A&M**

Michael K. Young, President
Office of the President
1246 TAMU
Texas A&M University
College Station, TX 77843–1246

Re: Notice of 20 U.S.C. § 1011f Investigation and Record Request/ Texas A&M University.

Dear President Young:

Section 117 of the Higher Education Act of 1965, 20 U.S.C. § 1011f, requires certain institutions, including Texas A&M University, to report statutorily defined gifts, contracts, and/or restricted or conditional gifts or contracts, from or with a statutorily defined foreign source, to the U.S. Department of Education. These reports may be found at *https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts.*

The Department believes that Texas A&M University's reporting may not fully capture all covered gifts, contracts, and/or restricted or conditional gifts or contracts, from or with all foreign sources (*e.g.,* the government of Qatar, its agencies, and agents including but not limited to the Qatar Foundation for Education, Science and Community Development, its employees, subsidiaries, agents, and affiliates; the government of the People's Republic of China, its agencies, and agents, including but not limited to, the persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, their employees, subsidiaries, agents, and affiliates). For example, Texas A&M University's Section 117 reporting should have included Texas A&M University at Qatar, *see e.g., https://www.qatar.tamu.edu/about/* (''As a branch campus, Texas A&M University at Qatar is included in the institution's accreditation'') (last accessed May 28, 2019); all of Texas A&M University's other locations; and all of Texas A&M University's affiliated foundations and non-profit organizations (*e.g.* the Texas A&M Foundation), whether or not organized under the laws of the United States, that (a) receive gifts, enter into contracts, and/or receive or enter into restricted or conditional gifts or contracts from or with a foreign source, and (b) operate substantially for the benefit or under the auspices of Texas A&M University.

Section 117(f), 20 U.S.C. § 1011f(f), provides that whenever it appears an institution has failed to comply with the law, the Secretary of Education may request the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. To meet our statutory duty, the Department has opened an administrative investigation of your institution and requests production of the following records within thirty (30) days:

1. All records of (a) gifts to, (b) contracts with, and (c) restricted or conditional gifts to or contracts with, foreign sources. The time frame for this request is January 1, 2014, to the present.
2. All records of, regarding, or referencing (a) gifts from, (b) contracts with, and (c) restricted or conditional gifts from or contracts with, (i) the government of Qatar, its agencies, and agents including but not limited to the Qatar Foundation for Education, Science and Community Development and (ii) the government of the People's Republic of China, its agencies, and agents, including but not limited to, the persons known as Huawei Technologies Co. Ltd., Huawei Technologies USA, Inc., and ZTE Corp, and their subsidiaries, agents, and affiliates. The time frame for this request is January 1, 2014, to the present.
3. All records of, regarding, or referencing the establishment and foreign sources of funding for Texas A&M University at Qatar. The time frame for this request is January 1, 2004, to the present.
4. All records of, regarding, or referencing activities taken by or required of Texas A&M University to comply with 20 U.S.C. §§ 1011f(a), (b), (c), and (e). The time frame for this request is January 1, 2014, to the present.
5. All records of, regarding, or referencing communications with the government of Qatar, its agencies, and its agents including but not limited to the Qatar Foundation for Education, Science and Community Development regarding the subject matter of an

action titled *Qatar Foundation for Education, Science and Community Development v. Ken Paxton, Texas Attorney General* (No. D–1–GN–18–006240).

6. All records of, regarding, or referencing a ''Memorandum of Understanding'' between Texas A&M University at Qatar and ''Huawei'' signed on or about May 31, 2015. *See https://www.gulf-times.com/story/441448/Huawei-supports-Tamuq-s-programme-for-students.* (last accessed June 12, 2019). The time frame for this request is January 1, 2013, to the present.
7. All records of, regarding, or referencing ''Hanban'', the Office of Chinese Language Council International, or the Confucius Institute, their agents, employees, affiliates, or subsidiaries. The time frame for this request is January 1, 2010 to the present.
8. All records of, regarding, or referencing activities taken by or required of your institution to confirm, foreign sources of gifts, contracts, and/or restricted or conditional gifts or contracts (*e.g.,* the government of Qatar, its agencies, and agents; the Qatar Foundation for Education, Science and Community Development (a) do not engage in, or provide material support to any person who engages in, activities prohibited by 18 U.S.C. §§ 2339, 2339A, 2339B, 2339C, and 2339D; and (b)(i) are not owned or controlled by, (ii) do not act for or on behalf of, assist, sponsor, or provide financial, material, or technological support or other services to, or in support of, and (iii) are not otherwise associated with, any person who is a ''Specially Designated Global Terrorist'' under Executive Order 13224. The time frame for this request is January 1, 2009, to the present.
9. All IRS Form 990s and schedules, including but not limited to Schedules F and R, for tax years 2014, 2015, 2016, 2017, and 2018, for (a) Texas A&M University, (b) the Texas A&M Foundation, located at 401 George Bush Drive, College Station, TX 77840–2811, and (c) Texas A&M University at Qatar.

As used in this Notice of Investigation and Information Request:

''Contract'' is defined at 20 U.S.C. § 1011f(h)(1).

''Foreign source'' is defined at 20 U.S.C. § 1011f(h)(2).

''Gift'' is defined at 20 U.S.C. § 1011f(h)(3).

''Institution'' is defined at 20 U.S.C. § 1011f(h)(4) and includes all affiliated foundations and non-profit organizations (*e.g.,* the Texas A&M Foundation), whether or not organized under the laws of the United States, that operate substantially for the benefit or under the auspices of Texas A&M University.

''Restricted or conditional gift or contract'' is defined at 20 U.S.C. § 1011f(h)(5).

''Record'' means all recorded information, regardless of form or characteristics, made or received by you, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term ''recorded information'' also includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form.

Your record and data preservation obligations are outlined at Exhibit A.

If you claim attorney-client or attorney-work product privilege for a given record, then you must prepare and submit a privilege log expressly identifying each such record and describing the nature of the emails, documents, communications, or tangible things not produced or disclosed in a manner that, without revealing information itself privileged, will enable the Department to assess the validity of your claim. Please note no other privileges apply to this information request.

This investigation will be directed by the Department's Office of General Counsel with support from Federal Student Aid. Your legal counsel should contact:

Reed D. Rubinstein,
Acting General Counsel
U.S. Department of Education
400 Maryland Ave., S.W.
Room 6E300
Washington, D.C. 20202
*Reed.Rubinstein@ed.gov*

Sincerely,

Mitchell M. Zais, Ph.D.

[FR Doc. 2019–13904 Filed 6–27–19; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### National Nuclear Security Administration

### Notice of Availability of the Draft Supplement Analysis of the Complex Transformation Supplemental Programmatic Environmental Impact Statement

**AGENCY:** National Nuclear Security Administration, Department of Energy.

**ACTION:** Notice of availability.

**SUMMARY:** The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the United States Department of Energy (DOE), announces the availability of the Draft Supplement Analysis (SA) of the Complex Transformation Supplemental Programmatic Environmental Impact Statement (SPEIS). NNSA is preparing the SA to determine whether, prior to proceeding with the action to produce plutonium pits at a rate of no fewer than 80 pits per year by 2030, the existing Complex Transformation SPEIS should be supplemented, a new environmental impact statement prepared, or no further National Environmental Policy Act (NEPA) analysis is required. The Draft SA preliminarily concludes that further NEPA documentation at a programmatic level is not required; however, NNSA will consider comments on the Draft SA and publish a Final SA with a final determination. The Draft SA is an important element of the overall NEPA strategy related to fulfilling national requirements for pit production. DOE announced this NEPA strategy on June 10, 2019 (84 FR 26849).

**DATES:** NNSA invites the public to review and submit comments on the Draft SA through August 12, 2019. Comments received after this date will be considered to the extent practicable.

**ADDRESSES:** Written comments on the Draft SA or requests for information related to the SA should be sent to Ms. Jennifer Nelson, NEPA Document Manager, National Nuclear Security Administration Savannah River Field Office, P.O. Box A, Aiken, SC 29802; or sent by email to *NEPA-SRS@srs.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised that your entire comment—including your personal identifying information—may be made publicly available. If you wish for NNSA to withhold your name and/or other personally identifiable information, please state this prominently at the beginning of your comment. You may also submit comments anonymously.

**FOR FURTHER INFORMATION CONTACT:** For further information about this Notice, please contact Mr. James R. Sanderson, Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0119; phone: 202–586–1402; email to: *NEPA-SRS@srs.gov.* This Notice and the Draft SA are available on the internet at *https://www.energy.gov/nnsa/nnsa-nepa-reading-room.*

**SUPPLEMENTARY INFORMATION:** National security policies require DOE, through NNSA, to maintain the U.S. nuclear weapons stockpile, as well as the nation's core competencies in nuclear weapons. NNSA has the mission to maintain and enhance the safety, security, and effectiveness of the nuclear weapons stockpile. Plutonium pits are critical components of every nuclear weapon, with nearly all current stockpile pits having been produced from 1978–1989. Today, the United States' capability to produce plutonium pits is limited.

To produce pits with enhanced safety features to meet NNSA and Department of Defense (DoD) requirements, mitigate against the risk of plutonium aging, and respond to changes in deterrent requirements driven by growing threats from peer competitors, the DoD requires NNSA to produce no fewer than 80 plutonium pits per year by 2030, and to sustain the capacity for future (Life Extension Programs and follow-on) programs. NNSA's pit production mission was emphasized as a national security imperative by the 2018 Nuclear Posture Review, issued in February 2018 by the Office of the Secretary of Defense and subsequent congressional statements of the policy of the United States. The 2018 Nuclear Posture Review announced that the United States will pursue initiatives to ensure the necessary capability, capacity, and responsiveness of the nuclear weapons infrastructure and the needed skill of the workforce, including providing the enduring capability and capacity to produce no fewer than 80 pits per year by 2030. The 2018 Nuclear Posture Review concludes that the United States must have sufficient research, design, development, and production capacity to support the sustainment of its nuclear forces.

To that end, DoD Under Secretary of Defense for Acquisition and Sustainment Ellen M. Lord and Under Secretary for Nuclear Security, and Administrator of the NNSA, Lisa E. Gordon-Hagerty issued a Joint Statement on May 10, 2018, identifying their recommended alternative to meet the pit production requirement based on the completion of an Analysis of Alternatives, an Engineering Assessment and a Workforce Analysis. To achieve the nation's requirement of producing no fewer than 80 pits per year by 2030, NNSA is proposing to repurpose the Mixed-Oxide Fuel Fabrication Facility (MFFF) at the Savannah River Site (SRS) in South Carolina to produce plutonium pits while also maximizing pit production activities at Los Alamos National Laboratory (LANL). This two-prong approach—with no fewer than 50 pits per year produced at SRS and no fewer than 30 pits per year at LANL—is proposed as the best way to manage the cost, schedule, and risk of such a vital undertaking. This approach improves the resiliency, flexibility, and redundancy of our Nuclear Security Enterprise by reducing reliance on a single production site.

On June 10, 2019, DOE announced the overall NEPA strategy related to fulfilling national requirements for pit production (84 FR 26849). DOE announced that it would prepare at least three documents including this SA, a site-specific EIS for the proposal to produce pits at SRS (also announced in that notice), and site-specific documentation for the proposal to authorize expanding pit production beyond 20 pits per year at LANL.

In 2008, NNSA prepared the Complex Transformation SPEIS, which evaluated, among other things, alternatives for producing 10–200 plutonium pits per year at different sites including LANL and SRS. In the Complex Transformation SPEIS Records of Decision, NNSA did not make any new decisions related to pit production capacity and did not foresee an imminent need to produce more than 20 pits per year to meet national security requirements.

NNSA now foresees an imminent need to provide the enduring capability and capacity to produce plutonium pits at a rate of no fewer than 80 pits per year by 2030 for the nuclear weapons stockpile as identified in the 2018 Nuclear Posture Review. NNSA has prepared the SA to determine whether, prior to proceeding with the action to produce plutonium pits at a rate of no fewer than 80 pits per year by 2030, the existing Complex Transformation SPEIS should be supplemented, a new environmental impact statement prepared, or no further NEPA analysis is required. Although pertinent regulations do not require public comment on an SA, NNSA has decided, in its discretion, that public comment in this instance would be helpful and has issued the Draft SA for public review and comment.

Signed in Washington, DC, this 21st day of June 2019, for the United States Department of Energy.

**Lisa E. Gordon-Hagerty,**

*Under Secretary for Nuclear Security, National Nuclear Security Administration.*

[FR Doc. 2019–13842 Filed 6–27–19; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 3273–024]**

### Chittenden Falls Hydropower, Inc.; 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 hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 3273–024.

c. *Date Filed:* May 31, 2019.

d. *Applicant:* Chittenden Falls Hydropower, Inc.

e. *Name of Project:* Chittenden Falls Hydropower Project.

f. *Location:* On Kinderhook Creek, near the Town of Stockport, Columbia County, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mark Boumansour, Chief Operating Officer, Gravity Renewables, Inc., 1401 Walnut Street, Suite 420, Boulder, CO 80302; (303) 440–3378; email—

*mark@gravityrenewables.com* and/or Celeste N. Fay, Regulatory Manager, Gravity Renewables, Inc., 5 Dartmouth Drive, Suite 104, Auburn, NH 03032; (413) 262–9466; email—*celeste@gravityrenewables.com.*

i. *FERC Contact:* Monir Chowdhury at (202) 502–6736; or email at *monir.chowdhury@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: July 30, 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,* (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–3273–024.

m. This application is not ready for environmental analysis at this time.

n. The Chittenden Falls Project consists of the following existing facilities: (1) An approximately 4-foot-high, 320-foot-long overflow concrete gravity dam, topped with 2-foot-high wooden flashboards, and having a dam crest elevation of 59.6 feet National Geodetic Vertical Datum of 1929 (NGVD29); (2) a reservoir with a surface area of about 18 acres and a storage capacity of 63 acre-feet at a normal pool elevation of 61.6 feet NGVD29; (3) an 8-foot-wide, 22-foot-long intake structure on the east side of the dam connecting to an 8-foot-wide, 118-foot-long concrete and wooden power canal; (4) a 7.5-foot-diameter, 45-foot-long steel penstock that conveys water from the power canal to a powerhouse on the east side of the dam containing two turbine-generator units with a total rated capacity of 453 kilowatts (kW); (5) an 8-foot-wide, 10-foot-long intake structure on the west side of the dam connecting to a 6-foot-diameter, 62-foot-long steel penstock; (6) a powerhouse on the west side of the dam containing a single turbine-generator unit with a rated capacity of 300 kW; (7) two 40-foot-long, 480-volt generator leads connecting the east powerhouse to a transformer yard and a 400-foot-long, 2,300-volt generator lead connecting the west powerhouse to the transformer yard; and (8) appurtenant facilities.

The Chittenden Falls Project is operated in a run-of-river mode with an estimated average annual generation of 2,300 megawatt-hours between 2012 and 2018.

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.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—July 2019
Request Additional Information—July 2019
Issue Acceptance Letter—October 2019
Issue Scoping Document 1 for comments—November 2019
Request Additional Information (if necessary)—January 2020
Issue Scoping Document 2—February 2020
Issue notice of ready for environmental analysis—February 2020
Commission issues EA—August 2020
Comments on EA—September 2020

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: June 13, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–13825 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER19–2230–000]**

### Polaris Wind Energy 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 proceeding of Polaris Wind Energy 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 15, 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.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 24, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–13846 Filed 6–27–19; 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 exempt wholesale generator filings:

*Docket Numbers:* EG19–141–000.
*Applicants:* SR Meridian III, LLC.
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of SR Meridian III, LLC.
*Filed Date:* 6/21/19.
*Accession Number:* 20190621–5189.
*Comments Due:* 5 p.m. ET 7/12/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2126–005.
*Applicants:* Idaho Power Company.
*Description:* Updated Market Power Analysis for the Northwest Region of Idaho Power Company.
*Filed Date:* 6/21/19.
*Accession Number:* 20190621–5180.
*Comments Due:* 5 p.m. ET 8/20/19.
*Docket Numbers:* ER11–2105–003.
*Applicants:* Oklahoma Gas and Electric Company.
*Description:* Notice of Non-Material Change in Status of Oklahoma Gas and Electric Company.
*Filed Date:* 6/21/19.
*Accession Number:* 20190621–5184.
*Comments Due:* 5 p.m. ET 7/12/19.
*Docket Numbers:* ER15–1682–008.
*Applicants:* TransCanyon DCR, LLC.
*Description:* Compliance filing: Amended Formula Rate Templace Second Compliance Filing for ADIT to be effective 6/27/2018.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5106.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER17–802–005.
*Applicants:* Exelon Generation Company, LLC.
*Description:* Compliance filing: Informational Filing Regarding Three Mile Island Unit Retirement to be effective N/A.
*Filed Date:* 6/21/19.
*Accession Number:* 20190621–5081.
*Comments Due:* 5 p.m. ET 7/12/19.
*Docket Numbers:* ER19–1826–001.
*Applicants:* Bolt Energy, LLC.
*Description:* Tariff Amendment: MBR Tariff to be effective 6/12/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5117.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2234–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1276R20 KCPL NITSA NOA to be effective 9/1/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5015.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2235–000.
*Applicants:* Tuscola Bay Wind, LLC.
*Description:* Baseline eTariff Filing: Reactive Power Compensation Baseline to be effective 8/23/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5044.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2236–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2415R12 Kansas Municipal Energy Agency NITSA NOA to be effective 9/1/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5054.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2237–000.
*Applicants:* Public Service Company of Colorado.
*Description:* § 205(d) Rate Filing: PSCo-TSGT-Utility Svcs Agrmt-379-Exhibit D–0.1.0 to be effective 6/25/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5056.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2238–000.
*Applicants:* NorthWestern Corporation.
*Description:* § 205(d) Rate Filing: Revised Rate Schedule No. 188 (MT)—Colstrip 1 & 2 Transmission Agreement to be effective 9/1/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5074.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2239–000.
*Applicants:* AES Shady Point, LLC.
*Description:* Tariff Cancellation: AES Shady Point Notice of Tariff Cancellation to be effective 6/25/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5116.
*Comments Due:* 5 p.m. ET 7/15/19.
*Docket Numbers:* ER19–2240–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Revisions to the OATT and OA re FTR Hourly Cost Calculation Update to be effective 9/1/2019.
*Filed Date:* 6/24/19.
*Accession Number:* 20190624–5152.
*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: June 24, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–13845 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC19–6–000]**

### Commission Information Collection Activities (FERC–914); Comment Request; Extension

**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) is soliciting public comment on the currently

approved information collection, FERC–914 (Cogeneration and Small Power Production—Tariff Filings) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. On January 31, 2019, the Commission published a Notice in the **Federal Register** in Docket No. IC19–6–000 requesting public comments. The Commission received no public comments and is noting that in the related submittal to OMB.

**DATES:** Comments on the collection of information are due July 29, 2019.

**ADDRESSES:** Comments filed with OMB, identified by OMB Control No. 1902–0231, should be sent via email to the Office of Information and Regulatory Affairs: *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. IC19–6–000, 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,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC–914, Cogeneration and Small Power Production—Tariff Filings.

*OMB Control No.:* 1902–0231.

*Type of Request:* Three-year extension of the FERC–914 information collection requirements with no changes to the current reporting requirements.

*Abstract:* Section 205(c) of the Federal Power Act (FPA) and 18 CFR 292 require that every public utility have all of its jurisdictional rates and tariffs on file with the Commission and make them available for public inspection, within such time and in such form as the Commission may designate. Section 205(d) of the FPA requires that every public utility must provide notice to the Commission and the public of any changes to its jurisdictional rates and tariffs, file such changes with the Commission, and make them available for public inspection, in such manner as directed by the Commission. In addition, FPA section 206 requires the Commission, upon complaint or its own motion, to modify existing rates or services that are found to be unjust, unreasonable, unduly discriminatory or preferential. FPA section 207 requires the Commission upon complaint by a state commission and a finding of insufficient interstate service, to order the rendering of adequate interstate service by public utilities, the rates for which would be filed in accordance with FPA sections 205 and 206.

In Order Nos. 671 and 671–A,[1] the Commission revised its regulations that govern qualifying small power production and cogeneration facilities. Among other things, the Commission eliminated certain exemptions from rate regulation that were previously available to qualifying facilities (QFs). New qualifying facilities may need to make tariff filings if they do not meet the exemption requirements.

FERC implemented the Congressional mandate of the Energy Policy Act of 2005 (EPAct 2005) to establish criteria for new qualifying cogeneration facilities by: (1) Amending the exemptions available to qualifying facilities from the FPA and from Public Utility Holding Company Act (PUHCA) [resulting in the burden imposed by FERC–914, the subject of this notice]; (2) ensuring that these facilities are using their thermal output in a productive and beneficial manner; that the electrical, thermal, chemical and mechanical output of new qualifying cogeneration facilities is used fundamentally for commercial, residential or industrial purposes; and there is continuing progress in the development of efficient electric energy generating technology; (3) amending the FERC Form 556 [2] to reflect the criteria for new qualifying cogeneration facilities; and (4) eliminating ownership limitations for qualifying cogeneration and small power production facilities. The Commission satisfied the statutory mandate and its continuing obligation to review its policies encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities, and equitable rates for energy customers.

*Type of Respondents:* New qualifying facilities and small power producers that do not meet Commission exemption criteria

*Estimate of Annual Burden:* [3] The Commission estimates the annual public reporting burden and cost [4] for the information collection as:

FERC–914—COGENERATION AND SMALL POWER PRODUCTION—TARIFF FILINGS

| | Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden hours & cost ($) per response | Total annual burden hours & total annual cost ($) | Cost per respondent ($) |
|---|---|---|---|---|---|---|
| | (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) | (5) ÷ (1) |
| FPA Section 205 Filings .. | 35 | 1 | 35 | 183 hrs.; $14,457 .... | 6,405 hrs.; $505,995 ... | $14,457 |

[1] *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order No. 671, 71 FR 7852 (2/15/2006), FERC Stats. & Regs. ¶ 31,203 (2006); and *Revised Regulations Governing Small Power Production and Cogeneration Facilities,* Order 671–A, 71 FR 30585 (5/30/2006), in Docket No. RM05–36.

[2] The FERC Form 556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility) is cleared separately as OMB Control No. 1902–0075 and is not a subject of this notice.

[3] 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 5 Code of Federal Regulations 1320.3.

[4] FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2018 FERC average annual salary plus benefits ($164,820/year or $79/hour).

FERC–914—COGENERATION AND SMALL POWER PRODUCTION—TARIFF FILINGS—Continued

| | Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden hours & cost ($) per response | Total annual burden hours & total annual cost ($) | Cost per respondent ($) |
|---|---|---|---|---|---|---|
| | (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) | (5) ÷ (1) |
| Electric Quarterly Reports (initial). | 0 | 0 | 0 | 230 hrs.; $18,170 .... | 0 hrs.; $0 ..... | 0 |
| Electric Quarterly Reports (later). | 35 | 4 | 140 | 6 hrs.; $474 ..... | 840 hrs.; $66,360 ..... | 1,896 |
| Change of Status ..... | 10 | 1 | 10 | 3 hrs.; $237 ..... | 30 hrs.; $2,370 ..... | 237 |
| Total ..... | ..... | ..... | 185 | ..... | 7,275 hrs.; $574,725 ... | ..... |

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 13, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–13822 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 14988–000]**

## ECOsponsible, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 22, 2019, ECOsponsible, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Whitney Point Dam Hydroelectric Project to be located at the U.S. Army Corps of Engineers' (Corps) Whitney Point Dam on the Otselic River in Broome County, New York. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new open or covered 50-foot-wide intake flume with a New York State Department of Environmental Conservation-approved trash rack design downstream of the existing Corps' gated outlet; (2) a new 50-foot-long, 50-foot-wide, 50-foot-high powerhouse containing a turbine-generator unit with a capacity of 6 megawatts; (3) an 800-foot-long, 60-foot-wide tailrace; (4) a new switchyard adjacent to the existing parking lot; (5) a new 360-foot-long transmission line connecting the switchyard to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (6) appurtenant facilities. The proposed project would have an annual generation of 24,000 megawatt-hours.

*Applicant Contact:* Dennis Ryan, ECOsponsible, LLC, P.O. Box 114, West Falls, NY 14170; phone: 716–222–2188.

*FERC Contact:* Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14988–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14988) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 13, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–13827 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER19–2231–000]**

## Chief Conemaugh Power II, 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 proceeding of Chief Conemaugh Power II, 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 15, 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.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 24, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–13847 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14985–000]**

### Cherokee Rivers Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 3, 2019, Cherokee Rivers Company, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Lower Coosawattee Hydroelectric Project (Lower Coosawattee Project or project) to be located at the U.S. Army Corps of Engineers' (Corps) Carter's Reregulation Dam on the Coosawattee River, in Murray County, Georgia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 50-foot-long, 8-foot-wide intake structure with trash racks and stop logs, on the left end of the dam; (2) four 8-foot-diameter, approximately 320-foot-long penstocks running through the dam; (3) the four penstocks combining into two 15-foot-high, 23.6-foot-wide, 100-foot-long box culvert conduits; (4) a 52-foot-long, 25-foot-wide, 47-foot-high powerhouse containing two generating units, with a combined capacity of 4.5 megawatts; and (5) a 120-foot-long transmission line. The proposed project would have an estimated average annual generation of 16,500 megawatt-hours, and operate run-of-release utilizing surplus water from the Carter's Reregulation Dam, as directed by the Corps.

*Applicant Contact:* Mr. Robert Davis, 390 Timber Laurel Lane, Lawrenceville, GA 30243; phone: (470) 331–8238.

*FERC Contact:* Michael Spencer, (202) 502–6093, *michael.spencer@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14985–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14985) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 24, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–13826 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. UL19–1–000; UL19–2–000]**

### Central Hudson Gas & Electric Corporation; Notice of Pending Jurisdictional Inquiry, and Solicting Comments, Protests, and Motions To Intervene

On May 9, 2019, the Federal Energy Regulatory Commission (Commission) received a request from the U.S. Department of the Interior's Fish and Wildlife Service (FWS) for an updated jurisdictional determination for the unlicensed Sturgeon Pool and Dashville Hydroelectric Projects. The projects are located on the Wallkill River in Ulster County, New York.

Pursuant to section 23(b)(1) of the Federal Power Act, a non-federal hydroelectric project must be licensed (unless it has a still-valid pre-1920 federal permit) if it: (a) Is located on a navigable water of the United States; (b) occupies lands or reservations of the United States; (c) utilizes surplus water or waterpower from a government dam; or (d) is located on a stream over which Congress has Commerce Clause jurisdiction, is constructed or modified on or after August 26, 1935, and affects the interests of interstate or foreign commerce.[1]

A stream is navigable under section 3(8) of the FPA if: (1) It is currently being used or is suitable for use, or (2) it has been used or was suitable for use in the past, or (3) it could be made suitable for use in the future by reasonable improvements, to transport persons or property in interstate or foreign commerce. Navigability under section 3(8) of the FPA is not destroyed by obstructions or disuse of many years;

[1] 16 U.S.C. 817*1* (2012).

personal or private use may be sufficient to demonstrate the availability of the river for commercial navigation; and the seasonal floatation of logs is sufficient to determine that a river is navigable.

Commission staff previously investigated the Commission's jurisdiction over the Sturgeon Pool and Dashville Hydroelectric Projects. In 1988, staff determined that the projects were non-jurisdictional based on staff's finding that the Wallkill River was not navigable at the location of the projects.[2] Commission staff's prior finding relied primarily on historical usage of the river. FWS requests that the Commission reexamine navigability of the Wallkill River and look specifically at the river's suitability for commercial use. A stream's suitability for commercial use can be demonstrated based on its physical characteristics, as well as its actual use or suitability for use for recreational boating, if this information shows the river is suitable for the simpler types of commercial navigation.[3]

In response to FWS's request, Commission staff is investigating the jurisdictional status of the Sturgeon Pool Hydroelectric Project (UL19–1–000) and Dashville Hydroelectric Project (UL19–2–000). A copy of FWS's request may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number, UL19–1–000 or UL19–2–000, 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,* for TTY, call (202) 502–8659.

The Commission is soliciting comments, motions to intervene, and protests in these proceedings. Comments, motions to intervene, and protests must be filed by 45 days from notice or August 8, 2019. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 211, and 214. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but only those who file a motion to intervene in accordance with the Commission's Rule may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include Docket Numbers UL19–1–000 and/or UL19–2–000.

For further information, please contact Jennifer Polardino at (202) 502–6437 or *Jennifer.Polardino@ferc.gov;* or Ashish Desai at (202) 502–8370 or *Ashish.Desai@ferc.gov.*

Dated: June 24, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–13823 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

[2] *See Central Hudson Gas & Electric Co.,* 44 FERC ¶ 62,215 (1988) (Dashville Hydroelectric Project in Docket No. UL88–18–000); *Central Hudson Gas & Electric Co.,* 44 FERC ¶ 62,216 (1988) (Sturgeon Pool Hydroelectric Project in Docket No. UL88–22–000).

[3] *See FPL Energy Maine Hydro LLC* v. *FERC,* 287 F.3d 1151, 1158 (D.C. Cir. 2002) (affirming navigability finding based on stream characteristics and test trips by canoe).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER19–2232–000]**

### Chief Keystone Power II, 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 proceeding of Chief Keystone Power II, 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 15, 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.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 24, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–13848 Filed 6–27–19; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2012–0653; FRL–9995–80–OMS]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (EPA ICR Number 1060.18, OMB Control Number 2060–0038), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through August 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 29, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0653, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The New Source Performance Standards (NSPS) for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarburization Vessels (40 CFR part 60, subpart AA) were proposed on October 21, 1974, promulgated on September 23, 1975, and most recently-amended on February 22, 2005. These regulations apply to electric arc furnaces and dust-handling systems that commenced construction, modification, or reconstruction either after October 21, 1974 or on/or before August 17, 1983 at steel plants that produce carbon, alloy, or specialty steels. In addition, the New Source Performance Standards (NSPS) for these regulations (40 CFR part 60, subpart AAa) were proposed on August 17, 1983, promulgated on October 31, 1984, and most recently-amended on February 22, 2005. These latter regulations apply to electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that commenced construction, modification, or reconstruction after August 17, 1983 at steel plants that produce carbon, alloy, or specialty steels. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subparts AA and AAa.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

*Form Numbers:* None.

*Respondents/affected entities:* Steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces (EAFs), argon oxygen decarburization (AOD) vessels, and dust handling systems.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60 Subparts AA and AAa).

*Estimated number of respondents:* 100.66 (total).

*Frequency of response:* Initially, occasionally and semiannually.

*Total estimated burden:* 62,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $7,350,000 (per year), which includes $207,000 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the estimates:* There is an adjustment increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The adjustment increase in burden from the most recently approved ICR is due to an increase in the number of new or modified sources, which is based on an assumption of continued growth in the industry. There is also an adjustment increase in capital and operation and maintenance costs due to the increase in the number of respondents.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–13883 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9045–5]**

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements
Filed 06/17/2019 Through 06/21/2019
Pursuant to 40 CFR 1506.9.

**Notice**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

*EIS No. 20190139, Draft, FERC, NY*, Mineville Energy Storage Project, Comment Period Ends: 08/12/2019, Contact: Office of External Affairs 866–208–3372

*EIS No. 20190140, Draft, NRCS, RI*, Pocasset River Watershed Plan and EIS, Comment Period Ends: 08/12/2019, Contact: Alan Gillespie 401–822–8812

*EIS No. 20190141, Draft, BLM, CO*, Domestic Sheep Grazing Permit Renewals, Comment Period Ends: 08/12/2019, Contact: Kristi Murphy 970–642–4955

*EIS No. 20190142, Revised Draft, USFS, CA*, Sequoia and Sierra National Forests Land Management Plans Revision, Comment Period Ends: 09/26/2019, Contact: Laura Hierholzer 707–562–8949

*EIS No. 20190143, Final, NPS, CO*, Great Sand Dunes National Park and Preserve Ungulate Management Plan Abbreviated Final EIS, Review Period Ends: 07/29/2019, Contact: Pam Rice 719.378.6311

*EIS No. 20190144, Final, FHWA, ND,* Little Missouri River Crossing, Review Period Ends: 07/29/2019, Contact: Gary Goff 701–221–9466

*EIS No. 20190145, Final, BLM, CO*, Uncompahgre Field Office Proposed Resource Management Plan and Final Environmental Impact Statement, Review Period Ends: 07/29/2019, Contact: Matthew Loscalzo 970–240–5305

*EIS No. 20190146, Final, VA, CA,* Final Programmatic Environmental Impact Statement and National Historic Preservation Act Section 106 Consultation: West Los Angeles Medical Center Campus Proposed Master Plan for Improvements and Reconfiguration, Review Period Ends: 07/29/2019, Contact: Glenn Elliott 2023601243

**Amended Notice**

*EIS No. 20190081, Draft, USACE, IL,* Draft Chicago Area Waterway System Dredged Material Management Plan, Comment Period Ends: 08/01/2019, Contact: Mike Padilla 312–846–5427 Revision to FR Notice Published 06/07/2019; Extending the Comment Period from 07/02/2019 to 08/01/2019.

*EIS No. 20190138, Draft, FERC, CA,* Bucks Creek Hydropower Project, Comment Period Ends: 08/13/2019, Contact: Office of External Affairs 866–208–3372 Revision to FR Notice Published 06/21/2019; Extending the Comment Period from 08/05/2019 to 08/13/2019.

Dated: June 24, 2019.

**Robert Tomiak,**

*Director, Office of Federal Activities.*

[FR Doc. 2019–13727 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9995–86–OA]**

### Notification of a Closed Meeting of the Science Advisory Board's 2019 Scientific and Technological Achievement Awards Committee

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency's (EPA) Science Advisory Board (SAB) Staff Office announces a meeting of the SAB's 2019 Scientific and Technological Achievement Awards (STAA) Committee. This meeting is closed to the public.

**DATES:** The STAA Committee meeting will be held Tuesday, July 16, 2019, from 8:30 a.m. to 5:00 p.m. and Wednesday, July 17, 2019, from 8:30 a.m. to 3:00 p.m. (Eastern Time). A meeting of the Chartered SAB will be scheduled in the future to deliberate and select awards. The meetings will be closed to the public.

**ADDRESSES:** The STAA Committee meeting will be held at the Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to obtain further information regarding the STAA Committee meeting may contact Dr. Diana Wong, Designated Federal Officer, by telephone: (202) 564–2049 or email at *wong.diana-m@epa.gov.* General information about the SAB as well as updates concerning the SAB meeting announced in this notice may be found on the SAB website at *http://www.epa.gov/sab.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB 2019 STAA Committee will hold a closed meeting to develop recommendations for recipients of the Agency's 2019 STAA program achievement awards and recommendations for improvement of the Agency's STAA program.

The STAA awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer reviewed journals. In conducting its review, the SAB considers each nomination in relation to the following four award levels:

- Level I awards are for those who have accomplished an exceptionally high-quality research or technological effort. The awards recognize the creation or general revision of a scientific or technological principle or procedure, or a highly significant improvement in the value of a device, activity, program, or service to the public. Awarded research is of national significance or has high impact on a broad area of science/technology. The research has far reaching consequences and is recognizable as a major scientific/technological achievement within its discipline or field of study.
- Level II awards are for those who have accomplished a notably excellent research or technological effort that has qualities and values similar to, but to a lesser degree, than those described under Level I. Awarded research has timely consequences and contributes as an important scientific/technological achievement within its discipline or field of study.
- Level III awards are for those who have accomplished an unusually notable research or technological effort. The awards are for a substantial revision or modification of a scientific/technological principle or procedure, or an important improvement to the value of a device, activity, program, or service to the public. Awarded research relates to a mission or organizational component of the EPA, or significantly affects a relevant area of science/technology.
- Honorable Mention awards acknowledge research efforts that are noteworthy but do not warrant a Level I, II or III award. Honorable Mention applies to research that: (1) May not quite reach the level described for a Level III award; (2) show a promising area of research that the Subcommittee wants to encourage; or (3) show an area of research that the Subcommittees feels

is too preliminary to warrant an award recommendation at this time.

The SAB reviews the STAA nomination packages according to the following five evaluation factors:

- The extent to which the work reported in the nominated publication(s) resulted in either new or significantly revised knowledge. The accomplishment is expected to represent an important advancement of scientific knowledge or technology relevant to environmental issues and EPA's mission.
- The extent to which environmental protection has been strengthened or improved, whether of local, national, or international importance.
- The degree to which the research is a product of the originality, creativeness, initiative, and problem-solving ability of the researchers, as well as the level of effort required to produce the results.
- The extent of the beneficial impact of the research and the degree to which the research has been favorably recognized from outside EPA.
- The nature and extent of peer review, including stature and quality of the peer-reviewed journal or the publisher of a book for a review chapter published therein.

I have determined that the meetings of the STAA Committee and Chartered SAB will be closed to the public because they are concerned with selecting employees deserving of awards. In making these recommendations, the Agency requires full and frank advice from the SAB. This advice will involve professional judgments on the relative merits of various employees and their respective work. Such personnel matters involve the discussion of information that is of a personal nature and the disclosure of which would be a clearly unwarranted invasion of personal privacy and, therefore, are protected from disclosure by section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and sections (c)(2) and (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). Minutes of the meetings of the STAA Committee and the Chartered SAB will be kept and certified by the chair of those meetings.

Dated: June 21, 2019.

**Andrew R. Wheeler,**

*Administrator.*

[FR Doc. 2019–13913 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2019–0158, FRL–9995–81–OMS]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Renewal for EPA's WasteWise Program

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's WasteWise Program (EPA ICR Number 1698.10, OMB Control Number 2050–0139) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through June 30, 2019. Public comments were previously requested via the **Federal Register** on April 3, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 29, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2019–0158, to (1) EPA, either online using *www.regulations.gov* (our preferred method), or by email to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Kent Foerster, Office of Resource Conservation and Recovery (mail code 5306P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 703–308–0199; fax number: 703–308–8686; email address: *foerster.kent@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* This is a renewal ICR for reporting and recordkeeping requirements under EPA's WasteWise program. WasteWise is a voluntary program designed to promote partnerships with organizations in order to bolster recycling and cut the volume of multiple materials (*e.g.,* paper, aluminum cans; plastic and glass bottles; food wastes, etc.) in municipal solid waste streams. Under this program, participants agree to set waste reduction goals, develop and document specified actions to reduce waste and track their progress along the way. Under WasteWise, EPA has issued specific material or sector-based challenges. Currently these challenges focus on food recovery and electronics, as well as state related waste and material management efforts. A separate Federal Green Challenge targets the Federal sector but is not part of this ICR. Participants use a web-based online database system containing integrated platforms with automated forms to register for participation; set goals; and report their waste reduction achievements on an annual basis.

*Form Numbers:* None.

*Respondents/affected entities:* Business and other for-profit and not-for-profit organizations, as well as Federal/State/Local and Tribal governments.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 2,224.

*Frequency of response:* Annual.

*Total estimated burden:* 155,529 hours per year.

*Total estimated cost:* $5,686,774 (per year), includes $164,000 annualized capital or operation & maintenance costs.

*Changes in the estimates:* There is an increase of 129,685 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to increase in

participation rates since the last renewal.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–13786 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2019–0104; FRL–9995–75]**

### Safer Choice Partner of the Year Awards Call for Submissions

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

**ACTION:** Notice.

**SUMMARY:** The EPA Safer Choice program is accepting submissions for its 2019 Safer Choice Partner of the Year Awards. EPA developed the Partner of the Year Awards to recognize the leadership contributions of Safer Choice partners and stakeholders who, over the past year, have shown outstanding achievement in the design, manufacture, selection, and use of products with safer chemicals. All Safer Choice stakeholders and program participants in good standing are eligible for recognition. Interested parties must inform the program that they would like to be considered for an award and submit supporting information.

**DATES:** Submissions are due on or before July 31, 2019.

**ADDRESSES:** Please submit materials by email to *SaferChoice_Support@abtassoc.com* and *Rutsch.Linda@epa.gov.* The docket for this action, identified by docket information (ID) number EPA–HQ–OPPT–2019–0104, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Linda Rutsch, Chemistry, Economics and Sustainable Strategies Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mail Code 7406M, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 343–9924; email address: *rutsch.linda@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Does this action apply to me?

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

- 325510 Paint and Coating Manufacturing.
- 325611 Soap and Other Detergent Manufacturing.
- 325612 Polish and Other Sanitation Good Manufacturing.
- 325910 Printing Ink Manufacturing.
- 325992 Photographic Film, Paper, Plate, and Chemical Manufacturing.
- 325998 All Other Miscellaneous Chemical Product and Preparation Manufacturing.
- 561210 Facilities Support Services.
- 561720 Janitorial Services.
- 561740 Carpet and Upholstery Cleaning Services.
- 611310 Colleges, Universities, and Professional Schools.
- 8123 Dry Cleaning and Laundry Services.
- 921190 Other General Government Support.

If you have any questions regarding the applicability of this program to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### II. Background

As part of its environmental mission, the Safer Choice program partners with businesses and others to help consumers and commercial buyers identify products with safer chemical ingredients, without sacrificing quality or performance. Toward this end, the Safer Choice program certifies products containing ingredients that have met the program's specific and rigorous human health and environmental toxicological criteria. The Safer Choice program allows the use of its label on products that perform and contain safer ingredients, as determined by expert evaluation. The Safer Choice program recognition represents a high level of achievement in formulating products that are safer for people and the environment. The purpose of the Partner of the Year Awards is to recognize the leadership contributions of Safer Choice partners and stakeholders who, over the past year, have shown outstanding achievement in the design, manufacture, selection, and use of products with safer chemicals. Award winners will be recognized at a Safer Choice Partner of the Year Awards ceremony in the fall of 2019.

#### III. How can I participate?

To be considered for a Partner of the Year Award, candidates must notify Safer Choice of their interest and must submit supporting information on their accomplishments and contributions focusing on calendar year 2018. There is no form required for this year's application. Candidates interested in learning more about the Partner of the Year Awards should refer to the Safer Choice website: *https://www.epa.gov/saferchoice/safer-choice-partner-year-awards.*

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: June 24, 2019.

**Alexandra Dapolito Dunn,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2019–13841 Filed 6–27–19; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–1178]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to

comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before July 29, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@OMB.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–1178.

*Title:* TV Broadcast Relocation Fund Reimbursement Form, FCC Form 2100, Schedule 399; Section 73.3700(e), Reimbursement Rules.

*Form Number:* FCC Form 2100, Schedule 399.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not for profit institutions.

*Number of Respondents and Responses:* 4,400 respondents; 52,800 responses.

*Estimated Hours per Response:* 1–4 hours.

*Frequency of Response:* One-time reporting requirement; On occasion reporting requirement, Record keeping requirement.

*Total Annual Burden:* 98,800 hours.

*Total Annual Cost:* $15,000,000.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(j), 157 and 309(j) as amended; and Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, §§ 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

*Nature and Extent of Confidentiality:* There is some need for confidentiality with this collection of information. Invoices, receipts, contracts, and other cost documentation submitted along with the form will be kept confidential in order to protect the identification of vendors and the terms of private contracts between parties. Vendor name and Employer Identification Numbers (EIN) or Tax Payer Identification Number (TIN) will not be disclosed to the public.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* The submission is being made to the Office of Management and Budget (OMB) for the approval of new information collection requirements contained within the Commission's Report and Order, LPTV, TV Translator, and FM Reimbursement; Expanding the Economic and Innovation Opportunities Through Incentive Auction, MB Docket No. 18–214 and GN Docket No. 12–268, FCC 19–21, (March 15, 2019), 84 FR 11233 (March 26, 2019) (LPTV, TV Translator, and FM Reimbursement Report and Order). The LPTV, TV Translator, and FM Reimbursement Report and Order adopts rules to implement Congress' directive in the 2018 Reimbursement Expansion Act (REA) that the Commission reimburse certain Low Power Television and television translator stations and FM broadcast stations, for costs incurred as a result of the Commission's broadcast television spectrum incentive auction. In the REA, Congress provided additional funding for the TV Broadcaster Relocation Fund and expanded the list of entities eligible to receive reimbursement for costs reasonably incurred as a result of the reorganization of broadcast television spectrum to include LPTV/translator and FM stations. The LPTV, TV Translator, and FM Reimbursement Report and Order adopts rules relating to eligibility, expenses, and procedures the Commission will use to provide *17830 reimbursement to these entities and mandates the use of various measures designed to protect the Reimbursement Fund against waste, fraud, and abuse. This submission is being made to implement the Commission's directive to add LPTV, TV Translators, and FM broadcast stations to this Information Collection.

In the LPTV, TV Translator, and FM Reimbursement Report and Order, the Commission delegated to the Media Bureau the authority to modify current FCC Form 2100, Schedule 399, TV Broadcaster Relocation Fund Reimbursement Form (Reimbursement Form), to add all newly eligible LPTV, TV Translator, and FM broadcast entities. The Media Bureau has, therefore, added questions and certifications to the Reimbursement Form to accommodate these newly eligible broadcast entities. Specifically, in order to protect the Reimbursement Fund against waste, fraud, and abuse, all newly eligible broadcast entities that propose to request reimbursement for eligible expenses must certify on the Reimbursement Form that they meet the specified eligibility criteria and provide information regarding their affected broadcasting equipment and the estimated costs eligible for reimbursement. This Information Collection is otherwise unchanged as already approved by OMB.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–13865 Filed 6–27–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VII will hold its first meeting.

**DATES:** July 19, 2019.

**ADDRESSES:** Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Suzon Cameron, Designated Federal Officer, (202) 418–1916 (voice) or *Suzon.cameron@fcc.gov* (email); or, Guy Benson, Deputy Designated Federal Officer, (202) 418–2946 (voice) or *guy.benson@fcc.gov* (email).

**SUPPLEMENTARY INFORMATION:** The meeting will be held on July 19, 2019, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW, Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC regarding best practices and actions the FCC can take to help ensure the security, reliability, and interoperability of communications systems. On March 15, 2019, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for the CSRIC for a period of two years through March 14, 2021. The meeting on July 19, 2019, will be the first meeting of the CSRIC under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at *http://www.fcc.gov/live*. The public may submit written comments before the meeting to Suzon Cameron, CSRIC Designated Federal Officer, by email *suzon.cameron@fcc.gov* or U.S. Postal Service Mail to Suzon Cameron, Senior Attorney, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Room 7–B458, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2019–13785 Filed 6–27–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**[Docket No. AS19–05]**

### Appraisal Subcommittee Notice of Meeting

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of Special Meeting.

*Description:* In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for a Special Meeting:

*Location:* Partnership for Public Service, 1100 New York Avenue NW, Suite 200 East, Room 2AB, Washington, DC 20005.

*Date:* July 9, 2019.

*Time:* 10:00 a.m.

*Status:* Open.

*Action and Discussion Items:* North Dakota Temporary Waiver Request.

*How to Attend and Observe an ASC meeting:* If you plan to attend the ASC Meeting in person, we ask that you send an email to *meetings@asc.gov*. You may register until close of business July 5, 2019. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: June 25, 2019.

**James R. Park,**

*Executive Director.*

[FR Doc. 2019–13912 Filed 6–27–19; 8:45 am]

**BILLING CODE 6700–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

**[CMS–3379–PN]**

### Medicare and Medicaid Programs: Application by Accreditation Commission for Health Care for Continued CMS-Approval of Its Hospice Accreditation Program

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice acknowledges the receipt of an application from the Accreditation Commission for Health Care for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organizations complete application, the Centers for Medicare & Medicaid Services publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 30, 2019.

**ADDRESSES:** In commenting, please refer to file code CMS–3379–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.regulations.gov.* Follow the ''submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3379–

PN, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3379–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

**FOR FURTHER INFORMATION CONTACT:**

Lillian Williams, (410) 786–8636.

Joy Webb, (410) 786–1667.

Karen Tritz, (410) 786–0821.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

## I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice provided certain requirements are met by the hospice. Sections 1861(dd) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as a hospice. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities related to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 418, specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for hospices.

Generally, to enter into an agreement, a hospice must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 418. Thereafter, the hospice is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements.

However, there is an alternative to surveys by state agencies. Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for deeming authority under part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the reapproval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require accrediting organizations to reapply for continued deeming authority every 6 years or sooner as determined by Centers for Medicare and Medicaid Services (CMS).

The Accreditation Commission for Health Care's (ACHC's) term of approval for its hospice accreditation program expires November 27, 2019.

## II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of ACHC's request for continued CMS approval of its hospice accreditation program. This notice also solicits public comment on whether ACHC's requirements meet or exceed the Medicare conditions for participation for hospices.

## III. Evaluation of Deeming Authority Request

ACHC submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its hospice accreditation program. This application was determined to be complete on May 1, 2019. Under Section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national organizations), our review and evaluation of ACHC will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of ACHC's standards for hospices as compared with CMS' hospice conditions of participation.
- ACHC's survey process to determine the following:

++ ACHC's composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ ACHC's processes compared to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ ACHC's processes and procedures for monitoring a hospice found out of compliance with ACHC's program requirements. These monitoring procedures are used only when ACHC identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.9(c).

++ ACHC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ ACHC's capacity to provide CMS with electronic data, and reports necessary for effective validation and assessment of the organization's survey process.

++ ACHC's staff adequacy and other resources, and its financial viability.

++ ACHC's capacity to adequately fund required surveys.

++ ACHC's policies with respect to whether surveys are announced or unannounced to assure that surveys are unannounced.

++ ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

### IV. Collection of Information Requirements

This document does not impose information collection requirements, that is reporting, recordkeeping and third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

### V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

Dated: June 11, 2019.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2019–13901 Filed 6–27–19; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare & Medicaid Services

**[CMS–1728–N]**

## Medicare Program; Rechartering and Appointment of New Members to the Medicare Advisory Panel on Clinical Diagnostic Laboratory Tests

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the rechartering and appointment of seven new members to the Medicare Advisory Panel on Clinical Diagnostic Laboratory Tests (the CDLT Panel). The purpose of the CDLT Panel is to advise the Secretary of the Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on issues related to clinical diagnostic laboratory tests.

**DATES:**

*Recharter Dates:* The charter for the CDLT Panel will expire on April 26, 2021 (2 years from the date the charter was filed).

*New CDLT Panel Member Appointment Dates:* The term period for the new CDLT Panel members is July 1, 2019 through June 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** Rasheeda Arthur, Ph.D., Designated Federal Official (DFO), (410) 786–3434 or email at *CDLTPanel@cms.hhs.gov.*

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

For additional information on the CDLT Panel, please refer to the CMS website at *https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Medicare Advisory Panel on Clinical Diagnostic Laboratory Tests (CDLT Panel) is authorized by section 1834A(f)(1) of the Social Security Act (the Act) (42 U.S.C. 1395m–1), as established by section 216(a) of the Protecting Access to Medicare Act of 2014 (PAMA). (Pub. L. 113–93), enacted on April 1, 2014. The CDLT Panel is subject to the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

Section 1834A(f)(1) of the Act directs the Secretary of the Department of Health and Human Services (the Secretary) to consult with an expert outside advisory panel established by the Secretary, composed of an appropriate selection of individuals with expertise in issues related to clinical diagnostic laboratory tests. Individuals may include molecular pathologists, researchers, and individuals with expertise in laboratory science or health economics.

The CDLT Panel will provide information and recommendations to the Secretary and the Administrator of the Center for Medicare & Medicaid Services (CMS), on the following:

- The establishment of payment rates under section 1834A of the Act for new Clinical Diagnostic Laboratory Tests (CDLTs), including whether to use ''cross walking'' or ''gap filling'' processes to determine payment for a specific new test;
- The factors used in determining coverage and payment processes for new CDLTs; and
- Other aspects of the new payment system under section 1834A of the Act.

A notice announcing the establishment of the CDLT Panel and soliciting nominations for members was published in the October 27, 2014 **Federal Register** (79 FR 63919 through 63920). In the August 7, 2015 **Federal Register** (80 FR 47491), we announced membership appointments to the CDLT Panel along with the first public meeting date for the CDLT Panel, which was held on August 26, 2015. Subsequent meetings of the CDLT Panel and membership appointments were also announced in the **Federal Register**.

The CDLT Panel charter provides that CDLT Panel meetings will be held up to 4 times annually and the CDLT Panel shall consist of up to 15 individuals appointed by the Secretary's or CMS Administrator's designee to serve a term of up to 3 years. Members may serve after the expiration of his or her term until a successor has been sworn-in. A CDLT Panel member selected to replace another CDLT Panel member who has resigned prior to the end of his or her term shall serve for the balance of the original CDLT Panel members' term.

### II. Provisions of the Notice

A notice requesting nominations to the CDLT Panel was published in the September 29, 2017 **Federal Register** (82 FR 45590 through 45592). In that notice, we stated that nominations would be accepted on a continuous basis. Since the last CDLT Panel meeting, which was held July 16 through 17, 2018, the Secretary's designee approved membership (term period: July 1, 2019 through June 30, 2022) of the following new panel members (parenthetical denotes nomination source(s)):

- Maria Arcila, MD (Memorial Sloan Kettering Cancer Center);
- Karen Carroll, MD, FIDSA (Infectious Diseases Society of America);
- Lydia Contis, MD (University of Pittsburgh School of Medicine);
- Elizabeth Harris, MD (Humana, Inc.);
- Kevin Krock, Ph.D. (Precision Diagnostics);
- Elaine Lyon, Ph.D. (Association for Molecular Pathologists);
- Heather Shappell, MS, CGC (National Society of Genetic Counselors);

Current CDLT Panel members (parenthetical denotes nomination source(s):

- Vickie Baselski, Ph.D. (American Society of Microbiology);
- Aaron Bossler, M.D., Ph.D. (Association for Molecular Pathologists);
- Pranil Chandra, D.O. (Association for Molecular Pathologists);
- William Clarke, Ph.D., M.B.A., DABCC, FACB (American Association of Clinical Chemistry);
- Stanley R. Hamilton, M.D. (Alliance of Dedicated Cancer Centers; College of

American Pathologists; National Association of Medical Examiners; MD Anderson Cancer Center);

- Kimberley Hanson, MD, MHS, FIDSA (Infectious Diseases Society of America);
- Michele M. Schoonmaker, Ph.D. (Advanced Medical Technology Association);

Terms have expired (or will expire during Calendar Year (CY) 2019) for the following CDLT Panel members (parenthetical denotes nomination source(s)):

- Geoffrey Baird, M.D., Ph.D. (Seattle Children's Hospital);
- Raju Kucherlapati, Ph.D. (Coalition of 21st Century Medicine);
- Bryan A. Loy, M.D., M.B.A. (Humana, Inc.);
- Gail Marcus, Ph.D., M.B.A., M.S.E. (Self-Nomination);
- Carl Morrison, M.D., D.V.M. (The United States Congress; Roswell Park Cancer Center);
- Rebecca Sutphen, M.D. (Self-Nomination; Informed Medical Decisions);

### III. Copies of the Charter

The Secretary's Charter for the Medicare Advisory Panel on CDLTs is available on the CMS website at *http://cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html.* Also, copies of the charter can be obtained by submitting a request to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

### IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required.

Dated: June 11, 2019.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2019–13900 Filed 6–27–19; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–N–2452]**

## Endpoints for Drug Development in Heart Failure; Public Workshop

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

**ACTION:** Notice of public workshop.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is announcing a public workshop entitled ''Endpoints for Drug Development in Heart Failure.'' The purpose of this public meeting is to bring the stakeholder community together to discuss clinical endpoints for trials in heart failure that could be used to support FDA approval of drugs. The workshop will focus on endpoints related to symptoms and physical function. In addition, there will be discussion of the need to assess mortality effects of drugs under development for heart failure.

**DATES:** The public workshop will be held on Friday, July 26, 2019, from 9 a.m. to 4 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

**ADDRESSES:** The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Rm. 1503 (the Great Room), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

**FOR FURTHER INFORMATION CONTACT:** Meg Pease-Fye, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4115, Silver Spring, MD, 20993–0002, 301–796–1130, *Meg.PeaseFye@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

FDA is announcing a public workshop regarding clinical endpoints for trials in heart failure that could be used to support FDA approval of drugs. FDA is convening this public workshop to discuss the Agency's current thinking with expert stakeholders and to consider public comments.

### II. Topics for Discussion at the Public Workshop

FDA is interested in soliciting feedback on a number of topics:

1. Consider and discuss endpoints related to symptoms and physical function, *e.g.,* patient-reported outcome instruments, exercise tests, data from electronic monitors;
2. Consider the best ways to count multiple hospitalizations;
3. Discuss when the nature and clinical importance of a treatment effect for a particular endpoint may justify deferral or omission of outcomes studies;
4. In setting an upper bound for a mortality risk to be ruled out, discuss how the boundary may be influenced by a drug's demonstrated benefits and risks;
5. Discuss the advantages and disadvantages of all-cause vs. cardiovascular-specific endpoints, *e.g.,* hospitalizations and deaths;
6. Discuss the advantages and disadvantages of adjudicating causes of deaths and hospitalizations.

### III. Participating in the Public Workshop

*Registration:* To register for the public workshop, please visit the following website *https://fdaheartfailureendpointsindrugdev.eventbrite.com.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability. Persons interested in attending this public workshop must register by July 24, 2019, at 3 p.m., Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public meeting/public workshop will be provided beginning at 8 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Meg Pease-Fye at 301–796–2240 no later than July 1, 2019.

*Requests for Oral Comment:* On the day of the meeting, a signup sheet will be made available for those who wish to speak during the public comment session. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their

comments. On the day of the meeting, based on demand, we will determine the amount of time allotted to each presenter and the approximate time each comment is to begin. Please note this will be oral comment only; no slides or other presentation material is permitted. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

*Streaming Webcast of the Public Workshop:* This public workshop will also be webcast via *https://collaboration.fda.gov/thf072519/.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

*Transcripts:* Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A link to the transcript will also be available on the internet at *https://www.fda.gov.*

Dated: June 24, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–13799 Filed 6–27–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–D–2314]**

### Treatment for Heart Failure: Endpoints for Drug Development; Draft 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 draft guidance for industry entitled ''Treatment for Heart Failure: Endpoints for Drug Development.'' This draft guidance clarifies that an effect on symptoms or physical function, without a favorable effect on survival or hospitalization, can be a basis for approving drugs to treat heart failure. It also provides recommendations to sponsors on the need to assess mortality effects of drugs under development to treat heart failure.

**DATES:** Submit either electronic or written comments on the draft guidance by August 27, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2019–D–2314 for ''Treatment for Heart Failure: Endpoints for Drug Development.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft 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 draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Ellis Unger, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4212, Silver Spring, MD 20993–0002, 301–796–2240 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 draft guidance for industry entitled ''Treatment for Heart Failure: Endpoints for Drug Development.'' Heart failure causes substantial mortality and morbidity and has major effects on physical function and quality of life. This draft guidance clarifies that an effect on symptoms or physical function, without a favorable effect on survival or hospitalization, can be a basis for approving drugs to treat heart failure. It also provides recommendations to sponsors on the need to assess mortality effects of drugs under development to treat heart failure.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Treatment for Heart Failure: Endpoints for Drug Development.'' 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 draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

FDA has OMB approval under the PRA for the submission of INDs, including protocol amendments and information amendments, in 21 CFR part 312, subpart B, and sponsors may request comment and advice on an IND as well as request meetings with FDA under subpart C (OMB control number 0910–0014). In addition, the following collections of information that have been approved by OMB would cover other submissions discussed in the draft guidance:

- Guidance for industry on formal meetings with sponsors and applicants for Prescription Drug User Fee Act products (OMB control number 0910–0429);
- Guidance for industry on clinical trial data monitoring committees (OMB control number 0910–0581);
- Guidance for industry on oversight of clinical investigations (OMB control number 0910–0733);
- International Council for Harmonization guidance for industry ''E6(R2) Good Clinical Practice'' (OMB control number 0910–0843);
- Protection of Human Subjects: Informed Consent; Institutional Review Boards (21 CFR parts 50 and 56) (OMB control number 0910–0755); and
- Institutional Review Boards (§ 56.115) (OMB control number 0910–0130).

## III. Electronic Access

Persons with access to the internet may obtain the draft 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,* or *https://www.regulations.gov.*

Dated: June 24, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–13800 Filed 6–27–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Data Collection Tool for State Offices of Rural Health Grant Program, OMB No. 0915–0322—Revision

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this ICR should be received no later than August 27, 2019.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* Data Collection Tool for State Offices of Rural Health Grant Program, OMB No. 0915–0322—Revision

*Abstract:* The mission of the Federal Office of Rural Health Policy (FORHP) is to sustain and improve access to quality care services for rural communities. In its authorizing language (Section 711 of the Social Security Act [42 U.S.C. 912]), Congress charged FORHP with administering grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health care in rural areas. In accordance with the Public Health Service Act, Section 338J (42 U.S.C. 254r), HRSA proposes to continue the State Offices of Rural Health (SORH) Grant Program data collection process.

*Need and Proposed Use of the Information:* FORHP seeks to continue gathering information from grantees on their efforts to provide technical assistance to clients within their state. SORH grantees submit a Technical Assistance Report that includes: (1) The total number of technical assistance encounters provided directly by the grantee, and (2) the total number of unduplicated clients that received direct technical assistance from the grantee. These measures will continue with additional measures being added in the following three categories: (1) Information disseminated, (2) information created, and (3) collaborative efforts by topic area and type of audience. These proposed new measures are being added to obtain a

more accurate depiction of the breadth of SORH work and are based on recommendations from the grantees. Submission of the Technical Assistance Report is required via the HRSA Electronic Handbook no later than 30 days after the end of each 12 month budget period.

*Likely Respondents:* Fifty State Offices of Rural Health.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Technical Assistance Report | 50 | 1 | 50 | 13.5 | 675 |
| Total | 50 | | 50 | | 675 |

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2019–13804 Filed 6–27–19; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Advisory Council on Alzheimer's Research, Care, and Services; Meeting

**AGENCY:** Assistant Secretary for Planning and Evaluation, HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces the public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). The Advisory Council on Alzheimer's Research, Care, and Services provides advice on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people with the disease and their caregivers. The Advisory Council will spend the majority of time during the July 29, 2019 meeting considering recommendations made by each of the three subcommittees to present to the Secretary of HHS and Congress. Additional presentations will include updates on the latest biomedical research findings, an overview of the *Healthy Brain Initiative: The Road Map for Indian Country,* and a discussion of the progress made since 2011 through the National Plan to Address Alzheimer's Disease. Federal workgroups will also provide updates.

**DATES:** The meeting will be held on July 29, 2019 from 9 a.m. to 4:30 p.m. EST.

**ADDRESSES:** The meeting will be held in Room 800 in the Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

*Comments:* Time is allocated on the agenda to hear public comments. The time for oral comments will be limited to two (2) minutes per individual. In lieu of oral comments, formal written comments may be submitted for the record to Helen Lamont, Ph.D., OASPE, 200 Independence Avenue SW, Room 424E, Washington, DC 20201. Comments may also be sent to *napa@hhs.gov*. Those submitting written comments should identify themselves and any relevant organizational affiliations.

**FOR FURTHER INFORMATION CONTACT:** Helen Lamont, 202–260–6075, *helen.lamont@hhs.gov*. Note: Seating may be limited. Those wishing to attend the meeting must send an email to *napa@hhs.gov* and put ''July 29 Meeting Attendance'' in the subject line by Friday, July 19 so that their names may be put on a list of expected attendees and forwarded to the security officers at the Department of Health and Human Services. Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and the entrance to Federal buildings may change without notice. If you wish to make a public comment, you must note that within your email.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). Topics of the Meeting: The July 29, 2019 meeting of the Advisory Council will focus on considering recommendations made by each of the three subcommittees to present to the Secretary of HHS and Congress. There will also be updates on the latest biomedical research findings, an overview of the *Healthy Brain Initiative: The Road Map for Indian Country,* and a discussion of the progress made since 2011 through the National Plan to Address Alzheimer's Disease.

*Procedure and Agenda:* This meeting is open to the public. Please allow 30 minutes to go through security and walk to the meeting room. The meeting will also be webcast at *www.hhs.gov/live*.

**Authority:** 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: June 24, 2019.

**Brenda Destro,**

*Deputy Assistant Secretary for Planning and Evaluation, Office of Human Services Policy.*

[FR Doc. 2019–13850 Filed 6–27–19; 8:45 am]

**BILLING CODE 4150–15–P**

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Notice of Amendment to the Program Comment To Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Adoption of Amendment to the Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way.

**SUMMARY:** The Advisory Council on Historic Preservation (ACHP) has approved an amendment to the Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way. The amendment extends the deadline for the Department of Transportation to prepare and publish the implementing guidance to allow implementation of the property-based approach.

**DATES:** The amendment went into effect on June 10, 2019.

**ADDRESSES:** Address any questions concerning the amendments to Jaime Loichinger, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 401 F Street NW, Suite 308, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Jaime Loichinger, (202) 517–0219, *jloichinger@achp.gov.*

**SUPPLEMENTARY INFORMATION:** Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, requires federal agencies to consider the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued the regulations that set forth the process through which federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under Section 800.14(e) of those regulations, agencies can request the ACHP to provide a ''Program Comment'' on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.7. An agency can meet its Section 106 responsibilities with regard to the effects of particular aspects of those undertakings by taking into account an applicable Program Comment and following the steps set forth in that comment.

On August 17, 2018, the ACHP issued the Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way at the request of the U.S. Department of Transportation (USDOT). See 83 FR 42920 (August 24, 2018). This Program Comment accelerates the review of undertakings affecting rail properties within rail rights-of-way under Section 106 of the National Historic Preservation Act and meets the requirement of Section 11504 of the Fixing America's Surface Transportation Act. The Program Comment can be used by any federal agency with responsibility to consider the effects of undertakings within rail rights-of-way.

The Program Comment is comprised of two major parts: (1) An activity-based approach, and (2) a property-based approach. The activity-based approach provides a list of activities in Appendix A for which, when the specific conditions are met, no further Section 106 review is required. The property-based approach establishes a process whereby project sponsors can opt to work with the relevant USDOT Operating Administration and stakeholders to develop a list of excluded historic rail properties that would continue to be subject to Section 106 review, and exempt from review the effects of undertakings to all other historic rail properties within a designated area. While the activity-based approach was effective immediately, the property-based approach does not go into effect until USDOT publishes implementing guidance. This amendment extends the deadline for USDOT to publish the implementing guidance to October 14, 2019.

In May 2019, the USDOT requested that the ACHP amend its Program Comment. As a result of the 35-day partial government shutdown earlier this year, the additional time necessary to review guidance in accordance with USDOT's new departmental review process, and to allow adequate time for necessary stakeholder reviews, USDOT was not able to meet the original deadline in the Program Comment and therefore requested a one-time 150-day extension to develop and issue the guidance. USDOT expects this amendment will constitute a one-time extension.

In considering USDOT's request, ACHP staff discussed the amendment with ACHP members during the Federal Agency Programs Committee call on May 20, 2019, and also during a conference call for all members which took place on May 30, 2019. Comments were received regarding the members' interest in discussing the draft guidance during the next ACHP business meeting in July. USDOT was also asked to provide additional context for why a 150-day extension was needed, and USDOT emphasized that the uncertainty of its new internal review and other factors made such a request necessary.

The ACHP membership voted unanimously to adopt the amendment on June 10, 2019.

What follows is the text of the Program Comment, incorporating the adopted amendment:

### Program Comment To Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way, as Amended Advisory Council on Historic Preservation

Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. 306108 (Section 106), requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued regulations that set forth the process through which federal agencies comply with these responsibilities. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under section 800.14(e) of the Section 106 regulations, agencies can request the ACHP to provide a program comment on a particular category of undertakings in lieu of conducting separate reviews of each individual undertaking under such category, as set forth in 36 CFR 800.3 through 800.7. Federal agencies can satisfy their Section 106 responsibilities with regard to the effects of undertakings on rail properties located in railroad and rail transit rights-of-way (rail ROW) by following this program comment and the steps set forth therein.

#### I. Introduction

The ACHP issued this program comment to exempt consideration of effects under Section 106 to rail properties located within rail ROW in August 2018. The amendment to this program comment is for the sole purpose of extending the timeline for development of the Implementing Guidance for the Property-Based Approach under section IV.C. This program comment has been developed in accordance with Section 11504 of the FAST Act (49 U.S.C. 24202), which mandated the development of a Section 106 exemption for ''railroad rights-of-way.'' More specifically, it required the Secretary of Transportation to submit a proposed exemption to the ACHP for consideration, and for the ACHP to

issue a final exemption not later than 180 days after the date of receipt of the U.S. Department of Transportation's (USDOT) submittal.

This program comment establishes two methods to meet the statutory directive: An activities-based approach and a property-based approach. The activities-based approach described in section III exempts from Section 106 review the activities listed in Appendix A, ''Exempted Activities List,'' provided the conditions outlined therein are met. Those activities involve maintenance, repair, and upgrades to rail properties that are necessary to ensure the safe and efficient operation of freight, intercity passenger, commuter rail, and rail transit operations. While those activities may over time alter various historic elements within rail ROW, these changes are likely to be minimal or not adverse and are necessary to continue meeting the transportation needs of the nation. The property-based approach described in section IV provides an optional process for identifying excluded historic rail properties that are subject to Section 106 review, while exempting consideration of effects to other rail properties.

If a federal agency responsible for carrying out, licensing, permitting, or assisting an undertaking with the potential to affect historic rail properties meets the terms of this program comment, its Section 106 responsibility to take into accounts those effects will be satisfied.

## II. Applicability

*A. Applicability of Program Comment*

1. The program comment applies to undertakings that may affect rail properties located within rail ROW. Any federal agency responsible for an undertaking located within rail ROW may utilize this program comment to satisfy its Section 106 responsibilities for those undertakings.

2. Under the Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, a state may assume the Secretary of Transportation's responsibilities to comply with Section 106 for certain projects or classes of projects. In such cases, the state may rely on this program comment to fulfill its Section 106 responsibilities.

3. Where a program alternative developed pursuant to 36 CFR 800.14, such as a statewide programmatic agreement, delegates Section 106 responsibility to another entity, that entity may also utilize the terms of this program comment for relevant undertakings as applicable. This program comment does not supersede or modify any existing program alternatives, including existing executed programmatic agreements. In cases when this program comment and one or more other program alternatives apply to a proposed undertaking, the federal agency has discretion to determine which program alternative to follow.

*B. Continued Applicability of Section 106*

1. This program comment does not apply to, and the federal agency must comply with the requirements of 36 CFR part 800, or adhere to the terms of an applicable program alternative executed pursuant to 36 CFR 800.14, for the following:

a. Undertakings within rail ROW in the following situations:

i. Undertakings that are located within or would affect historic properties located on tribal lands;

ii. Undertakings consisting of activities not included in Appendix A and that may affect an excluded historic rail property designated by USDOT pursuant to section IV;

iii. Undertakings that could affect historic buildings, structures, sites, objects, or districts that do not have a demonstrable relationship to the function and operation of a railroad or rail transit system;

iv. Undertakings that could affect archaeological sites located in undisturbed portions of rail ROW, regardless of whether the sites are associated with railroads or rail transit systems. An archaeologist meeting the Secretary of the Interior's Professional Qualifications (SOI qualified professional) may assist in identifying undisturbed soils; and

v. Undertakings that could affect historic properties of religious and cultural significance to federally recognized Indian tribes or Native Hawaiian organizations (NHOs).

b. Undertakings that are not within rail ROW. For undertakings for which the area of potential effects (APE) is partially within but extends beyond rail ROW, this program comment applies only to the portions of the undertaking within rail ROW. Federal agencies must consider potential effects to properties adjacent to rail ROW that could be affected by the undertaking, including noise or vibration effects or changes to a historic property's setting.

2. If an unanticipated discovery of a non-rail historic property, archaeological site of any nature, or human remains, or an unanticipated adverse effect on a previously identified non-rail historic property is made during the implementation of an exempted activity listed in Appendix A, the Section 106 requirements at 36 CFR 800.13 and/or applicable burial law, as appropriate depending on the nature of the resource, apply because effects to such resources are not covered by this program comment. At minimum, the Project Sponsor must cease all work in the affected area, secure the area, and notify the federal agency within 72 hours. The federal agency will consult with the State Historic Preservation Officer (SHPO), federally recognized Indian tribes, NHOs, and any other stakeholders as appropriate, to determine the appropriate course of action. If an undertaking involves multiple exempted activities listed in Appendix A, those that do not involve or affect the non-rail resource, as determined by the federal agency, may continue. The Project Sponsor must comply with any applicable state and/or local law regarding the resource.

C. This program comment does not alter the requirements of any applicable easements, covenants, and/or state or local historic preservation ordinances. Other federal and state laws such as the National Environmental Policy Act and Section 4(f) of the USDOT Act also remain applicable, as appropriate.

## III. Activities-Based Approach To Exempting Consideration of Effects Under Section 106

A. Undertakings to maintain, improve, or upgrade rail properties located in rail ROW that are limited to the activities specified in Appendix A are exempt from the requirements of Section 106 because their effects on historic rail properties are foreseeable and likely to be minimal or not adverse. The activities included in Appendix A are exempt from further Section 106 review regardless of whether the rail properties affected are eligible for or listed on the National Register of Historic Places or whether the activities may affect an excluded historic rail property as designated by USDOT pursuant to section IV.

B. If a SHPO, a federally recognized Indian tribe, or an NHO believe an undertaking carried out under Appendix A is adversely affecting or has adversely affected a historic rail property, the SHPO, Indian tribe, or NHO may notify the federal agency responsible for the undertaking of its concern. The federal agency will promptly investigate the concern within 72 hours of the notification. The federal agency will then determine the appropriate course of action, in consultation with the Project Sponsor, SHPO, Indian tribe, NHO, and other stakeholders, as appropriate.

## IV. Property-Based Approach To Exempting Consideration of Effects Under Section 106

Project Sponsors may opt to collaborate with a USDOT Operating Administration (OA) to designate excluded historic rail properties within a defined study area, as described in section IV.A, for which the federal agency must comply with requirements of Section 106 for undertakings that have the potential to affect those properties. Once a USDOT OA formally excludes historic rail properties within a study area, consideration of effects to all other evaluated rail properties within that study area shall be exempt from Section 106 review for any undertaking by any federal agency. In accordance with section IV.C. below, USDOT will publish implementing guidance that will provide further detail regarding the identification and evaluation of excluded historic rail properties. This property-based approach shall go into effect on the date USDOT publishes the implementing guidance no later than October 14, 2019.

### *A. Identification of Excluded Historic Rail Properties*

1. A Project Sponsor that opts to follow the property-based approach to identify excluded historic rail properties must follow the steps outlined below, in accordance with the implementing guidance. To provide maximum flexibility and utility in this process, a Project Sponsor can opt-in on its preferred timeline.

a. A Project Sponsor must clearly define the study area, *i.e.,* the portion of rail ROW to be evaluated, which can be identified by location (*e.g.,* state, county), name of rail corridor, railroad, rail transit system or line, and/or mile-post information, etc.

b. A Project Sponsor may choose to evaluate for designation as excluded historic rail properties either (i) all rail properties in the defined study area, or (ii) a particular property type or types, such as rail bridges, stations and depots, tunnels, etc. within the defined study area.

c. A Project Sponsor's evaluation efforts should also be informed by a variety of available and existing information, including historic context studies, local and state inventories, surveys and evaluations; railroad company records (*e.g.,* bridge inventories or inspection reports); knowledgeable railroad and rail transit personnel; railroad and rail transit historical society museum and archival collections; railroad and rail transit enthusiast website publications; state or local historic preservation organizations; and other relevant documentation and professional experience and expertise. Prior to submitting its proposed list to the USDOT OA, each Project Sponsor must notify the SHPO(s) in the state(s) within which the study area lie(s), and Indian tribes or NHOs who may attach religious and cultural significance to historic properties within the study area, of its evaluation efforts to identify excluded properties and request their input. If existing information is not available to determine the potential historic significance of rail properties within the defined study area, the USDOT OA may require the Project Sponsor to conduct a physical survey of the study area carried out by or under the direct supervision of individuals meeting the SOI's professional qualifications.

d. A Project Sponsor must submit to the USDOT OA the rail properties it proposes be designated as excluded historic rail properties, along with a summary of its evaluation efforts including whether it evaluated all rail properties within the study area or only a certain type(s) of rail property, in accordance with the implementing guidance.

2. Once a Project Sponsor submits a proposal to designate excluded historic rail properties for a study area to the USDOT OA, the USDOT OA will take the following actions to review and designate excluded historic rail properties:

a. The USDOT OA will review each proposal received from a Project Sponsor in accordance with the implementing guidance. The USDOT OA shall notify and request the input of the SHPO(s), Indian tribes, and/or NHOs when reviewing a Project Sponsor's proposal. The USDOT OA will have the discretion to require a Project Sponsor to conduct additional evaluation and/or provide additional documentation to demonstrate that the Project Sponsor made a reasonable effort to identify potential excluded rail properties. Following its review of a Project Sponsor's proposal, the USDOT OA will make the proposed list, modified as necessary based on its review and any consultation or additional evaluation or documentation, available for public review and comment, and will consider input from interested parties and the public before designating the excluded historic rail properties within a study area. The USDOT OA may seek input from the ACHP, including advice regarding resolution of any objections or concerns from commenters, before making such designations. The USDOT may, as needed, consult with the Keeper of the National Register to resolve questions or disagreements about the National Register eligibility of any rail properties.

b. The USDOT OA will designate excluded historic rail properties within a study area within 12 months of receipt of a Project Sponsor's adequately supported proposal, in accordance with the implementing guidance.

c. USDOT will publish and periodically update the list of designated excluded historic rail properties on its website (*www.transportation.gov*.).

### *B. Effect of Designation as an Excluded Historic Rail Property*

1. All undertakings that may affect USDOT-designated excluded historic rail properties are subject to Section 106. However, undertakings that include activities listed in Appendix A require no further Section 106 review regardless of the rail property that would be affected, including excluded historic rail properties.

2. Once a USDOT OA designates excluded historic rail properties within a study area and the list is published on the USDOT website, consideration of effects to all other evaluated rail properties within that study area are exempt from Section 106 review. If a Project Sponsor chooses to evaluate only a specific rail property type, rather than all historic properties, within a study area, then consideration of effects to rail properties other than the type evaluated remain subject to Section 106.

### *C. Implementing Guidance*

1. By October 14, 2019, USDOT, in coordination with the ACHP and other federal agencies who may have an interest in utilizing the Program Comment, will publish guidance for implementing the property-based approach.

2. The guidance will: Provide further instruction and examples for evaluating rail properties for potential designation as excluded historic rail properties to remain subject to Section 106; describe the process by which a Project Sponsor may propose excluded historic rail properties to a USDOT OA, including early coordination between the Project Sponsor and the USDOT OA; establish timeframes for USDOT OA review of proposals and designation of excluded historic rail properties; and establish public involvement methods.

## V. Definition of Terms

Any terms not defined below shall follow the definitions in the NHPA, 54 U.S.C. 300301–300321, and in 36 CFR parts 60 and 800.

A. ''Area of potential effects'' is defined in 36 CFR 800.16(d) and means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

B. ''Excluded historic rail properties'' means those historic properties that illustrate the history of the development of the nation's railroads or rail transit systems and:

1. Are at least 50 years old, possess national significance, and meet the National Register eligibility criteria as defined in 36 CFR 60.4;

2. are less than 50 years old, possess national significance, meet the National Register eligibility criteria, and are of exceptional importance;

3. were listed in the National Register, or determined eligible for the National Register by the Keeper pursuant to 36 CFR part 63, prior to the effective date of the Program Comment and retain eligibility as determined by the USDOT OA; or

4. are at least 50 years old and meet the National Register eligibility criteria at the state or local level of significance, as determined by the USDOT OA.

C. ''Historic property'' is defined in 36 CFR 800.16(l) and means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of religious and cultural importance to a federally recognized Indian tribe or Native Hawaiian organization that meet the National Register criteria.

D. ''In-kind'' means that new materials used in repairs or replacements match the material being repaired or replaced in design, color, texture, other visual properties, and, where possible, materials. For more information, see The Secretary of the Interior's Standards for Rehabilitation, at *https://www.nps.gov/tps/standards/rehabilitation.htm.*

E. ''National significance'' means a historic property that is eligible or listed in the National Register and either:

1. Designated as a National Historic Landmark;

2. designated as a Historical Civil Engineering Landmark;

3. listed as nationally significant in its nomination or listing in the National Register; or

4. determined by a USDOT OA to have significance at the national level.

F. ''Project Sponsor'' means an entity such as a state, tribal or local government, joint venture, railroad commission, compact authority, port authority, transit agency or authority, or private company that is eligible to receive federal financial assistance (*e.g.,* grant, loan). A Project Sponsor may also be an entity that requires a federal permit, license, or approval to carry out a proposed activity in rail ROW (*e.g.,* a permit under Section 404 of the Clean Water Act issued by the Army Corps of Engineers or a permit under Section 9 of the Rivers and Harbors Act of 1899 issued by the United States Coast Guard).

G. ''Rail properties'' means infrastructure located within rail ROW that has a demonstrable relationship to the past or current function and operation of a railroad or rail transit system, including but not limited to: Rails and tracks, ties, ballast, rail beds, signal and communication systems, switches, overhead catenary systems, signage, traction power substations, passenger stations/depots and associated infrastructure and utilities, freight transfer facilities, boarding areas and platforms, boarding platform shelters and canopies, bridges, culverts, tunnels, retaining walls, ancillary facilities, ventilation structures, equipment maintenance and storage facilities, railyards and rail transit yards, parking lots and parking structures, landscaping, passenger walkways, and security and safety fencing. Rail properties may also include a section of a railroad or rail transit line. The definition does not include properties with no demonstrable relationship to the function and operation of a railroad or rail transit system, such as: Adjacent residential, commercial or municipal buildings; or property unrelated to existing or former railroads and rail transit lines that is proposed to be used for new rail infrastructure.

H. ''Railroad and Rail Transit Rights-of-Way'' means the land and infrastructure that have been developed for existing or former intercity passenger rail, freight rail, rail transit operations, or that are maintained for the purpose of such operations. Rail ROW includes current and/or former railroad or rail transit lines regardless of current ownership and whether there is rail service operating on the railroad or rail transit line. It includes property that was previously developed for railroad or rail transit use even though the infrastructure has been modified or removed, and the property may lack visual evidence of previous railroad or rail transit use. It does not include land that was never developed for railroad or rail transit use. Rail ROW includes and may be identifiable by the presence of infrastructure that has a demonstrable relationship to the past or current function and operation of a railroad or rail transit system that commonly includes but is not limited to the rail properties specified in the definition above.

I. ''Section 106'' means Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108.

J. ''Study area'' means the portion of rail ROW identified for the purposes of the evaluation under the property-based approach described in section IV. It may be delineated by: Location (*e.g.,* state, county); name of rail corridor, railroad, rail transit system or line; or mile-post information.

K. ''Undertaking'' is defined at 36 CFR 800.16(y) and means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license, or approval.

L. ''Undisturbed portions of rail ROW'' means soils that have not been physically impacted by previous construction or other ground disturbing activities such as grading. Undisturbed soils may occur below the depth of previously disturbed soils or fill.

M. ''USDOT OA'' means the United States Department of Transportation's Operating Administrations, including the Federal Railroad Administration, the Federal Transit Administration, and the Federal Highway Administration.

**VI. Effective Date**

The activities-based approach to exempting consideration of effects under Section 106, as described in section III, shall go into effect on the date the program comment is issued by the ACHP. At that time, federal agencies may immediately utilize the list of exempted activities in Appendix A. This includes undertakings that have not yet been initiated and undertakings for which the Section 106 review process is underway but not completed.

The property-based approach to exempting consideration of effects under Section 106, as described in section IV, shall go into effect on the date USDOT publishes the implementing guidance in accordance with section IV.C.

## VII. Program Comment Review

Within one year of the issuance of this program comment, and every two years thereafter, the USDOT OAs and the ACHP shall evaluate the ongoing effectiveness and efficiency of the implementation of this program comment. The USDOT OAs shall review their use and application of the program comment, and may invite transportation stakeholders to participate in this review as appropriate.

## VIII. Amendment

The ACHP may amend this program comment after consulting with the USDOT OAs and other relevant federal agencies, the National Conference of State Historic Preservation Offices (NCSHPO), National Association of Tribal Historic Preservation Officers (NATHPO), tribal representatives, the National Trust for Historic Preservation, and representatives from the railroad and rail transit industry, as appropriate. The ACHP will publish a notice in the **Federal Register** informing the public of any amendments that are made to the program comment.

## IX. Withdrawal

The ACHP may withdraw this program comment, pursuant to 36 CFR 800.14(e)(6), by publication of a notice in the **Federal Register** 30 days before the withdrawal will take effect.

## Appendix A: Exempted Activities List

### I. General Rule

A. The federal agency is responsible for determining if an undertaking is covered by one or more activities in the Exempted Activities List. At its discretion, the federal agency may require the Project Sponsor to provide relevant documentation, such as plans, photographs, or materials specifications, so that the federal agency can determine whether the Exempted Activities List applies.

B. Whenever possible, historic materials must be repaired rather than replaced. At its discretion, the federal agency may require the Project Sponsor to provide written justification explaining why repair is not feasible. In cases where existing historic materials are beyond repair, replacement must be carried out in-kind as defined below.

C. Several of the activities in the Exempted Activities List require that the work be ''in-kind.'' For purposes of this program comment, ''in-kind'' means that new materials used in repairs or replacements match the material being repaired or replaced in design, color, texture, other visual properties, and, where possible, materials. For more information, see The Secretary of the Interior's Standards for Rehabilitation, at *https://www.nps.gov/tps/standards/rehabilitation.htm.* Except where specified in the Exempted Activities List, a Project Sponsor is not required to involve an SOI-qualified professional in carrying out in-kind work. However, the federal agency, at its discretion, may require the Project Sponsor to provide documentation demonstrating that the work would be in-kind, utilize non-damaging or reversible methods, etc.

D. Certain activities, as specified in the Exempted Activities List, require that the federal agency and Project Sponsor ensure the work is performed by or under the supervision of individuals that meet the SOI's Professional Qualification Standards in Architectural History, Architecture, and/or Historic Architecture (see 36 CFR Appendix A to Part 61), as appropriate, and must be performed in accordance with the SOI Standards for the Treatment of Historic Properties (*https://www.nps.gov/tps/standards.htm*). If an SOI-qualified professional is not available to assist in the evaluation and/or design of a specified activity, that activity is not exempt from Section 106 review.

E. The Exempted Activities List does not apply to archaeological sites of any nature located within undisturbed portions of rail ROW. Therefore, if an exempted activity would cause ground disturbance in undisturbed portions of the rail ROW, the federal agency is responsible for complying with Section 106 regarding consideration of potential effects to archaeological sites before approving the undertaking.

F. The Exempted Activities List does not apply to non-railroad or rail transit related buildings or structures located within or adjacent to rail ROW within an undertaking's APE. The federal agency remains responsible for determining whether an activity in the Exempted Activities List has the potential to affect non-rail historic properties and for complying with Section 106 with regard to those properties before approving the undertaking.

G. If an unanticipated discovery of a non-rail historic property, archaeological site of any nature, or human remains, or an unanticipated adverse effect on a previously identified non-rail historic property is made during the implementation of an activity on the Exempted Activities List, the Section 106 requirements at 36 CFR 800.13 and/or applicable burial law, as appropriate depending on the nature of the resource, apply because effects to such resources are not covered by this program comment. At minimum, the Project Sponsor must cease all work in and secure the area and notify the federal agency within 72 hours. The federal agency will consult with SHPO, federally recognized Indian tribes, NHOs, and other stakeholders as appropriate, to determine the appropriate course of action. The Project Sponsor must comply with any applicable state or local law regarding the resource. If an undertaking involves multiple activities on the Exempted Activities List, those that do not involve or affect the non-rail resource, as determined by the federal agency, may continue.

H. The Project Sponsor must comply with the requirements of any applicable easements, covenants, and/or state or local historic preservation ordinances. Other federal and state laws such as the National Environmental Policy Act and Section 4(f) of the USDOT Act also remain applicable to activities exempted from Section 106, as appropriate.

### II. Exempted Activities List

*A. Track and Trackbed*

1. Track and trackbed maintenance, repair, replacement, and upgrades within the existing footprint (*i.e.,* existing subgrade, sub-ballast, ballast, and rails and crossties (track)). These activities must not include alterations to the trackbed that would result in a substantial visual change (*i.e.,* elevation or alignment) in the relationship between the trackbed and the surrounding landscape or built environment.

2. Reinstallation of double tracking on a currently single-tracked line that had historically been double-tracked.

*B. Bridges and Tunnels*

1. In-kind maintenance and repair of bridges and tunnels.

2. In-kind replacement of bridge hardware and mechanical and electrical components (*e.g.,* brackets, rivets, bearings, motors).

3. Maintenance or repair of tunnel ventilation structures and associated equipment (*e.g.,* fans, ducting).

4. Replacement of tunnel ventilation structures that are not located within a previously identified historic district.

5. Replacement of tunnel ventilation structures that are located and publicly visible within a previously identified historic district, provided the replaced structures are substantially the same size as or smaller than the existing structures and are visually compatible with the surrounding built environment.

6. Maintenance, repair, or replacement of tunnel emergency egress hatchways.

7. Maintenance, installation, repair, or replacement of lighting, signal and communications systems, railings, and other safety- and security-related equipment or elements located within the interiors of tunnels.

8. Removal or replacement of any bridge or tunnel material or added-on element that is not part of the original construction.

9. Actions to strengthen or repair deteriorating non-character defining structural components of bridges that are intended to maintain their useful life and safe use and that do not substantially alter the bridge from its existing appearance.

10. The following activity must be performed or supervised by an SOI-qualified professional: In-kind replacement of character-defining structural or non-structural components of a bridge superstructure or substructure that do not diminish the overall integrity of the bridge. This does not include demolition of a bridge and replacement with an entirely new structure.

*C. Railroad and Rail Transit Buildings (e.g., Passenger Stations and Depots, Maintenance and Equipment Buildings, Interlocking Towers) and Boarding Platforms*

1. Modifications (*e.g.,* repair, extension, widening, slope adjustments, changes in height) to non-character defining passenger platforms and walkways that are necessary to

meet Americans with Disabilities Act (ADA) requirements or other federal or municipal public or life safety codes and standards, provided those changes do not require associated improvements such as relocation of station doors, construction of ramps, etc. When the original material and construction used something other than common concrete or asphalt methods (*e.g.,* decorative brick or tile), new materials (*e.g.,* non-slip) may be used but must visually match the existing decorative pattern.

2. Maintenance or repair of escalators, elevators, or stairs. Repair of decorative (*i.e.,* non-mechanical) elements must be in-kind. Repair of stairs constructed of material other than common concrete (*e.g.,* brick, tile, marble) must be in-kind.

3. Cleaning, painting, or refinishing of surfaces with a like color and where the products or methods used would not damage the original surface.

4. Maintenance, repair, or replacement of fire or security alarm or fire suppression systems, physical access controls, security cameras, wireless internet, and similar safety, security, or computer equipment and devices.

5. Installation of new fire or security alarm or fire suppression systems, physical access controls, security cameras, wireless internet, and similar safety, security, or computer equipment and devices, except within publicly accessible areas of stations or depots. Such new installations must, to the extent feasible and when appropriate, use a minimally obtrusive design; match the color of surrounding paint, wall coverings, finishes, etc.; avoid damaging or removing historic fabric; be attached to non-historic fabric; be concealed within existing enclosures or conduit or behind walls and ceilings; be co-located with existing similar modern equipment, etc.

6. Maintenance, repair, or replacement of HVAC or electrical systems.

7. Installation of new HVAC or electrical systems, except within publicly accessible areas of stations or depots. Such new installations must, to the extent feasible and when appropriate, use a minimally obtrusive design; match the color of surrounding paint, wall coverings, finishes, etc.; avoid damaging or removing historic fabric; be attached to non-historic fabric; be concealed within existing enclosures or conduit or behind walls and ceilings; be co-located with existing similar modern equipment, etc.

8. Minor ADA improvements at passenger stations that do not damage, cover, alter, or remove character-defining architectural spaces, features, or finishes. Examples include the installation of restroom stalls/partitions, hardware and fixtures such as grab bars, tilt frame mirrors, and sinks and toilets; tactile warning strips on floors, passenger walkways, and platforms; cane detectors; sidewalk curb cuts; automatic door openers; and handrails.

9. Maintenance, repair, or replacement of previously installed ADA elements.

10. Maintenance, repair, or replacement of pumps, air compressors, or fueling stations.

11. Removal of mechanical equipment inside railroad and rail transit facilities not visible to the public. Examples include relay panels, switchgear, and track diagram boards. If the equipment to be removed includes obsolete or outdated technology, the Project Sponsor must contact the SHPO, railroad museums or railroad historical societies, museums, educational institutions, or similar entities to determine if there is an entity that may be interested in purchasing or receiving the equipment as a donation, as appropriate. The Project Sponsor must demonstrate to the federal agency that it has made a good faith effort to contact such parties prior to removal and disposition of such equipment.

12. Addition of new mechanical equipment in basements, beneath platforms, in designated mechanical equipment areas, or in areas that are otherwise out of public view.

13. Paving, painting, or striping of existing parking surfaces.

14. In-kind maintenance or repair of platform boarding canopies and supports.

15. In-kind maintenance or repair of architecturally distinctive light poles and fixtures.

16. State-of-good-repair (SOGR) activities not included elsewhere in this section that are necessary to keep a station, depot, or other railroad or rail transit building inhabitable and safe, as required by applicable federal or municipal fire, life safety, or health codes or standards, and in transportation-related use that meet the following conditions:

a. Maintenance and repair activities that affect character-defining architectural features (*e.g.,* elevator head houses and portals; roofs; doors; windows; stairs; platform canopies; columns; floors; ceilings) must be in-kind.

b. SOGR activities do not include demolition, decommissioning, or mothballing of railroad or rail transit buildings that are not in use, or reconfiguring the interior spaces of passenger stations for a new use (*e.g.,* enclosing a passenger waiting area to create new office, baggage handling, or event space).

17. Maintenance, repair, or replacement activities that are not included elsewhere on this list and involve non-character-defining non-structural elements, features, systems, hardware, and fixtures in the interior or on the exterior of non-station railroad or rail transit buildings.

18. In-kind maintenance or repair of original architectural features in the interior or on the exterior of passenger stations (*e.g.,* handrails, ticket counters, mouldings).

19. In-kind maintenance or repair of character-defining signage (*e.g.,* station identifier, wayfinding) within publicly accessible areas of stations or depots.

20. Maintenance, repair, or replacement of non-character defining signage (*e.g.,* station identifier, wayfinding) within publicly accessible areas of stations or depots.

21. The following activities must be performed or supervised by an SOI-qualified professional:

a. Replacement of character defining escalators, elevators, or stairs, and decorative elements related thereto.

b. ADA improvements at passenger stations that involve the modification or removal of character-defining features such as stairs, floors, ceilings, doors, windows, roofs, platform boarding canopies and supports, benches/seating, or ticket counters; or that involve the addition of new ramps, stairs, escalators, elevators, wheelchair lifts, wheelchair lift enclosures, station identifier and wayfinding signage, and public information display systems (PIDS).

c. SOGR activities that include replacement of character-defining architectural features or otherwise require substantial rehabilitation to address deteriorated conditions. As previously indicated, SOGR activities do not include demolition, decommissioning, or mothballing of railroad or rail transit buildings that are not in use, or reconfiguring the interior spaces of passenger stations for a new use (*e.g.,* enclosing a passenger waiting area to create new office, baggage handling, or event space).

d. Installation of new fire or security alarm or fire suppression systems, physical access controls, security cameras, wireless internet, and similar safety, security, or computer equipment and devices within publicly accessible areas of stations or depots.

e. Installation of new HVAC or electrical systems within publicly accessible areas of stations or depots.

f. Replacement of platform boarding canopies and supports.

g. Replacement of architecturally distinctive light poles and fixtures.

h. Replacement of original architectural features in the interior or on the exterior of passenger stations (*e.g.,* handrails, ticket counters, mouldings).

i. Replacement of character-defining signage (*e.g.,* station identifier, wayfinding) within publicly accessible areas of stations or depots.

*D. Signals, Communications, and Power Generation*

1. Maintenance, repair, or replacement of component parts of signal, communications, catenary, electric power systems, or other mechanical equipment that retains the visual appearance of the existing infrastructure. This includes replacement of individual signal masts or transmission lines, but does not include demolition and replacement of an entire catenary system or signal bridge.

2. Maintenance, repair, or replacement of radio base stations.

3. Maintenance, repair, or replacement of the mechanical components of traction power substations, *e.g.,* transformers, circuit breakers, electrical switches. This does not include demolition and replacement of an entire substation.

4. In-kind maintenance or repair of signal bungalows, signal houses, control houses, instrument houses, and structures of similar function.

5. Installation, repair, or replacement of communications equipment on locomotives and rolling stock that are actively used for intercity passenger rail, rail transit, or freight rail. This does not apply to historic trains used for tourism.

6. The following activities must be performed or supervised by an SOI-qualified professional:

a. Replacement of signal bungalows, signal houses, control houses, instrument houses, and structures of similar function.

*E. Railroad and Rail Transit/Roadway At-Grade Crossings and Grade Separations*

1. Maintenance, repair, or rehabilitation of at-grade railroad and rail transit crossings including installation of railroad and rail transit crossing signs, signals, gates, warning devices and signage, highway traffic signal preemption, road markings, paving and resurfacing, and similar safety improvements.

2. Replacement of at-grade railroad and rail transit crossings on existing railroads, rail transit lines, and roadways, including components such as crossing signs, signals, gates, warning devices and signage, highway traffic signal pre-emption, road markings, paving and resurfacing, and similar safety features.

3. Expansion of sidewalks, constructed with common concrete or asphalt methods, along the sides of an existing at-grade railroad or rail transit crossing.

4. In-kind maintenance or repair of grade-separated crossings of other transportation modes (highways, local roads, pedestrian underpasses).

5. In-kind rehabilitation or replacement of grade-separated crossings of other transportation modes (highways, local roads, pedestrian underpasses). This does not include modifications to existing grade separation structures (*e.g.,* bridges, overpasses) that would result in a substantial increase in height or overall massing or substantial change in appearance. Replacements must be substantially the same appearance and size as existing.

6. Addition of lanes, turning lanes, road widening, and pavement markings at existing at-grade crossings when the crossing does not involve an individual National Register-listed or known historic roadway or a roadway that is a contributing resource to a National Register-listed or known historic district.

7. Construction of curbs, gutters, or sidewalks adjacent to existing roadway at existing at-grade crossings when the crossing does not involve an individual National Register-listed or eligible roadway or a roadway that is a contributing resource to a National Register-listed or eligible historic district.

8. The following activities must be performed or supervised by an SOI-qualified professional:

a. Addition of lanes, turning lanes, road widening, and pavement markings at existing at-grade crossings when the crossing involves an individual National Register-listed or eligible roadway or a roadway that is a contributing resource to a National Register-listed or eligible historic district.

b. Construction of curbs, gutters, or sidewalks adjacent to existing roadway at existing at-grade crossings when the crossing involves an individual National Register-listed or eligible roadway or a roadway that is a contributing resource to a National Register-listed or eligible historic district.

*F. Safety and Security*

1. Maintenance, repair, replacement, or installation of the following security and intrusion prevention devices adjacent to tracks or in railyards or rail transit yards: Security cameras, closed captioned television (CCTV) systems, light poles and fixtures, bollards, emergency call boxes, access card readers, and warning signage.

2. Maintenance, repair, replacement, or installation of security and safety fencing, guardrails, and similar intrusion prevention and fall protection measures.

3. Maintenance, repair, replacement, or installation of safety equipment/fall protection equipment on rail bridges, signal bridges, or other non-station structures for the protection of rail workers or the public. Examples include railings, walkways, gates, tie-off safety cables, anchors, and warning signage.

4. Maintenance, repair, replacement, or installation of wayside detection devices.

5. Maintenance, repair, replacement, or installation of bridge clearance/strike beams.

*G. Erosion Control, Rock Slopes, and Drainage*

1. Placement of riprap and similar bank stabilization methods to prevent erosion affecting bridges and waterways.

2. Erosion control through slide and slope corrections.

3. Rock removal and re-stabilization activities such as scaling and bolting.

4. Maintenance, repair, or replacement of pre-cast concrete, cast iron, and corrugated metal culverts that lack stone or brick headwalls. This does not include culverts such as those built by the Civilian Conservation Corps or those made out of unique materials (*e.g.,* a hollowed log).

5. Expansion through horizontal elongation of pre-cast concrete, cast iron, and corrugated metal culverts that lack stone or brick headwalls for the purpose of improved drainage.

6. Embankment stabilization or the re-establishment of ditch profiles.

7. Corrections to drainage slopes, ditches, and pipes to alleviate improper drainage or changing alluvial patterns.

8. In-kind maintenance, repair, or replacement of retaining walls. Replacements must be substantially the same size and appearance as existing.

9. In-kind maintenance or repair of stone or brick culvert headwalls and wingwalls.

10. Maintenance, repair, or replacement of culvert headwalls and wingwalls constructed of concrete.

11. Maintenance, repair, or alterations to the interiors of culverts and related drainage pathways.

12. The following activities must be performed or supervised by an SOI-qualified professional:

a. Replacement of stone or brick culvert headwalls and wingwalls.

b. Vertical extension of stone or brick culvert headwalls using in-kind materials and design compatible with existing.

*H. Environmental Abatement*

1. Removal or abatement of environmental hazards such as asbestos, treated wood, and lead or heavy-metal coatings and paintings. Activities that replace coatings, paint, flooring materials, etc. must be of the same color and appearance as the materials that have been removed or abated.

2. Removal of contaminated ballast, sub-ballast, subgrade, and soils.

*I. Operations*

1. Establishment of quiet zones, including the installation of required warning devices and additional safety measures installed at grade crossings, that do not entail closing of existing roadways.

2. Increased frequency of train or rail transit operations that do not result in noise or vibration impacts. The lead federal agency may, at its discretion, require a noise and vibration study be prepared by a qualified subject matter expert before approving the undertaking.

3. Temporary storage of rail cars or rail transit cars on active rail lines.

4. Maintenance, repair, or replacement of noise barriers. If a replaced noise barrier is to be located and publicly visible within a National Register-listed or eligible historic district, it must be substantially the same size as or smaller than existing and be visually compatible with the surrounding built environment.

*J. Landscaping, Access Roads, and Laydown Areas*

1. In-kind replacement of landscaping.

2. Mowing, seeding/reseeding, planting, tree trimming, brush removal, or other similar groundcover maintenance activities.

3. Maintenance of access roads and laydown areas.

*K. Utilities*

1. Maintenance, repair, or replacement of above-ground and underground utilities (*e.g.,* electrical, sewer, compressed air lines, fuel lines, fiber optic cable).

2. Maintenance, repair, replacement, or installation of utility lines and conduit inside tunnels that does not involve affixing new equipment to the exterior face of tunnel portals.

3. Affixing conduit, repeaters, antennae, and similar small-scale equipment on the exterior masonry face of tunnel portals where the color of the equipment matches the existing masonry in order to limit its visibility and does not damage the masonry construction.

*L. Bicycle and Pedestrian Facilities, Shared Use Paths, and Other Trails*

1. Maintenance, repair, or replacement of existing bicycle lanes, pedestrian walkways, shared use paths (*e.g.,* bicycle, pedestrian), and other trails intended for non-motorized transportation that are constructed with common materials (*i.e.,* non-decorative concrete, asphalt, pavement, or gravel).

2. Adding lanes to existing shared use paths or other trails constructed with common materials.

3. Adding at-grade crossings for pedestrians and bicycle facilities, shared use paths, or other trails.

4. Maintenance, repair, replacement, or installation of bicycle aid stations, bicycle racks, and bicycle storage sheds, and similar amenities. Installation of new bicycle storage structures must be visually compatible with the surrounding building environment when located adjacent to historic passenger stations or within National Register-listed or eligible historic districts.

5. Maintenance, repair, replacement, or installation of information kiosks or displays,

wayfinding signage, and similar amenities for pedestrian, bicyclists, or other path or trail users.

6. Maintenance, repair, or replacement of curbs, gutters, or sidewalks constructed with common materials.

*M. Construction/Installation of New Railroad or Rail Transit Infrastructure*

For any of the activities listed below, the federal agency shall require the work be performed by or under the supervision of an SOI-qualified professional, based on the scope of work and location of a specific proposal. As with all activities in this Exempted Activities List, but especially important for construction/installation of new railroad or Rail Transit infrastructure, consideration must be given to the potential for effects to non-rail properties within or adjacent to the rail ROW.

1. Minor new construction and installation of railroad or rail transit infrastructure that is compatible with the scale, size, and type of existing rail infrastructure, such as buildings for housing telecommunications equipment, signal instruments, and similar equipment; storage buildings that house landscaping or maintenance of way equipment or specialty vehicles for track repairs or inspections; locomotive and train or rail transit car service and inspection facilities; trailers or temporary structures for housing rail personnel; fueling stations; underground utilities; overhead utilities, transmission lines, and communications poles, and signage. This does not include substantial new construction, such as construction of new passenger stations, railyards or rail transit yards, or tunnels, or demolition of existing structures.

2. Construction of new at-grade crossings.

3. Construction of new erosion control, drainage, or stormwater management infrastructure, such as culverts or retaining walls.

(END OF DOCUMENT)

**Authority:** 36 CFR 800.14(e).

Dated: June 24, 2019.

**John M. Fowler,**

*Executive Director.*

[FR Doc. 2019–13779 Filed 6–27–19; 8:45 am]

**BILLING CODE 4310–K6–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2019–0024; FXIA16710900000–178–FF09A30000]**

### Endangered Species; Marine Mammals; Issuance of Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of permits.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act and the Marine Mammal Protection Act.

**ADDRESSES:** Information about the applications for the issued permits listed in this notice is available online at *www.regulations.gov.* See **SUPPLEMENTARY INFORMATION** for details.

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have issued permits to conduct certain activities with endangered and threatened species in response to permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*)

After considering the information submitted with each permit application and the public comments received, we issued the requested permits subject to certain conditions set forth in each permit. For each application for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

#### Availability of Documents

The permittees' original permit application materials, along with public comments we received during public comment periods for the applications, are available for review. To locate the application materials and received comments, go to *www.regulations.gov* and search for the appropriate permit number (*e.g.,* 12345C) provided in the following tables.

| Permit No. | Applicant | Permit issuance date |
|---|---|---|
| | **Endangered Species** | |
| 93328C | University of Texas at Arlington | February 27, 2019. |
| 66689C | Memphis Zoo | February 1, 2019. |
| 86989C | Audubon Nature Institute | February 1, 2019. |
| 90228C | Lowry Park Zoological Society of Tampa, Inc | January 31, 2019. |
| 91602C | Dr. Viktoria Oelze, University of California Santa Cruz | January 30, 2019. |
| 93509C | Dmitri Petrov | February 26, 2019. |
| 78121C | Pinola Conservancy | February 26, 2019. |
| 77865C | Maria de Lourdes Martinez Estevez | February 26, 2019. |
| 19818A | Phoenix Herpetological Society, Inc | February 26, 2019. |
| | **Marine Mammals** | |
| 75595C | ABR, Inc | March 1, 2019. |

#### Authorities

We issue this notice under the authority of the ESA and the Marine Mammal Protection Act as amended (16 U.S.C. 1361 *et seq.*) and their implementing regulations.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2019–13790 Filed 6–27–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2019–0052; FXIA16710900000–190–FF09A30000]**

### Endangered Species; Issuance of Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of permits.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species. We issue these permits under the Endangered Species Act.

**ADDRESSES:** Information about the applications for the issued permits listed in this notice is available online at *www.regulations.gov.* See **SUPPLEMENTARY INFORMATION** for details.

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, by phone at 703–358–2104, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have issued permits to conduct certain activities with endangered and threatened species in response to permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*)

After considering the information submitted with each permit application and the public comments received, we issued the requested permits subject to certain conditions set forth in each permit. For each application for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

## Availability of Documents

The permittees' original permit application materials, along with public comments we received during public comment periods for the applications, are available for review. To locate the application materials and received comments, go to *www.regulations.gov* and search for the appropriate permit number (*e.g.,* 12345C) provided in the following table.

| Permit No. | Applicant | Permit issuance date |
|---|---|---|
| 80989C | U.S. Geological Survey | March 13, 2019. |
| 85964C | U.S. Fish and Wildlife Service | March 13, 2019. |
| 84889C | Chicago Zoological Society | March 13, 2019. |
| 98983C | Zoological Society of San Diego | March 13, 2019. |
| 98985C | Zoological Society of San Diego | March 13, 2019. |
| 99617C | Wildlife Conservation Society | March 13, 2019. |
| 00760D | Eastern Connecticut State University | March 13, 2019. |
| 50259C | Univ. of California, Davis | March 13, 2019. |
| 79703C | Safari Game Search Foundation | March 21, 2019. |
| 08526D | Greensboro Science Center | March 21, 2019. |
| 08907D | Daniel W. Pearson | March 21, 2019. |
| 99164C | Uno Mas Ranch LLC | March 25, 2019. |
| 02149D | Uno Mas Ranch LLC | March 25, 2019. |
| 84932C | Great Plains Zoo | March 25, 2019. |
| 99011C | Forrest M. Simpson | March 25, 2019. |
| 86122C | Arthur E. Bogan, NC Museum of Natural Sciences | March 25, 2019. |
| 97801C | Wild Cat Education & Conservation Fund | March 25, 2019. |
| 98330C | Wildlife Partners LLC | March 25, 2019. |
| 93748A | Surprise Spring Foundation | March 25, 2019. |
| 91440C | Minnesota Zoological Gardens | March 25, 2019. |
| 95637C | L.A. Waters Ranch, LLC | March 25, 2019. |
| 91449C | Panthera Corporation | March 26, 2019. |
| 99652C | L. Michael Romero, Tufts University | March 28, 2019. |
| 10997B | Lauren Ogburn | March 28, 2019. |
| 84335C | Nancy Speed | March 28, 2019. |
| 93568C | Zoological Society of San Diego | March 28, 2019. |
| 75693A | Turtle Back Zoo | March 28, 2019. |
| 62698C | Saint Louis Zoo | March 6, 2019. |
| 007870 | Smithsonian National Zoological Park | March 12, 2019. |
| 08540D | Center for the Conservation of Tropical Ungulates, LLC | April 1, 2019. |
| 05678D | San Antonio Zoological Gardens & Aquarium | April 3, 2019. |
| 42604C | Saint Louis Zoo | April 12, 2019. |
| 78380C | Omaha's Henry Doorly Zoo & Aquarium | May 8, 2019. |
| 11986D | Los Angeles Zoo | May 14, 2019. |
| 17573D | Denver Zoo | May 14, 2019. |
| 21469B | University of Illinois | May 14, 2019. |
| 85317C | Wildlife Conservation Society | May 14, 2019. |
| 93295C | Field Museum of Natural History | May 14, 2019. |
| 98899C | Nicole Angeli, Smithsonian Institution | May 14, 2019. |

**Authorities**

We issue this notice under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act, as amended (16 U.S.C. 1361 *et seq.*), and their implementing regulations.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2019–13791 Filed 6–27–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVS01000 L58530000 EU0000 241A; MO#]**

### Notice of Realty Action: Modified Competitive Sale of 61 Parcels of Public Land in Clark County, NV; and Termination of Recreation and Public Purposes Classification

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to offer 61 parcels of public land totaling 893.35 acres in the Las Vegas Valley (Valley) by modified competitive sale, sealed bid and oral auction, at not less than the appraised Fair Market Values (FMV) pursuant to the Southern Nevada Public Land Management Act of 1998 (SNPLMA), as amended. The sale will be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the BLM land sale regulations. The BLM is also terminating Recreation and Public Purposes (R&PP) Classification and Segregation of one parcel of land in Clark County. The BLM has completed a Determination of National Environmental Policy Act Adequacy (DNA) for the sale.

**DATES:** Submit written comments regarding the sale until August 12, 2019. The modified competitive sale is to occur by sealed-bid and oral public auction on August 29, 2019, at 10:00 a.m., Pacific Time, at City of North Las Vegas, Council Chambers, 2250 Las Vegas Boulevard North, North Las Vegas, Nevada 89030. In advance of the sale, the BLM will publish a sales matrix on its website, *https://www.blm.gov/snplma;* and, no later than 30 days prior to the sale, the sales matrix will provide the FMV for each sale parcel. The BLM will begin accepting sealed bids on August 19, 2019. Sealed bids must be received by the BLM, Las Vegas Field Office (LVFO) no later than 4:30 p.m. Pacific Time on August 26, 2019.

The BLM will open sealed bids on the day of the sale just prior to the oral bidding.

**ADDRESSES:** Mail written comments and submit sealed bids to the BLM LVFO, Assistant Field Manager, Division of Lands, 4701 North Torrey Pines Drive, Las Vegas, NV 89130.

**FOR FURTHER INFORMATION CONTACT:** Jayangi Ayesha Gamage by email: *jgamage@blm.gov,* or by telephone: 702–515–5189. For general information on previous BLM public land sales go to: *https://www.blm.gov/snplma.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM proposes to offer 61 parcels of public land, of which 50 are located within Clark County jurisdiction, 10 are within the City of Las Vegas jurisdiction, and one is within the City of North Las Vegas jurisdiction. More specifically, of the 61 parcels, 20 are located in the northwest part of the valley near Interstate 215 and State Route 157; five are located in the southwest part of the valley, east of Interstate 215 near Spring Mountain Road and West Flamingo Road; one is located in the southwest part of the valley, west of Interstate 215 and south of West Sunset Road; 24 are located in the southwest part of the valley, near Blue Diamond Road; seven are located in the southwest part of the valley, west of Interstate 15 between West Silverado Ranch Boulevard and West Cactus Avenue; three are located in the southeast part of the valley, east of South Las Vegas Boulevard and south of Interstate 215; and one is located in the northeast part of the valley north of Interstate 15 and south of Interstate 215.

The subject public lands are legally described as:

**Mount Diablo Meridian, Nevada**

N–96215, 5.00 acres
T. 19 S, R. 59 E,
Sec. 36, E½SW¼NE¼NW¼.
N–96216, 5.00 acres
T. 19 S, R. 60 E,
Sec. 19, lot 27;
N–80697, 10.00 acres
T. 19 S, R. 60 E,
Sec. 30, W½NW¼SE¼SW¼ and W½SW¼SE¼SW¼.
N–96217, 10.00 acres
T. 21 S, R. 60 E,
Sec. 10, SE¼NE¼SW¼;
N–96218, 1.87 acres
T. 21 S, R. 60 E,
Sec. 17, E½SE¼NW¼SE¼NW¼ and SW¼SE¼NW¼SE¼NW¼;
N–96219, 5.00 acres
T. 21 S, R. 60 E,
Sec. 21, E½SW¼NW¼NW¼;
N–96220, 20.00 acres
T. 21 S, R. 60 E,
Sec. 21, W½SE¼NW¼.
N–92830, 2.50 acres
T. 22 S, R. 60 E,
Sec. 14, SE¼SE¼SE¼SW¼;
N–92832, 2.50 acres
T. 22 S, R. 60 E,
Sec. 14, SW¼SW¼SW¼SE¼;
N–96221, 5.00 acres
T. 22 S, R. 60 E,
Sec. 14, W½SE¼SE¼SE¼;
N–96222, 8.75 acres
T. 22 S, R. 60 E,
Sec. 16, SE¼NE¼NE¼SE¼, N½SE¼NE¼SE¼, and N½SE¼SE¼NE¼SE¼;
N–96223, 7.50 acres
T. 22 S, R. 60 E,
Sec. 16, W½NE¼NW¼SE¼ and NW¼SE¼NW¼SE¼;
N–96224, 15.00 acres
T. 22 S, R. 60 E,
Sec. 19, SE¼NW¼NE¼NE¼, W½NW¼NE¼NE¼, E½NE¼NW¼NE¼, and SW¼NE¼NW¼NE¼;
N–96225, 2.50 acres
T. 22 S, R. 60 E,
Sec. 22, NE¼NW¼SW¼NW¼;
N–96226, 2.50 acres
T. 22 S, R. 60 E,
Sec. 23, NW¼NE¼NE¼NE¼;
N–96227, 7.50 acres
T. 22 S, R. 60 E,
Sec. 23, SW¼SE¼SE¼NE¼ and E½SW¼SE¼NE¼;
N–96228, 5.00 acres
T. 22 S, R. 60 E,
Sec. 24, E½SE¼SE¼NW¼;
N–96229, 2.50 acres
T. 22 S, R. 60 E,
Sec. 24, NE¼NE¼SW¼NW¼;
N–96230, 5.00 acres
T. 22 S, R. 60 E,
Sec. 24, N½NW¼NW¼SE¼;
N–92847, 12.50 acres
T. 22 S, R. 60 E,
Sec. 24, NE¼NE¼NE¼SE¼, S½NE¼NE¼SE¼, and N½SE¼NE¼SE¼;
N–79928, 2.50 acres
T. 22 S, R. 60 E,
Sec. 28, NW¼NE¼SE¼NE¼.
N–96231, 15.00 acres
T. 22 S, R. 61 E,
Sec. 24, S½NW¼SW¼NE¼, S½NE¼SE¼NW¼, and S½NW¼SE¼NW¼;
N–96232, 7.50 acres
T. 22 S, R. 61 E,
Sec. 29, NE¼SE¼SE¼SW¼ and S½SE¼SE¼SW¼;
N–96233, 10.00 acres

T. 22 S, R. 61 E,
Sec. 32, NE¼NE¼NW¼;
N–96234, 10.00 acres
T. 22 S, R. 61 E,
Sec. 33, lots 36 and 37.
N–96816, 5.00 acres
T. 19 S, R. 59 E,
Sec. 3, E½SW¼NE¼SE¼;
N–96818, 5.00 acres
T. 19 S, R. 59 E,
Sec. 3, E½SE¼NE¼SE¼;
N–96820, 20.625 acres
T. 19 S, R. 59 E,
Sec. 3, W½NW¼SE¼SE¼,
N½SW¼SE¼SE¼,
SW¼SW¼SE¼SE¼,
N½SE¼SW¼SE¼SE¼,
SW¼SE¼SW¼SE¼SE¼,
N½SE¼SE¼SE¼, and
N½SW¼SE¼SE¼SE¼;
N–84198, 5.00 acres
T. 19 S, R. 59 E,
Sec. 10, W½NW¼NW¼NW¼;
N–84181, 21.875 acres
T. 19 S, R. 59 E,
Sec. 10, N½NE¼NE¼NW¼NE¼,
NW¼NE¼NW¼NE¼,
N½NW¼NW¼NE¼,
N½SW¼NW¼NW¼NE¼,
SW¼SW¼NW¼NW¼NE¼,
N½SE¼NW¼NW¼NE¼, and
NE¼NE¼NW¼;
N–96821, 20.00 acres
T. 19 S, R. 59 E,
Sec. 25, W½NE¼NW¼;
N–96822, 30.00 acres
T. 19 S, R. 59 E,
Sec. 25, W½NW¼NW¼NW¼,
W½SW¼NW¼NW¼, and
W½SW¼NW¼;
N–96823, 25.00 acres
T. 19 S, R. 59 E,
Sec. 25, SE¼NW¼NW¼,
W½NE¼SW¼NW¼, and
SE¼SW¼NW¼;
N–96824, 270.00 acres
T. 19 S, R. 59 E,
Sec. 14, E½NE¼SE¼, E½SW¼NE¼SE¼,
E½NW¼SE¼SE¼, E½SW¼SE¼SE¼,
and E½SE¼SE¼;
Sec. 23, E½NE¼NE¼,
E½NW¼NE¼NE¼,
E½SW¼NE¼NE¼, NE¼SE¼NE¼,
E½NW¼SE¼NE¼, S½SE¼NE¼, and
E½SE¼;
Sec. 26, NE¼NE¼, E½NW¼SE¼NE¼,
NW¼NW¼SE¼NE¼,
NE¼SW¼SE¼NE¼, and E½SE¼NE¼.
N–96825, 10.00 acres
T. 20 S, R. 59 E,
Sec. 1, SW¼NW¼SW¼.
N–96827, 10.00 acres
T. 19 S, R. 60 E,
Sec. 18, W½NW¼NE¼NE¼ and
W½SW¼NE¼NE¼;
N–96828, 5.00 acres
T. 19 S, R. 60 E,
Sec. 29, W½SE¼SW¼NW¼;
N–96829, 5.00 acres
T. 19 S, R. 60 E,
Sec. 29, W½SW¼SW¼NW¼;
N–80700, 10.00 acres
T. 19 S, R. 60 E,
Sec. 30, SE¼SE¼NE¼;
N–96830, 10.00 acres
T. 19 S, R. 60 E,
Sec. 31, NE¼SE¼SE¼;
N–96846, 5.39 acres
T. 19 S, R. 60 E,
Sec. 31, lot 14.
N–94552, 5.43 acres
T. 20 S, R. 60 E,
Sec. 7, lot 32.
N–96831, 10.00 acres
T. 21 S, R. 60 E,
Sec. 17, SW¼NE¼NE¼.
N–96832, 5.00 acres
T. 22 S, R. 60 E,
Sec. 5, W½NW¼SW¼NW¼;
N–80719, 5.00 acres
T. 22 S, R. 60 E,
Sec. 13, SE¼NE¼SE¼NE¼ and
NE¼SE¼SE¼NE¼;
N–96833, 2.50 acres
T. 22 S, R. 60 E,
Sec. 14, NE¼SW¼SE¼SW¼;
N–96834, 25.00 acres
T. 22 S, R. 60 E,
Sec. 15, SW¼NE¼NW¼,
E½SW¼NW¼NW¼, and
SE¼NW¼NW¼;
N–96835, 5.00 acres
T. 22 S, R. 60 E,
Sec. 15, W½SW¼SW¼NW¼;
N–96836, 12.50 acres
T. 22 S, R. 60 E,
Sec. 15, W½SW¼NE¼SW¼,
N½SE¼NW¼SW¼, and
SE¼SE¼NW¼SW¼;
96837, 20.00 acres
T. 22 S, R. 60 E,
Sec. 16, S½NW¼SW¼SE¼,
SW¼SW¼SE¼, and
W½SE¼SW¼SE¼;
N–96838, 10.00 acres
T. 22 S, R. 60 E,
Sec. 17, W½NE¼SE¼SE¼ and
E½NW¼SE¼SE¼;
N–79558, 5.00 acres
T. 22 S, R. 60 E,
Sec. 21, N½SW¼NW¼NW¼;
N–96839, 2.50 acres
T. 22 S, R. 60 E,
Sec. 21, NE¼SE¼NE¼NE¼;
N–94543, 15.00 acres
T. 22 S, R. 60 E,
Sec. 22, W½NE¼SW¼NE¼,
S½NW¼SW¼NE¼,
N½NE¼SW¼SW¼NE¼,
NW¼SW¼SW¼NE¼, and
N½NW¼SE¼SW¼NE¼;
N–96840, 20.00 acres
T. 22 S, R. 60 E,
Sec. 24, N½SW¼SE¼;
N–91539, 22.50 acres
T. 22 S, R. 60 E,
Sec. 27, S½NW¼NE¼NW¼,
N½SW¼NE¼NW¼,
SW¼SW¼NE¼NW¼,
S½NE¼NW¼NW¼,
SE¼NW¼NW¼NW¼, and
SE¼SE¼NW¼NW¼;
N–96841, 15.00 acres
T. 22 S, R. 60 E,
Sec. 29, W½NE¼SW¼SE¼ and
NW¼SW¼SE¼;
N–96842, 20.00 acres
T. 22 S, R. 60 E,
Sec. 29, S½SW¼SE¼;
N–96843, 10.00 acres
T. 22 S, R. 60 E,
Sec. 35, E½NE¼NE¼NW¼ and
E½SE¼NE¼NW¼.
N–96845, 5.00 acres
T. 22 S, R. 61 E,
Sec. 10, lots 44 and 45.
N–96844, 39.41 acres
T. 19 S, R. 62 E,
Sec. 20, lots 21, 22, 24 thru 26, 28, and 30.

The areas described in aggregate total 893.35 acres.

The BLM will publish this Notice of Realty Action once a week for three consecutive weeks in the *Las Vegas Review-Journal newspaper.* A sales matrix is available on the BLM website at: *https://www.blm.gov/snplma.* The sales matrix provides information specific to each sale parcel such as legal description, physical location, encumbrances, acreage, and FMV. The FMV for each parcel will be available in the sales matrix no later than 30 days prior to the sale.

This modified competitive sale is in conformance with the BLM Las Vegas Resource Management Plan Record of Decision LD–1, approved on October 5, 1998. The Las Vegas Valley Disposal Boundary Environmental Impact Statement and Record of Decision issued on December 23, 2004 analyzed the sale parcels. A parcel-specific Determination of National Environmental Policy Act Adequacy (DNA), document number DOI–BLM–NV–S010–2019–0003–DNA, was prepared in connection with this Notice of Realty Action.

Submit comments to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including any PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

The use of the modified competitive sale method is consistent with 43 CFR 2711.3–2(a)(1)(ii). Public lands may be offered for sale by modified competitive bidding procedures when the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers or to recognize equitable considerations or public policies. Modified competitive bidding includes, but is not limited to, a limitation of persons permitted to bid on a specific parcel of land offered for sale. Factors to be considered in determining when modified competitive bidding procedures shall be used include, but are not limited to, the needs of State and/or local government, adjoining landowners, historical users, and other needs for the parcel. In the past, bogus bidders—who would bid up

a parcel during the live auction, be declared the high bidder, and then never remit a deposit or any money for the bid—disrupted SNPLMA competitive land sales by leaving the BLM with no sale and no deposit to forfeit after the agency had expended significant resources to conduct the competitive auction. In consideration of the need to protect the integrity of the land sale process, and the public policy of ensuring that only serious bidders participate in the live auction, persons permitted to participate in the sale will be limited to those persons who submit a $10,000 bid guarantee in advance of the auction.

Sale procedures: Registration for oral bidding will begin on the day of the sale, August 29, 2019, at 9:00 a.m. Pacific Time and will end at 10:00 a.m. Pacific Time at the City of North Las Vegas, Council Chambers, 2250 Las Vegas Boulevard North, North Las Vegas, Nevada 89030; there will be no oral bidding registration prior to the sale date. To participate in the modified competitive sale, all registered bidders must submit a bid guarantee deposit in the amount of $10,000 by certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior, Bureau of Land Management.'' This $10,000 bid guarantee must be submitted at the time of sale registration for oral bidders or in advance of the sale day with the sealed bid(s). Additionally, the $10,000 bid guarantee is nonrefundable unless the bidder is unsuccessful in the modified competitive sale. The public sale auction will be through sealed and oral bids. Bidders who participate and attend the oral auction on the day of the sale are not required to submit a sealed bid, but may choose to do so.

Sealed bid envelopes must be clearly marked on the lower front left corner with the respective parcel number and name of the sale, for example: ''N–XXXXX, 61-parcel SNPLMA Summer 2019 Sale.'' If multiple sealed bids are submitted, the first sealed bid of the group must include the $10,000 bid guarantee with the same bidder name and the envelope that contains the bid guarantee must be noted with ''bid guarantee.'' Sealed bids must include an amount not less than 20 percent of the total bid amount and the $10,000 bid guarantee noted above by certified check, postal money order, bank draft, or cashier's check made payable to the ''Department of the Interior, Bureau of Land Management.'' The bid guarantee and bid deposit may be combined into one form of deposit; the bidder must specify the amounts of the bid deposit and the bid guarantee. The BLM will not accept personal or company checks. The sealed bid envelope *must* contain the 20 percent bid deposit, bid guarantee, and a completed and signed ''Certificate of Eligibility'' form stating the name, mailing address, and telephone number of the entity or person submitting the bid. Certificate of Eligibility and registration forms are available at the BLM LVFO at the address listed in the **ADDRESSES** section and on the BLM website at: *https://www.blm.gov/snplma*.

In order to determine the high bids among the qualified bids received, sealed bids will be opened and recorded on the day of the sale. Bids for less than the federally approved FMV will not be qualified. Sealed bids above the FMV will set the starting point for oral bidding on a parcel. Parcels that receive no qualified sealed-bids will begin at the established FMV. Pursuant to 43 CFR 2711.3–1(c), if the BLM receives two or more valid sealed bids of the same amount, oral bidding will start at the sealed bid amount. If a parcel receives no oral bids, the authorized officer will determine the highest qualifying sealed bid in accordance with 43 CFR 2711.3–1(d) and then publicly declare the winning bidder. The highest qualifying bid for any parcel will be declared the high bid. The apparent high bidder must submit a deposit of not less than 20 percent of the successful bid amount by 3:30 p.m. Pacific Time on the day of the sale in the form of a certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior, Bureau of Land Management.'' Funds must be delivered at the Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130, no later than 3:30 p.m. Pacific Time on the day of the sale to the BLM Collection Officers. The BLM will send the successful bidder(s) a highbidder letter with detailed information for full payment. In accordance with 43 CFR 2711.3–1(d), failure to pay the full purchase price within 180 days of the sale will result in forfeiture of the bid deposit. No exceptions will be made. The BLM cannot accept the remainder of the bid price at any time following the 180th day after the sale.

All bid guarantee deposits submitted with unsuccessful bids will be returned to the bidders or their authorized representative upon presentation of acceptable photo identification at the sale location, the BLM–LVFO, or by certified mail. The apparent high bidder may choose to apply the bid guarantee towards the required deposit, but the bid guarantee will not be refunded to the apparent high bidder if that bidder fails to submit the minimum 20 percent deposit following the close of the sale as required under 43 CFR 2711.3–1(d). If a bidder is the apparent high bidder with respect to multiple parcels and that bidder fails to submit the minimum 20 percent bid deposit resulting in default on any single parcel following the sale, the BLM will not refund that bidder's $10,000 bid guarantee, and the BLM may cancel the sale of all parcels to that bidder. If a high bidder is unable to consummate the transaction for any reason, the second highest bidder may be considered to purchase the parcel. If there are no acceptable bids, a parcel may remain available for sale at a future date in accordance with competitive sale procedures without further legal notice.

Federal law requires that bidders must be: (1) A citizen of the United States, 18 years of age or older; (2) a corporation subject to the laws of any state or of the United States; (3) a state, instrumentality, or political subdivision authorized to hold property; or (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. The high bidder must submit proof of citizenship within 25 days from receipt of the high bidder letter. Citizenship documents and Articles of Incorporation (as applicable) must be provided to the BLM–LVFO for each sale.

According to SNPLMA, as amended, Public Law 105–263 section 4(c), lands identified within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary of the Interior (Secretary) terminates the withdrawal or the lands are patented.

Terms and Conditions: FLPMA Section 209, 43 US.C. 1719(a), states that ''all conveyances of title issued by the Secretary . . . shall reserve to the United States all minerals in the lands,'' accordingly, all minerals for the sale parcels will be reserved to the United States. The patents, when issued, will contain a mineral reservation to the United States for all minerals.

In response to requests to clarify this mineral reservation as it relates to mineral materials, such as sand and gravel, we refer interested parties to the regulations at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal

minerals may ''use a minimal amount of mineral materials for . . . personal use'' within the boundaries of the surface estate without a sales contract or permit. The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. The BLM refers interested parties to the explanation of this regulatory language in the preamble to the final rule published in the **Federal Register** in 2001, which stated that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate'' (66 FR 58894). Further explanation is contained in BLM Instruction Memorandum No. 2014–085 (April 23, 2014), available on BLM's website at *https://www.blm.gov/policy/im-2014-085.*

The parcels are subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties. Prior to patent issuance, a holder of any Rights-of-Way (ROW) within the sale parcels will have the opportunity to amend their ROW for conversion to a new term, including in perpetuity if applicable, or to an easement. The BLM will notify valid existing ROW holders of record of their ability to convert their compliant ROWs to perpetual ROWs or easements. In accordance with Federal regulations at 43 CFR 2807.15, once notified, each valid holder may apply for the conversion of their current authorization.

The following numbered terms and conditions will appear on the conveyance documents for the sale parcels:

1. All minerals deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary are reserved to the United States, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. The parcels are subject to valid existing rights;

4. The parcels are subject to reservations for roads, public utilities, and flood control purposes, both existing and proposed, in accordance with the local governing entities' transportation plans; and

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor that any hazardous substances have been disposed of or released on the subject property.

No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of a parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA.

The BLM Las Vegas Field Office (LVFO) must receive the request for escrow instructions prior to 30 days before the prospective patentee's scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM LVFO by 4:30 p.m. Pacific Time 30 days from the date on the high-bidder letter. There are no exceptions. To submit a name change, the apparent high bidder must submit the name change in writing on the Certificate of Eligibility form to the BLM LVFO.

The remainder of the full bid price for the parcel must be received no later than 4:30 p.m. Pacific Time, within 180 days following the day of the sale. Payment must be submitted in the form of a certified check, postal money order, bank draft, cashier's check, or made available by electronic fund transfer made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management'' to the BLM LVFO. The BLM will not accept personal or company checks.

Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of two weeks prior to the payment date. Failure to pay the full bid price within 180 days of the sale date will disqualify the high bidder and cause the entire bid deposit to be forfeited to the BLM. Forfeiture of the bid deposit is in accordance with 43 CFR 2711.3–1(d). There are no exceptions. The BLM can only accept the remainder of the full bid price up to 180 days after the sale date.

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of such an exchange is the bidder's responsibility. The BLM cannot be a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale within 30 days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

Upon publication of this Notice and until completion of this sale, the BLM will no longer accept land use applications affecting the parcel identified for sale. However, land use applications may be considered after the sale if the parcel is not sold. The parcel may be subject to land use applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Information concerning the sale, encumbrances of record, appraisals, reservations, procedures and conditions, CERCLA, and other environmental documents that may appear in the BLM public files for the sale parcels are available for review during business hours, 8:00 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the BLM LVFO, except during Federal holidays.

In order to determine the FMV through appraisal, certain extraordinary assumptions and hypothetical conditions may have been made concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the purchaser to be aware through due diligence of those

laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should make themselves aware of any Federal or state law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and acquiring future access will be the responsibility of the buyer.

Termination of R&PP Classification and Segregation: Additionally, the following 10.00 acre lease, granted under the R&PP Act, (43 U.S.C 869 *et seq.*) has been relinquished: N–7301E. This Notice officially terminates the R&PP Classification and Segregation of the parcel located in Mount Diablo Meridian, Nevada, T. 21 S., R. 60 E., sec. 10, SE¼NE¼SW¼, but does not serve as an opening order because the parcels are within the disposal boundary set by Congress in SNPLMA. Section 4(c) of SNPLMA withdrew these parcels, subject to valid existing rights, from entry and appropriation under the public land laws, location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws, until such time as the Secretary terminates the withdrawal or the lands are patented.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

**Authority:** 43 CFR 2711.1–2.

**Boris Poff,**

*Acting Assistant Field Manager, Division of Lands.*

[FR Doc. 2019–13914 Filed 6–27–19; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCOF07000.L10200000.DS0000.19X]**

### Notice of Availability of the Draft Environmental Impact Statement for Domestic Sheep Grazing Permit Renewals, Gunnison Field Office, Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for Domestic Sheep Grazing Permit Renewals in the Gunnison Field Office and by this notice is announcing the opening of the comment period.

**DATES:** To ensure comments will be considered, the BLM must receive written comments on the Domestic Sheep Grazing Permit Renewals Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** Comments related to the Draft EIS for Domestic Sheep Grazing Permit Renewals must be submitted by the following methods:

- Electronic comments must be submitted through the BLM's ePlanning website at *https://go.usa.gov/xQTyQ.*
- Hard copy comments must be submitted via mail or hand-delivered to the Gunnison Field Office, 210 West Spencer, Gunnison, CO 81230.

A copy of the Draft EIS is available at the Gunnison Field Office at the address above or on the RMP ePlanning website at *https://go.usa.gov/xQTyQ.* Click the Documents link on the left side of the screen to find the electronic version of the document.

**FOR FURTHER INFORMATION CONTACT:** Kristi Murphy, Outdoor Recreation Planner, telephone: 970–642–4955; 210 West Spencer, Gunnison, CO 81230; email: *kmurphy@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 Ms. Murphy 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:** The BLM Gunnison Field office is proposing to renew the permits on nine domestic sheep grazing allotments, totaling 65,710 acres in Gunnison, Hinsdale and Ouray counties in Colorado.

The BLM published a Notice of Intent initiating public scoping in 2015 to identify issues through public participation and collaboration with partners. Initial scoping with internal staff, cooperating agencies, and the public identified the risk of contact and disease transmission between domestic sheep and Rocky Mountain bighorn sheep as the primary issue. Additional issues identified during scoping include potential impacts to threatened and endangered species, local and regional economics, cultural resources, Native American religious concerns, and public land health.

The Draft EIS includes alternatives that respond to the purpose and need, reduce the risk of contact and disease transmission, make progress in achieving land health standards, meet objectives of the Canada Lynx Conservation Assessment and Strategy, and meet the habitat and management guidelines of the Candidate Conservation Agreement for Gunnison Sage-Grouse.

Alternatives analyzed in the EIS include the Proposed Action generated by the permittee applications. This alternative would provide grazing on nine allotments. Alternative B is the no action alternative and would continue current management. Alternative C emphasizes a reduction in the risk of contact between domestic sheep/goats and Rocky Mountain bighorn sheep by not authorizing domestic sheep/goat grazing in pastures that overlap with Rocky Mountain bighorn sheep's summer range. Alternative D emphasizes reduction of risk by not authorizing domestic sheep/goat grazing in the overall range of Rocky Mountain bighorn sheep. Alternative E is the No Grazing alternative. The BLM completed a risk of contact model for each of the action alternatives to aid in analyzing the potential levels of sheep interaction.

Please note that public comments and information submitted, including names, street addresses, and email addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10.

**Jamie E. Connell,**

*BLM Colorado State Director.*

[FR Doc. 2019–13853 Filed 6–27–19; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCOS05000.L16100000. DQ0000.LXSS053C0000.19X]**

## Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Uncompahgre Field Office, Colorado

**AGENCY:** Bureau of Land Management.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Uncompahgre Planning Area and by this notice, is announcing its availability.

**DATES:** BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

**ADDRESSES:** The Proposed RMP/Final EIS is available on the BLM ePlanning project website at *https://go.usa.gov/xnpgD.* Click on the Documents and Reports link on the left side of the screen to find the electronic version of this material. Hard copies of the Proposed RMP/Final EIS are also available for public inspection at the Uncompahgre Field Office, 2505 South Townsend Avenue, Montrose, CO 81401. All protests must be in writing and filed with the BLM Director, either as a hard copy or electronically via the BLMS's ePlanning project website listed previously. To submit a protest electronically, go to the ePlanning project website and follow the protest instructions highlighted at the top of the home page. If submitting a protest in hard copy, it must be mailed to one of the following addresses:

*Regular Mail:* BLM Director (210) Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024–1383.

*Overnight Delivery:* BLM Director (210) Attention: Protest Coordinator, 20 M Street SE, Room 2134LM, Washington, DC 20003.

**FOR FURTHER INFORMATION CONTACT:** Matthew Loscalzo, Planning and Environmental Coordinator; telephone 970–240–5300; address 2465 South Townsend Avenue, Montrose, CO 81401; email *uformp@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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM prepared the Uncompahgre Proposed RMP/Final EIS to evaluate and revise the management strategy for resources, resource uses, and special designations within the Uncompahgre Planning Area. The Uncompahgre Planning Area includes approximately 3.1 million acres of public land managed by the BLM Uncompahgre Field Office, U.S. Forest Service (portions of the Grand Mesa, Uncompahgre and Gunnison National Forest), National Park Service (Black Canyon of the Gunnison National Park, and portions of Curecanti National Recreation Area), U.S. Bureau of Reclamation, State of Colorado (including Ridgway, Crawford, and Paonia State Parks), and local and private lands—all of which are located in southwestern Colorado, in Montrose, Delta, Gunnison, Ouray, San Miguel and Mesa counties. While the Gunnison Gorge National Conservation Area (NCA) and the Dominguez-Escalante NCA are geographically within the Uncompahgre Planning Area, they are not part of this planning effort as they are managed under separate RMPs. The Uncompahgre RMP will determine management for approximately 675,800 acres of BLM-administered surface lands and 971,220 acres of Federal mineral estate. When approved, the Uncompahgre RMP will replace the 1985 San Juan/San Miguel RMP, as amended; and the 1989 Uncompahgre Basin RMP, as amended.

The Proposed RMP/Final EIS describes and analyzes five management alternatives (Alternatives A, B, C, D, E) and one sub-alternative (Alternative B.1). Each includes goals, objectives, allowable uses and management actions to address new management challenges, issues, and changes in BLM regulations, guidance and policy.

Alternative A is the No Action Alternative and retains the current goals, objectives, and direction specified in the existing 1985 San Juan/San Miguel RMP and 1989 Uncompahgre Basin RMP.

Alternative B emphasizes improving, rehabilitating and restoring resources; sustaining the ecological integrity of habitats for all priority plant, wildlife and fish species; and allowing appropriate development scenarios for allowable uses (such as mineral leasing, locatable mineral development, recreation, communication sites and livestock grazing).

Alternative B.1 is a subset of Alternative B, and specifically addresses oil and gas leasing and development in the North Fork and Smith Fork drainages of the Gunnison River. This sub-alternative would close certain areas to oil and gas leasing and would impose development setbacks with strict surface use restrictions in places where leasing may be allowed.

Alternative C emphasizes a mix of uses that maximize utilization of resources, while mitigating impacts on land health. The appropriate development scenarios for allowable uses emphasize maximizing resource production in an environmentally responsible manner, while maintaining the basic protection needed to sustain resources.

Alternative D is the Agency-Preferred Alternative from the Draft RMP/Draft EIS and emphasizes balancing resource protection and resource use among competing human interests, land uses, and the conservation of natural and cultural resource values, while sustaining and enhancing ecological integrity across the landscape, including plant, wildlife and fish habitat.

Alternative E is the Agency's Proposed RMP and is a reasonable combination of goals, objectives, allowable uses and management actions from the alternatives presented in the Draft RMP/Draft EIS. The Proposed RMP would provide comprehensive, long-range decisions for the use and management of resources in the Uncompahgre Planning Area administered by the BLM, focusing on the principles of multiple use and sustained yield.

The Uncompahgre Draft RMP/Draft EIS public comment period began on June 3, 2016, and was extended for an additional 60 days, at the request of local governments and interest groups, to November 1, 2016. The total comment period encompassed 152 days. The BLM held six public open house meetings across the Uncompahgre Planning Area during the public comment period. The BLM considered and incorporated in the Proposed RMP/Final EIS, as appropriate, comments received from the public, cooperating agencies, and internal BLM review. Public comments resulted in the addition of clarifying text, but did not

significantly change proposed land use plan decisions.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP may be found online at *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above or submitted electronically through the BLM ePlanning project website as described above. Protests submitted electronically by any means other than the ePlanning project website protest section will be invalid unless a protest is also submitted in hard copy. Protests submitted by fax will also be invalid unless also submitted either through the ePlanning project website protest section or in hard copy.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest letter to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5.

**Jamie E. Connell,**

*BLM Colorado State Director.*

[FR Doc. 2019–13857 Filed 6–27–19; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028125; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Carter County Museum, Ekalaka, MT

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Carter County Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Carter County Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Carter County Museum at the address in this notice by July 29, 2019.

**ADDRESSES:** Sabre Moore, Carter County Museum, 306 North Main Street, Ekalaka, MT 59324, telephone (406) 775–6886, email *smoore@cartercountymuseum.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Carter County Museum, Ekalaka, MT. The human remains and associated funerary objects were removed from the Arthur Walker, Beach, Jardee, Turbiville, WPA Crew, Medicine Rocks, and Chalk Buttes Sites in Carter County, MT, and the Frank Sparks Site in Fallon County, MT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the Carter County Museum professional staff in consultation with representatives of the Arapaho Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community in the State of Minnesota; Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota); Prairie Island Indian Community in the State of Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Nation, Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; and the Yankton Sioux Tribe of South Dakota, hereafter referred to as ''The Tribes.''

#### History and Description of the Remains

In 1948, human remains representing, at minimum, one individual were removed from the Arthur Walker Site, nine miles northwest of Albion, in Carter County, MT. A skull and partial skeleton were exposed 2.3 meters below the surface in a bentonite bank on Blacktail Creek. The exposure was about 1.2 meters above the water level and immediately over the water due to undercutting. The bones were completely encased in bentonite clay that had washed down from a steep slope several yards to the north. The human remains entered the Carter County Museum collection in 1948, and consist of the skull, portions of all 24 ribs, left and right clavicles, left and right scapula, vertebra, sacrum, coccyx, left and right humerus, left ulna, left femur, left tibia, right and left pelvis, right and left calcaneus, hands, and feet. They show signs of severe, chronic periodontal disease and arthritis. Based on molar wear, the individual, a male, was 35–45 years old at the time of death. No known individuals were identified. The six associated funerary objects are three Dentalium shells and three broken or cut gastropod shells.

In June 1985, human remains representing, at minimum, one individual were removed by a rancher's son from the Beach Site, located on the slope of a steep hillside below a sandstone cliff in Carter County, MT. The human remains consist of a skull. One month later, a burial site in a cleft of sandstone outcrop approximately 50 yards upslope from the skull was located and the human remains of a second individual were removed. The osteological material from this second

burial consists of a mandible, ribs, sternum, fragments, and long bones, and is extremely weathered and bleached. The human remains entered the Carter County Museum collection in 1985. C–14 dating conducted on October 9, 1986 dates the bones to 420 +/- 130 B. P. (before 1950). The skull of the first individual, a female approximately 25–35 years old at the time of death, shows signs of periodontal disease. The mandible of the second individual belongs to a female approximately 12–25 years old at time of death. No known individuals were identified. The two associated funerary objects are Dentalium shells.

Sometime before 1986, human remains representing, at minimum, two individuals were removed from the Jardee Site in Carter County, MT. A skeleton was found eroding out of a shallow cave under a ledge of channel sandstone. The individual had been buried in a flexed position and covered with fine sandy material, which also covered the cave floor. The cave faces southwest, and overlooks a low terrace on Box Elder Creek. An ''extra'' right metatarsal and an ''extra'' vertebrae fragment indicate that more than one individual was interred at the site. The human remains entered the Carter County Museum collection. C–14 dating conducted on October 9, 1986 dates the bones to 1,390 +/− 75 years B.P. (before 1950). The remains of the skeleton include portions of 20 ribs, right clavicle, sternum, scapula, vertebrae, sacrum, coccyx, left humerus, right humerus, left radius, left ulna, right radius, right ulna, left femur, left tibia, left fibula, right femur, right tibia, right fibula, left patella, right patella, left pelvis, right pelvis, right calcaneus, right talus, left calcaneus, left talus, portions of the hands, feet, and a partial skull. The skeleton of this individual, a male approximately 35–39 years old at the time of death, shows signs of periodontal disease and tuberculosis, as well as slight evidence of arthritis. The second individual is of indeterminate sex. No known individuals were identified. No associated funerary objects are present.

In 1988, human remains representing, at minimum, two individuals were removed from the Turbiville Site in Carter County, MT. Exposed human bones were removed from what Marshall Lambert (Museum Director 1946–96) described as the ''front portion of an 8′ long, 4′ wide, and 2′ high cave under a sandstone ledge near the top of a small hill a short distance from the Turbiville ranch buildings.'' Analysis of the skeletal material indicated the presence of more than one individual. The Turbiville site represents, alternatively, the contemporaneous, primary burial of multiple individuals, the primary burial of individuals at different times, or a primary internment and a secondary burial. C–14 dating conducted on October 9, 1986 established the bones as ''modern'' (statistically indistinguishable from B.P. or 1950 count). Given that the standard deviation of 68 percent probability, the manual procedures of the laboratory, and this accuracy level, it is likely that the date of the interment of the individuals at the Turbiville Site falls within the last 200 years. The skeletal remains that are present include 17 ribs and rib fragments, right femur, left femur, right tibia, right fibula, left fibula, left humerus, right humerus, right radius, right ulna, left ulna, the pelvis, sacrum, vertebra, sternum, right scapula, left scapula, right calcaneum, left calcaneum, portions of the hands and feet, and skull fragments. The human remains of one of the individuals, a female approximately 22–26 years old at the time of death, show signs of periodontal disease. The second individual is of indeterminate sex. No known individuals were identified. The 10 associated funerary objects are one handle of a hafted knife (with faint decoration on the top of the handle (made with pin pricks or sharp thorn) and a purple quartzite blade); one biface scraper/knife of brown flint, with traces of red ocher; one uniface end scraper of brown, slightly translucent, flint; one biface knife of purple quartzite; one uniface knife made of a reddish brown quartzite flake; one biface knife made of a purple quartzite flake; one end scraper of red chert with white cortex material on one edge; one biface knife of gray porcellanite with traces of red ocher; one biface knife of clear chert; and one broken biface knife of grey porcellanite.

In 1941, a Works Progress Administration (WPA) crew collecting rocks from a hill one mile west of Ekalaka, in Carter County, MT, found a skull and partial skeleton eroding from loose sand on a sandstone ledge beneath an overhang. The human remains representing, at minimum, two individuals, were collected by Mr. W.H. Peck, Director of the Carter County Museum at that time, in what became known as the WPA Site. In addition to the skull, the skeletal material includes 14 ribs and 10 rib fragments, left and right clavicle, right and left scapula, vertebra, sacrum, left humerus, left radius, left ulna, left and right femur, left tibia, left fibula, left and right pelvis, hands and feet from one individual. These human remains, belonging to a male approximately 25–26 years old at the time of death, show signs of periodontal disease, as well as evidence of minor arthritis. A mandible from a second individual of indeterminate age and sex was also collected. No known individuals were identified. The one associated funerary object is a triangular, unnotched projectile point with a broken tip.

In June and late September of 1939, human remains representing, at minimum, one individual were collected from the Medicine Rocks Site in Carter County, MT. Museum records indicate the following:

> Found in a sandstone rock cave and tunnel some 60 feet long, 5′ to 6′ high at entrance narrowing down to 2′ at exit, or outlet. Was found in one of the large scenic rocks of the Medicine Rocks. This formation as deposited at close of the upper cretaceous period, known here as the Fort Union, Tongue River Group. At the base of this formation is the medicine rocks. No other fossil remains so far have been found in this formation. Final excavations were made at this location by members of the CCGS (Carter County Geological Society) in June 1939 and again in late September 1939. Discovered by ''Rodney Emswiler and his gang.

The skeletal remains, belong to an individual of unknown age and sex, and include six human teeth, fragments of pelvis, long bones, hands, and feet. No known individuals were identified. No associated funerary objects are present.

In 1940, human remains representing, at minimum, four individuals were collected in Carter County, MT, and donated to the museum by Vincent Van Ranseler in March 1941. Museum records indicate that they were ''removed from an American Indian Grave.'' Associated notes state: ''These fragments were taken from an American Indian grave. Three pieces fit together and there are two that are loose from the main skull . . . This is probably a child's skull. Three pieces are loose. This skull along with the above was taken from an American Indian grave.'' In one of the jaw pieces are two teeth that never erupted. It is possible that they might be from a child. No known individuals were identified. No associated funerary objects are present.

In 1964, human remains representing, at minimum, one individual, were collected approximately 20 miles north of Ekalaka, in Fallon County, MT. Human bones were uncovered by a rancher while scraping gravel from a hilltop near his home on Lame Jones Creek. They had been buried approximately 18 inches deep in coarse shales and stone gravel. The human remains entered the Carter County Museum collection in 1964. C–14 dating

conducted on October 9, 1986 dates the bones to 660 +/− 60 years B.P. (before 1950). Skeletal remains of this individual, a male approximately 35–45 years old at the time of death, show signs of chronic periodontal disease, as well as evidence of slight arthritis. The human remains include the right scapula, three portions of three ribs, left femur, left humerus, left radius, left ulna, vertebrae, and fragments of a skull. No known individuals were identified. No associated funerary objects are present.

**Determinations Made by the Carter County Museum**

Officials of the Carter County Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based on a 1986 osteological examination conducted by Bonnie Hogan on behalf of the Miles City Bureau of Land Management Office.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 15 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 19 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgements of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

**Additional Requestors and Disposition**

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Sabre Moore, Carter County Museum, 306 North Main Street, Ekalaka, MT 59324, telephone (406) 775–6886, email *smoore@cartercountymuseum.org,* by July 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Carter County Museum is responsible for notifying The Tribes that this notice has been published.

Dated: June 5, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–13837 Filed 6–27–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028124; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Autry Museum of the American West, Los Angeles, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Autry Museum of the American West has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Autry Museum of the American West. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Autry Museum of the American West at the address in this notice by July 29, 2019.

**ADDRESSES:** Lylliam Posadas, MSc, Repatriation and Community Research Manager, Autry Museum of the American West, 4700 Western Heritage Way, Los Angeles, CA 90027, telephone (323) 495–4369, email *lposadas@theautry.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Autry Museum of the American West, Los Angeles, CA. The human remains were removed from San Nicolas Island, Ventura, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Autry Museum of the American West professional staff in consultation with representatives of the Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California; and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; hereafter referred to as ''The Tribes.''

The Autry Museum of the American West professional staff consulted with the following non-federally recognized Indian groups: Gabrielino/Tongva Indians of California; Gabrielino/Tongva Nation; Gabrielino/Tongva Tribal Council; San Gabriel Band of Mission Indians; Ti'at Society; and the Traditional Council of Pimu (hereafter referred to as ''Gabrielino/Tongva'').

**History and Description of the Remains**

In 1931, human remains representing, at minimum, one individual were donated by Susannah Margaret Doran Nix to the Southwest Museum of the American Indian, now the Southwest Museum of the American Indian Collection at the Autry Museum of the American West. The human remains consist of a complete cranium and mandible, and are likely female. This individual was removed from the surface of San Nicolas Island in Ventura, CA, by Edmond Leonard Doran in 1900; specific provenience information was not documented. No known individuals were identified. No associated funerary objects are present.

An examination of the human remains by Autry Museum of the American West professional staff osteologists determined that this

individual is Native American. The Tribes shared oral history tracing their ancestry to the people of the Channel Islands. In addition, the archeological and ethnohistorical literature demonstrate ancestral connections between the Chumash, who inhabited the Northern Channel Islands, and San Nicholas Island. Also, the ethnographic literature documents the presence of Luiseno people in the Southern Channel Islands, including San Nicholas Island. On San Nicholas Island, the Tribes would have interacted with the Gabrielino/Tongva.

**Determinations Made by the Autry Museum of the American West**

Officials of the Autry Museum of the American West have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Lylliam Posadas, Autry Museum of the American West, 4700 Western Heritage Way, Los Angeles, CA 90027, telephone (323) 495–4369, email *lposadas@theautry.org,* by July 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Autry Museum of the American West is responsible for notifying The Tribes that this notice has been published.

Dated: June 5, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–13840 Filed 6–27–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028126; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Folk Studies and Anthropology at Western Kentucky University, Bowling Green, KY

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Folk Studies and Anthropology at Western Kentucky University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Department of Folk Studies and Anthropology at Western Kentucky University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Folk Studies and Anthropology at Western Kentucky University at the address in this notice by July 29, 2019.

**ADDRESSES:** Dr. Darlene Applegate, Department of Folk Studies and Anthropology, Western Kentucky University, 1906 College Heights Boulevard #61029, Bowling Green, KY 42101–1029, telephone (270) 745–5898, email *darlene.applegate@wku.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Folk Studies and Anthropology at Western Kentucky University. The human remains and associated funerary objects were removed from Fulton County, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Western Kentucky University, Department of Folk Studies and Anthropology professional staff in consultation with representatives of The Chickasaw Nation and the United Keetoowah Band of Cherokee Indians in Oklahoma. The Cherokee Nation and the Eastern Band of Cherokee Indians were invited to consult, but deferred to the consulted Indian Tribes. In addition, the Muscogee (Creek) Nation was invited to consult, but did not participate.

**History and Description of the Remains**

During June–July 1978, human remains representing, at minimum, one individual were removed from Site 15Fu305A in Fulton County, KY. The human remains were recovered as part of an archeological survey conducted by Dr. Jack Schock of Western Kentucky University for the Memphis District Corps of Engineers in advance of a proposed channelization project above Lake 9, at Sassafras Ridge. Site 15Fu305A is located along the crest of a ridge on property then owned by Mr. James White. An area measuring about 50 ft (15 m) in diameter in an agricultural field on a ridge spur at the western edge of the multicomponent site yielded human bones and associated funerary objects from surface contexts. All human bones and artifacts visible on the surface were collected, and have been at Western Kentucky University since they were collected. The human remains consist of eight fragments of cranial and appendicular skeletal elements belonging to an adult male of indeterminate sex. No known individuals were identified. The 17 associated funerary objects are five body sherds of Baytown Plain, eight body sherds of Neeley's Ferry Plain, one grog-tempered body sherd of unknown type, and three body sherds of indeterminate temper and unknown type. The researchers interpreted the aboriginal component at Site 15Fu305A as a Mississippian period mortuary site

containing one–two internments accompanied by at least two burial vessels. The human remains and pottery sherds subsequently were brought to the surface by plowing.

In July 1978, human remains representing, at minimum, one individual were removed from the Sassafras Ridge site (15Fu3) in Fulton County, KY. The human remains were recovered as part of an undergraduate archaeological field methods course taught by Dr. Jack Schock of Western Kentucky University. The Sassafras Ridge site is located along the south edge of a swampy lowland called Fish Pond, about 3.5 km northeast of the small community of Sassafras Ridge. Listed in the National Register of Historic Places under Criterion D in 1984, the Sassafras Ridge site is one of several Mississippian mound centers in Fulton and bordering counties of far western Kentucky. The human remains were collected from the surface on top of the earthen mound at the Sassafras Ridge site and consist of one partial neurocranial bone belonging to an adult of indeterminate sex. The human bone has been at Western Kentucky University since it was collected. No associated funerary objects are present.

**Determinations Made by the Department of Folk Studies and Anthropology at Western Kentucky University**

Officials of the Department of Folk Studies and Anthropology at Western Kentucky University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on context of discovery and/or the associated funerary objects.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 17 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Tribes'').
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

**Additional Requestors and Disposition**

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Darlene Applegate, Department of Folk Studies and Anthropology, Western Kentucky University, 1906 College Heights Boulevard #61029, Bowling Green, KY 42101–1029, telephone (270) 745–5898, email *darlene.applegate@wku.edu,* by July 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Department of Folk Studies and Anthropology at Western Kentucky University is responsible for notifying The Tribes that this notice has been published.

Dated: June 5, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–13839 Filed 6–27–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028123; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Sloan Museum, Flint, MI

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Sloan Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Sloan Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Sloan Museum at the address in this notice by July 29, 2019.

**ADDRESSES:** Geoff Woodcox, Sloan Museum, 1221 E Kearsley Street, Flint, MI 48503, telephone (810) 237–3434, email *gwoodcox@sloanlongway.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Sloan Museum, Flint, MI. The human remains and associated funerary objects were removed from Montrose, Genesee County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains and associated funerary objects was made by the Sloan Museum professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band;

Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation were invited but chose not to participate.

Hereafter, the Indian Tribes listed above are referred to as ''The Consulted and Invited Tribes.''

**History and Description of the Remains**

In 1945, human remains representing, at minimum, nine individuals were removed from the Scoto Mounds in Genesee County, MI. The human remains were excavated from the mounds by the acting curator of the Genesee County Historical Society and a group of volunteers, and were added to the collection of that organization. In 1966, upon the opening of the Sloan Museum, ownership of the collection of the Genesee County Historical Society was transferred to the Sloan Museum. Much of the human remains are too fragmentary to define age or sex; however, it was determined that among the nine individuals, there are four children and two adults, of whom two are male and two are probably female. No known individuals were identified. The human remains were not dated at the time of the analysis, and there are no cultural artifacts that would aid in determining the date of the human remains. The one associated funerary object is a deer scapula.

**Determinations Made by the Sloan Museum**

Officials of the Sloan Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based on an osteological analysis completed by the Michigan State University Department of Anthropology.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of nine individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgements of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Consulted and Invited Tribes.

**Additional Requestors and Disposition**

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Geoff Woodcox, Curator of Collections, Sloan Museum, 1221 E Kearsley Street, Flint, MI 48503, telephone (810) 237–3434, email *gwoodcox@sloanlongway.org,* by July 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Consulted and Invited Tribes may proceed.

The Sloan Museum is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: June 5, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–13838 Filed 6–27–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]**

### Notice of Record of Decision for the Western Energy Company's Rosebud Mine Area F Final Environmental Impact Statement

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

**ACTION:** Notice of Record of Decision.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Office of Surface Mining Reclamation and Enforcement (OSMRE) has prepared a Record of Decision (ROD) for the Final Environmental Impact Statement (EIS) for the Western Energy Company's Rosebud Mine Area F (Project) in southeastern Montana. This Notice of Availability (NOA) serves to notify the public that OSMRE has prepared the ROD and it is available for review. In developing the ROD, the OSMRE considered the public comments received on the Final EIS.

**ADDRESSES:** You can download the ROD at the following OSMRE Western Region website: *https://www.wrcc.osmre.gov/initiatives/westernEnergy/documentLibrary.shtm.*

**FOR FURTHER INFORMATION CONTACT:** Logan Sholar, OSMRE Project Coordinator; Telephone: 303–293–5036; Address: 1999 Broadway Street, Suite 3320, Denver, Colorado 80202–3050; email: *lsholar@osmre.gov.* Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS 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:**

I. Background on the Project
II. Background on the Rosebud Mine
III. Background on Rosebud Mine Area F
IV. Alternatives
V. Environmental Impact Analysis
VI. Decision

## I. Background on the Project

The purpose of the Project is to consider continued operations at the Rosebud Mine by permitting and developing a new surface mine permit area, known as permit Area F. Western Energy submitted a permit application package to the Montana Department of Environmental Quality (DEQ) for the proposed 6,746-acre permit Area F (also referred to as the project area) at the Rosebud Mine, which is an existing 25,455-acre surface coal mine annually producing 8.0 to 10.25 million tons of low-sulfur subbituminous coal. The DEQ is the regulatory authority for permitting actions involving Federal coal in Montana. *See* 30 CFR 926.10. If the Federal mining plan for the Project is approved as proposed, at the current rate of production, the operational life of the Rosebud Mine would be extended by 8 years. Mining operations in the project area, which would commence after all permits and approvals have been secured and a reclamation and performance bond has been posted, would last 19 years. Approximately 68.5 million tons of private and Federal recoverable coal reserves exist in the project area and would be removed during the 19-year operations period. As with other permit areas of the Rosebud Mine, all coal would be combusted locally at the Colstrip and Rosebud Power Plants.

Western Energy obtained a surface coal mine operating permit from DEQ (pursuant to the Montana Strip and Underground Mine Reclamation Act (MSUMRA), Section 82–4–221 *et seq.,* Montana Code Annotated) on April 18, 2019. Federal approval of the mining plan is required to mine leased Federal coal in accordance with the Mineral Leasing Act of 1920 as Amended for the proposed project area to access additional coal reserves in Federal coal lease M82186 and in privately held leases G–002 and G–002–A. OSMRE's purpose for the Project is to review the mining plan and make a recommendation to the Assistant Secretary for Land and Minerals Management (ASLM) in the form of a mining plan decision document to approve, disapprove, or approve with conditions, the proposed mining plan for the Project (30 CFR 746). The ASLM will decide whether the mining plan is approved, disapproved, or approved with conditions.

The Final EIS considered three alternatives and evaluated the direct, indirect, and cumulative effects of the Proposed Action and the other two alternatives on the environment. The Final EIS was published on November 30, 2018 followed by a 30-day waiting period after which OSMRE is able to publish the Record of Decision establishing the agency's selected alternative.

OSMRE is complied with Section 106 of the National Historic Preservation Act (NHPA Section 106)(16 U.S.C. 470f), as provided in 36 CFR 800.2(d)(3), concurrently with the NEPA process, including public involvement requirements and consultation with the State Historic Preservation Officer and Historic Preservation Officers of Tribal nations. Native American Tribal consultations are ongoing and have been conducted in accordance with applicable laws, regulations, and U.S. Department of the Interior (DOI) policy.

As part of its consideration of the proposed Project's impacts on threatened and endangered species, OSMRE conducted informal consultation as well as streamlined consultation per the final 4(d) rule for the northern long-eared bat with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act (ESA)(16 U.S.C. 1536), and its implementing regulations, as provided in 50 CFR 400. The Section 7 consultation considered direct and indirect impacts from the proposed Project, including mining and related operations in the project area and continued operation of the Colstrip and Rosebud Power Plants.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all Federal actions will be in compliance with applicable requirements of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1021–1328), the Clean Water Act (33 U.S.C. 1251–1387), the Clean Air Act (42 U.S.C. 7401–7671q), and Executive Orders relating to environmental justice, Tribal consultation, and other applicable laws and regulations.

## II. Background on the Rosebud Mine

Coal has been mined at Colstrip, MT for more than 90 years. The Northern Pacific Railway established the city of Colstrip and its associated mine in the 1920s to access coal from the Fort Union Formation. Coal mining began in 1924, providing fuel for the railway's steam locomotive trains. During the initial 34 years of mining, 44 million tons of coal were mined. By 1958, diesel-powered locomotives replaced steam engines and mining ceased in the Colstrip area.

In 1959, the Montana Power Company purchased rights to the Rosebud Mine in the city of Colstrip with plans to build power generation facilities. The Rosebud Mine operation began production in 1968. In 2001, Westmoreland purchased the Rosebud Mine; its subsidiary, Western Energy, continues to operate the mine today. Although the Rosebud Mine has shipped coal by rail as recently as 2010, all coal currently produced by the mine is consumed locally at the Colstrip and Rosebud Power Plants.

## III. Background on the Western Energy Proposed Permit Area F

Western Energy proposes to conduct surface coal mining and reclamation operations within the 6,746-acre proposed permit Area F of the Rosebud Mine. The project area would be adjacent to the western boundary of Area C, 12 miles west of Colstrip. Western Energy proposes to conduct surface coal mining operations on an approximately 2,085-acre portion of the project area, with a total disturbance footprint, including soil storage, scoria pits, and haul roads, of approximately 4,260 acres. The project area would, in conjunction with the mining of any reserves remaining within existing permit areas A, B, and C of the Rosebud Mine, supply low-sulfur coal to the Colstrip Power Plant (Units 3 and 4) at a rate of between 7.7 and 9.95 million tons annually. In addition, coal from the Rosebud Mine with higher sulfur content would be supplied to the Rosebud Power Plant at a rate of approximately 300,000 tons annually.

Approval of the proposed permit Area F is expected to require several other agency actions, including:

- Findings and recommendations by BLM with respect to Western Energy's Resource Recovery and Protection Plan and other requirements of Western Energy's lease.
- Approval by DEQ of Western Energy's Montana Air Quality Permit #1570–07 to allow expansion of the geographic extent of the mine to include the proposed permit Area F; and
- Approval by DEQ of a new MPDES permit.

## IV. Alternatives

Alternatives carried forward in the Final EIS included the No Action Alternative (Alternative 1), the Proposed Action Alternative (Alternative 2), and the Proposed Action Plus Additional Environmental Protection Measures Alternative (Alternative 3). Several other alternatives were considered by OSMRE but not carried forward for detailed analysis in the Final EIS because they either did not meet the purpose and need of the Project or were not considered technically or economically feasible or cost-effective.

OSMRE selected Alternative 2, in part, as its preferred alternative, after consideration of all alternatives analyzed in the Final EIS. The analysis in the Final EIS considers direct, indirect, and cumulative impacts of the Proposed Action and two Alternatives. Per 40 CFR 1501.7, the issues raised during the scoping period (August 27–November 8, 2013) were used to inform the analyses and identify the alternatives considered in the EIS.

**V. Environmental Impact Analysis**

The Final EIS analyzes the potential environmental impacts to 16 different resource categories, including:

- Air Quality
- Climate Change
- Geology and Soils
- Archaeology and Cultural Resources
- Water Resources and Hydrology
- Vegetation
- Wildlife and Habitats
- Special Status Species
- Land Use, Transportation, and Agriculture
- Recreation
- Social and Economic Values
- Environmental Justice
- Visual Resources
- Noise and Vibration impacts
- Hazardous and Solid Wastes
- Public Health and Safety

In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, OSMRE solicited public comments on the Draft EIS. OSMRE responses to comments are included in Appendix F of the Final EIS. The agencies considered comments received from the public on the Draft EIS and incorporated them, as appropriate, into the Final EIS.

**VI. Decision**

In consideration of the information presented above, OSMRE approves the ROD and selects Alternative 2 (the Proposed Action), in part, as described in the ROD (Section 3.2). This action can be implemented following approval of the mining plan by the ASLM.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.1.

Dated: June 18, 2019.

**David Berry,**

*Regional Director, Regions 5, 7, 8, 9, 10 and 11.*

[FR Doc. 2019–13778 Filed 6–27–19; 8:45 am]

**BILLING CODE 4310–05–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1135]**

## Certain Strength-Training Systems and Components Thereof Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation in Its Entirety Based on a Consent Order Stipulation and Proposed Consent Order; Issuance of a Consent Order; Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 11) of the presiding Administrative Law Judge (''ALJ'') granting a joint motion to terminate the investigation in its entirety based on a consent order stipulation and proposed consent order. The Commission has issued a consent order and has terminated the investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on October 4, 2018, based on a complaint filed by Hoist Fitness Systems, Inc. of Poway, California (''Complainant''). 83 FR 50120 (Oct. 4, 2018). The complaint, as supplemented, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain strength-training systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,549,949; 7,563,209; 7,594,880; 7,654,938; and 7,976,440. The complaint named as respondents TuffStuff Fitness International, Inc. of Chino, California (''TuffStuff Fitness''), and Shandong Relax Health Industry Co., Ltd. of Jimo City, Qingdao, Shandong Province, China (''Relax Health''). The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.* Subsequently, the investigation was terminated as to Relax Health based on the consent order. Order No. 9 dated March 26, 2019 (*unreviewed,* April 15, 2019).

On May 1, 2019, Complainant and respondent TuffStuff Fitness jointly moved to terminate this investigation in its entirety based on a consent order stipulation and proposed consent order.

On May 28, 2019, the ALJ issued the subject ID. The ALJ found that the consent order stipulation complies with the requirements of Commission Rule 210.21(c)(3), 19 CFR 210.21(c)(3). ID at 2. The ALJ further found that the proposed consent order complies with the requirements of Commission Rule 210.21(c)(4), 19 CFR 210.21(c)(4). *Id.* The ALJ also found no evidence that terminating this investigation based on the consent order stipulation and the proposed consent order would be contrary to the public interest. *Id.* at 3. Based on the foregoing, the ALJ granted the joint motion.

No party petitioned for review of the ID. The Commission has determined not to review the ID. The Commission has issued a consent order and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: June 24, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–13784 Filed 6–27–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1043]**

## Certain Electrical Connectors, Components Thereof, and Products Containing the Same; Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions on the Issues Under Review and on Remedy, Bonding, and the Public Interest; and Extension of the Target Date

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (''the Commission'') has determined to review a final initial determination (''ID'') of the presiding administrative law judge (''ALJ'') finding a violation of section 337. The Commission is requesting written submissions from the parties on the issues under review and is requesting written submissions on remedy, bonding, and the public interest. The Commission has also determined to extend the target date for completion of the investigation to August 22, 2019.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 14, 2017, based on a complaint filed by J.S.T. Corporation (''JST'') of Farmington Hills, Michigan. 82 FR 13654–55. The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation and sale of certain electrical connectors, components thereof, and products containing the same by reason of infringement of claims 2, 4, and 9–10 of U.S. Patent No. 7,004,766 (''the '766 patent''). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named the following respondents: Robert Bosch GmbH of Baden-Wuertemberg, Germany; Bosch Automotive Products (Suzhou) Co., Ltd. of Jiangsu, China; and Hon Hai Precision Industry Co., Ltd. of New Tapei City, Taiwan (collectively, ''the non-importing respondents''); Robert Bosch LLC of Broadview, Illinois; Robert Bosch, Sistemas Automatrices, S.A. de C.V. of Chihuahua, Mexico; Foxconn Interconnect Technology, Ltd. of New Tapei City, Taiwan (collectively, ''the remaining respondents''); and Robert Bosch, Ltda. (''Bosch Brazil'') of Sao Paulo, Brazil. The Office of Unfair Import Investigations is not participating in the investigation. Bosch Brazil has been terminated from the investigation. *See* Order No. 68 (November 8, 2018), *unreviewed by* Comm'n Notice (December 3, 2018). Two IDs granting respondents' motions for summary determination of invalidity of one or more asserted claims of the '766 patent due to indefiniteness have been reversed by the Commission. *See* Order No. 24 (October 16, 2017), *reversed by* Comm'n Notice (March 26, 2018); Order No. 30 (May 18, 2018), *reversed by* Comm'n Notice (July 24, 2018).

On April 12, 2019, the ALJ issued his final ID finding a violation of section 337. The ID finds that the non-importing respondents do not satisfy the importation requirement of section 337(a)(1)(B). The ID further finds that the remaining respondents' accused products infringe asserted claims 2, 4, and 9–10 of the '766 patent. The ID also finds that the asserted claims are not invalid under 35 U.S.C. 102, 103. In addition, the ID finds that JST satisfied both prongs of the domestic industry requirement with respect to the '766 patent. In the same document, the ALJ recommended that if the Commission finds a violation, it should issue a limited exclusion order directed to respondents' infringing products and no cease and desist orders.

On April 29, 2019, respondents petitioned, and JST contingently petitioned, for review of the final ID. On May 7, 2019, JST and respondents each filed a response in opposition to the other party's petition for review.

Having reviewed the record of the investigation, including the parties' briefing, the Commission has determined to review the subject ID in its entirety. Accordingly, the Commission is interested in responses to the following questions:

(A) Do the claim language, specification, and prosecution history limit the claim limitation ''the first holes are provided in end regions of the tine plate proximate to two opposite ends of the tine plate in the longitudinal direction'' recited in claim 2 to require that first holes be disposed closest to the edge of the two opposite ends of the tine plate in the longitudinal direction? And what is your proposed claim construction for this limitation?

(B) How does your construction apply to infringement, the technical prong of the domestic industry requirement, and invalidity?

The parties are requested to brief only the discrete questions presented above, with reference to the applicable law and record. The parties are not to brief any other issues on review, which have already been adequately presented in the parties' previous filings. Also, the Commission has extended the target date for completion of the investigation to August 22, 2019.

In addition, in connection with the final disposition of this investigation, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or

disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

*Written Submissions:* Parties to the investigation are required to file initial submissions regarding the issues under review by no later than July 8, 2019. Response submissions are due by July 15, 2019. The parties should limit their initial and response submissions to 25 pages each. Also, parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

Complainant is also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the asserted patents expire, the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation. The written submissions regarding remedy, bonding, and the public interest and proposed remedial orders must be filed no later than close of business on July 8, 2019. Reply submissions must be filed no later than the close of business on July 15, 2019. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary pursuant to Section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1043'') in a prominent place on the cover page and/or the first page. (*See* Handbook on Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: June 24, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–13787 Filed 6–27–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–405–406 and 408 and 731–TA–899–901 and 906–908 (Third Review)]**

## Hot-Rolled Steel Products From China, India, Indonesia, Taiwan, Thailand, and Ukraine; Scheduling of Expedited Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the countervailing duty orders on hot-rolled steel products from India, Indonesia, and Thailand and antidumping duty orders on hot-rolled steel products from China, India, Indonesia, Taiwan, Thailand, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** May 7, 2019.

**FOR FURTHER INFORMATION CONTACT:** Julie Duffy ((202) 708–2579), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On May 7, 2019, the Commission determined that the domestic interested party group response to its notice of institution (84 FR 11, January 2, 2019) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).[2]

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

*Staff report.*—A staff report containing information concerning the subject matter of the reviews will be

[1] All contract personnel will sign appropriate nondisclosure agreements.

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] Commissioner Meredith M. Broadbent did not participate.

placed in the nonpublic record on July 2, 2019, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

*Written submissions.*—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before July 11, 2019 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by July 11, 2019. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's website at *https://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

[3] The Commission has found the responses submitted jointly by ArcelorMittal USA LLC; AK Steel Corporation; California Steel Industries; Nucor Corporation; SSAB Enterprises, LLC; Steel Dynamics Inc.; and United States Steel Corporation to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

*Authority:* These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 25, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–13903 Filed 6–27–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–624–625 and 731–TA–1450–1451 (Preliminary)]**

## Quartz Surface Products From India and Turkey

### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of quartz surface products from India and Turkey, provided for in subheading 6810.99.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the governments of India and Turkey.[2]

### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 84 FR 21361 (May 14, 2019).

### Background

On May 8, 2019, Cambria Company LLC, Eden Prairie, Minnesota filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of quartz surface products from India and Turkey and LTFV imports of quartz surface products from India and Turkey. Accordingly, effective May 8, 2019, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation Nos. 701–TA–624–625 and antidumping duty investigation Nos. 731–TA–1450–1451 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 14, 2019 (84 FR 21361). The conference was held in Washington, DC, on May 29, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on June 24, 2019. The views of the Commission are contained in USITC Publication 4919 (July 2019), entitled *Quartz Surface Products from India and Turkey: Investigation Nos. 701–TA–624–625 and 731–TA–1450–1451 (Preliminary).*

By order of the Commission.

Issued: June 24, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–13783 Filed 6–27–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–611 and 731–TA–1428 (Final)]**

## Aluminum Wire and Cable From China; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–611 and 731–TA–1428 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of aluminum wire and cable from China, provided for in subheading 8544.49.90 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

**DATES:** June 5, 2019.

**FOR FURTHER INFORMATION CONTACT:** Keysha Martinez ((202) 205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Scope.*— For purposes of these investigations, Commerce has defined the subject merchandise as ''aluminum wire and cable, which is defined as an assembly of one or more electrical conductors made from 8000 Series Aluminum Alloys (defined in accordance with ASTM B800), Aluminum Alloy 1350 (defined in accordance with ASTM B230/B230M or B609/B609M), and/or Aluminum Alloy 6201 (defined in accordance with ASTM B398/B398M), provided that: (1) At least one of the electrical conductors is insulated; (2) each insulated electrical conductor has a voltage rating greater than 80 volts and not exceeding 1,000 volts; and (3) at least one electrical conductor is stranded and has a size not less than 16.5 thousand circular mil (kcmil) and not greater than 1,000 kcmil. The assembly may: (1) Include a grounding or neutral conductor; (2) be clad with aluminum, steel, or other base metal; or (3) include a steel support center wire, one or more connectors, a tape shield, a jacket or other covering, and/or filler materials.

Most aluminum wire and cable products conform to National Electrical Code (NEC) types THHN, THWN, THWN–2, XHHW–2, USE, USE–2, RHH, RHW, or RHW–2, and also conform to Underwriters Laboratories (UL) standards UL–44, UL–83, UL–758, UL–854, UL–1063, UL–1277, UL–1569, UL–1581, or UL–4703, but such conformity is not required for the merchandise to be included within the scope.

The scope of the investigation specifically excludes aluminum wire and cable products in lengths less than six feet, whether or not included in equipment already assembled at the time of importation.

The merchandise covered by the investigation is currently classifiable under subheading 8544.49.9000 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheading 8544.42.9090. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.''

*Background.*—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of aluminum wire and cable, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on September 21, 2018, by Encore Wire Corporation, McKinney, Texas, and Southwire Company, LLC, Carrollton, Georgia.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

*Participation in the investigations and public service list.*—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 3, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, October 17, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 11, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to

appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 15, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 10, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 24, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 24, 2019. On November 13, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 15, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 24, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–13766 Filed 6–27–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0031]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 27, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Campus Program Grantee Needs and Progress Assesment Tool.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0031. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes current grantees under the Grants to Reduce Sexual Assault, Domestic Violence, Dating Violence, and Stalking on Campus Program. The Campus Program strengthens the response of institutions of higher education to the crimes of sexual assault, domestic violence, dating violence and stalking on campuses and enhances collaboration among campuses, local law enforcement, and victim advocacy organizations. Eligible applicants are institutions of higher education. The affected public includes the approximately 100 institutions of higher education currently funded through the Campus program.

The Grantee Needs and Progress Assessment Tool will be used to determine the training and technical assistance needs of Campus Program grantees—both new and continuation grantees—throughout the life of the grant award as well measure the development of the capacity of grantees to respond and prevent violence against women on their campuses. In addition, the tool will help campuses and OVW document the impact of their grant-funded work, promote sustainability of important intervention and prevention activities, and provide outcome-based information throughout the life of the grant to help OVW-funded technical

assistance providers and grantees make changes to the goals and objectives necessary to achieve the Congressional purpose of the Campus Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 100 respondents (Campus Program grantees) approximately 30 minutes to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Justice for Families Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 140 hours, that is 70 grantees completing a form twice a year with an estimated completion time for the form being one hour.

*If additional information is required contact:* Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019–13834 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Emergency Planning and Community Right-to-Know Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Clean Air Act

On June 24, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Oregon, Portland Division, in the lawsuit entitled *United States of America* v. *Dyno Nobel, Inc.,* Civil Action No. 3:19–cv–00984.

The Complaint initiating this matter seeks injunctive relief and civil penalties for alleged violations of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11004 and 11023, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9603, and the Clean Air Act, 42 U.S.C. 7412(r), and regulations promulgated thereunder at an ammonia plant owned and operated by Dyno Nobel, Inc., (''Dyno Nobel'') in St. Helens, Oregon. More specifically, the Complaint alleges that Dyno Nobel violated the release reporting requirements of the Comprehensive Environmental Response, Compensation and Liability Act and the Emergency Planning and Community Right-to-Know Act (''EPCRA'') in connection with two releases of anhydrous ammonia, violated EPCRA by failing to accurately report annual point source releases in its Toxic Release Inventory filings, and violated multiple provisions of the Clean Air Act's Risk Management Program requirements.

Under the proposed Consent Decree, Dyno Nobel has agreed to pay a civil penalty to the United States, to file corrected Toxic Release Inventory reports, to comply with applicable reporting requirements and all applicable Risk Management Program requirements, retain a third-party auditor to audit its compliance with the foregoing requirements, and perform a Supplemental Environmental Project where Dyno will purchase specified emergency response equipment for identified local emergency response organizations.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Dyno Nobel, Inc.,* D.J. Ref. No. 90–5–2–1–09238/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.50 (25 cents per page reproduction cost) payable to the United States Treasury.

**Susan M. Akers,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2019–13875 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–NEW]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; New collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 30 days until July 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Survey of VAWA-funded Discretionary Grantees about Program Evaluation Practices and Results.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* 1122–NEW. Sponsoring agency: U.S. Department of Justice, Office on Violence Against Women, which has supplied grant funds to the Violence Against Women Act Measuring Effectiveness Initiative (VAWA MEI) for Ongoing Training and Technical Assistance to Support Grantee Reporting for a project of which the proposed survey is one component.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* 3,500 staff of federal discretionary grant-funded entities.

Established in 1995, OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices that combat domestic/dating violence, sexual assault, and stalking. OVW administers both formula-based and discretionary (*i.e.,* competitively awarded) grant programs, established under the Violence Against Women Act (VAWA) and subsequent legislation. Recipients of OVW funds work through a coordinated community response to support victims and hold perpetrators accountable.

OVW is implementing a new effort to better measure the effectiveness of VAWA-funded grant projects. A critical step in that effort is to understand how grantees evaluate their approaches to—and identify promising practices for—serving victims of domestic/sexual violence and administering justice in their cases. Therefore, the purpose of this collection is to find out if VAWA-funded discretionary grantees have conducted, or are currently conducting, evaluations of their programs and what the results of those evaluations were. This information will assist OVW and VAWA MEI in enhancing OVW's grantee performance monitoring system. OVW's current system collects a large quantity of data, not all of which is optimally useful for monitoring VAWA-funded projects and gauging grantees' success. A survey to understand how grantees themselves assess their effectiveness will help OVW understand which practices are showing promise in the field, and it will help OVW determine how performance reporting requirements could be revised to better capture indicators of success and reduce reporting burden on grantees.

The affected public includes the OVW award points-of-contact from the approximately 2,000 VAWA-funded discretionary grantees nationwide.

Because grantee points-of-contact are responsible for fiscal and programmatic oversight of how their grant dollars are used, they typically will have knowledge of whether their programs have conducted any evaluations of their programs' implementation or the outcomes of their programs for the people and communities they serve. If points-of-contact have not been directly responsible for evaluation efforts, they are likely to know who within their organization may have managed evaluations. Therefore, these points-of-contact are a key source of information from the field about strategies that are showing promise for keeping victims safe and holding offenders accountable.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take less than 30 minutes to complete this one-time survey, which will ask respondents about any efforts to evaluate their programs, and the results of those evaluations. The survey will be a mix of multiple-choice and narrative response questions.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden of this one-time data collection could be up to 1,000 hours. A point-of-contact from every VAWA-funded discretionary grantees will be invited, but not required, to respond. ~2000 discretionary grantees * 30-minute completion time = 60,000 minutes, or 1,000 hours.

*If additional information is required contact:* Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019–13831 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0030]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 30 days until July 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Financial Capability Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0030. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes non-governmental applicants to OVW grant programs that do not currently (or within the last 3 years) have funding from OVW. In accordance with 2 CFR 200.205, the information is required for assessing the financial risk of an applicant's ability to administer federal funds. The form includes a mix of check box and narrative questions related to the organization's financial systems, policies and procedures.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 40 respondents (non-governmental) applicants to OVW grant programs approximately 4 hours to complete an online assessment form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 160 hours, that is 40 applicants completing a form once as a new applicant with an estimated completion time for the form being 4 hours.

*If additional information is required contact:* Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019–13833 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0032]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 27, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov*.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Justice for Families Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0032. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the current grantees under the Justice for Families Program. The Justice for Families Program improves the response of all aspects of the civil and criminal justice system to families with a history of domestic violence, dating violence, sexual assault and stalking, or in cases involving allegations of child sexual abuse. Eligible applicants are states, units of local government, courts, Indian tribal governments, nonprofit organizations, legal service providers, and victim services providers. The affected public includes the approximately 70 Justice for Families Program grantees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 70 respondents (Justice for Families Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Justice for Families Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 140 hours, that is 70 grantees completing a form twice a year with an estimated completion time for the form being one hour.

*If additional information is required contact:* Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019–13835 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–NEW]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; New collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 30 days until July 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Survey of VOCA and VAWA STOP Administrators about Sexual Assault Medical Forensic Exam Payment Policies and Practices.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* 1122–NEW. *Sponsoring agency:* U.S. Department of Justice, Office on Violence Against Women, which has supplied grant funds to the International Association of Forensic Nurses (IAFN) for a project of which the proposed survey is one component.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Established in 1995, OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices that combat domestic/dating violence, sexual assault, and stalking. OVW administers both formula-based and discretionary grant programs, established under the Violence Against Women Act (VAWA) and subsequent legislation. Recipients of OVW funds work through a coordinated community response to support victims and hold perpetrators accountable.

The purpose of this collection is to find out how states/territories are paying for sexual assault medical forensic exams, meaning the funding sources they use for this purpose and the reimbursement procedures they follow. The information will be used by OVW and IAFN to determine what training and technical assistance (TTA) states need to ensure that sexual assault victim-patients are not charged for their exams. The affected public includes a maximum of 112 employees of states and territories who serve as Victims of Crime Act (VOCA) administrators and VAWA STOP administrators. VOCA administrators manage funds made available from the Crime Victims Fund (CVF) for victim assistance and victim compensation. STOP administrators manage the distribution and monitoring of OVW STOP Formula Program funds, which are distributed to states/territories to support law enforcement, prosecutors, victim services providers, and courts in responding to sexual and domestic violence. VOCA and STOP administrators must ensure that funds are subgranted, spent, and reported in compliance with all applicable regulations and requirements. In some states, the designated VOCA administrator and STOP administrator is the same individual.

Because VOCA and STOP administrators are responsible for how federal grant dollars for combatting violence against women are used, they typically have thorough knowledge of how sexual assault medical forensic exams—for which VAWA prohibits charging victims—are paid for in their states. Therefore, these administrators are a key source of information about state policies and procedures for reimbursing healthcare providers for exams, as well as the funding sources used for this purpose. Furthermore, VOCA and VAWA administrators may have considerable insight into which strategies are showing promise in their states, and what approaches have proved challenging.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the respondents approximately 30 minutes to complete this one-time survey, which will ask respondents about existing laws, policies, and procedures for paying for medical forensic exams, what aspects of the exam are paid for, the funding sources used to reimburse healthcare providers for exams, and what is and is not working with the current approach. The survey will be a mix of multiple-choice and narrative response questions.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden of this one-time data collection is 28 hours. While VOCA and STOP administrators will be invited to provide responses, only one response per state/territory is needed. 56 states/territories * 30-minute completion time = 1,680 minutes, or 28 hours.

*If additional information is required contact:* Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019–13830 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1190–0018]**

### Agency Information Collection Activities: Proposed eCollection; eComments Requested: IER Charge Form

**AGENCY:** Civil Rights Division, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Civil Rights Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for ''sixty days'' until August 27, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Alberto Ruisanchez, Deputy Special Counsel, USDOJ–CRT–IER, 950 Pennsylvania Avenue NW–4CON, Washington, DC 20530; 202–616–5594.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* IER Charge Form.

(3) *Agency Form Number:* [Form IER–1].

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* General Public. The Immigrant and Employee Rights Section (IER) enforces the anti-discrimination provision (§ 274B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b. The statute prohibits: (1) Citizenship or immigration status discrimination in hiring, firing, or recruitment or referral for a fee, (2) national origin discrimination in hiring, firing, or recruitment or referral for a fee, (3) unfair documentary practices during the employment eligibility verification process (Form I–9 and E-Verify), and (4) retaliation or intimidation for asserting rights covered by the statute. IER, within the Department's Civil Rights Division, investigates and, where reasonable cause is found, litigates charges alleging discrimination. IER also initiates independent investigations, at times based on information developed during individual charge investigations. Independent investigations normally involve alleged discriminatory policies that potentially affect many employees or applicants. These investigations may result in complaints alleging a pattern or practice of discriminatory activity. If the Department lacks jurisdiction over a particular charge but believes another agency has jurisdiction over the claim, IRE forwards the charge to the applicable Federal, state or local agency for any action deemed appropriate.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 340 individuals will complete each form annually; each response will be completed in approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 170 total annual burden hours associated with this collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405A, Washington, DC 20530.

Dated: June 25, 2019.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2019–13832 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–13–P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OMB Number 1121–0219]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Previously Approved Collection Juvenile Residential Facility Census (JRFC)

**AGENCY:** Office of Justice Programs, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 30 days until July 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Benjamin Adams, Social Science Analyst, National Institute of Justice, 810 Seventh Street NW, Washington, DC 20531 (email: *benjamin.adams@usdoj.gov;* telephone: 202–616–3687).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

—Evaluate whether the accuracy of the agency's estimate of the burden on the proposed collection of information, including the validity of the methodology and assumptions that were used;

—Evaluate whether and if so how the quality, utility, and clarity of the information collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. *Type of Information Collection:* Extension, without change, of a currently approved collection.
2. *The Title of the Form/Collection:* Juvenile Residential Facility Census.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–15, Office of Justice Programs, United States Department of Justice.
4. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal. Other: Not-for-profit institutions; Business or other for-profit. *Abstract:* The Juvenile Residential Facility Census (JRFC), which is administered biennially, collects information from all secure and nonsecure residential placement facilities that house juvenile offenders about how juvenile facilities operate and the services they provide. The information gathered in the national collection will be used in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in juvenile facilities, and the general public via the OJP agency websites.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The number of respondents in the facility universe is currently 2,208. It is estimated that 1,988 respondents will complete the entire questionnaire in an average of 2 hours per respondent (2 hours × 1,988 facilities = 3,976 hours). It is anticipated that approximately 10 percent or 220 facilities will provide critical item data by phone during nonresponse follow-up calls taking an average of 10 minutes (10 minutes × 220 facilities = 36.7 hours). It is also anticipated that approximately 10 percent or 220 facilities will provide updated contact information on calls taking an average of 5 minutes (5 minutes × 220 facilities = 18.3 hours).
6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,031 total burden hours associated with the collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: June 24, 2019.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2019–13760 Filed 6–27–19; 8:45 am]

**BILLING CODE 4410–13–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures information collection. Section 521 of ERISA, 29 U.S.C. 1151, provides that the Secretary of Labor may issue ex-parte cease and desist orders when it appears to the Secretary that the alleged conduct of a multiple employer welfare arrangement (MEWA) under section 3(40) of the Act, 29 U.S.C. 1002(40), is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury. Section 521(b) provides that a person who is adversely affected by the issuance of a cease and desist order may request an administrative hearing regarding the order. 29 U.S.C. 1151 authorizes this information collection. *See* Act, 29 U.S.C. 1002(40)

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0148.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB

receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 23, 2018 (83 FR 53500).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0148 The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures.

*OMB Control Number:* 1210–0148.

*Affected Public:* Private Sector, business not for profit institutions.

*Total Estimated Number of Respondents:* 10.

*Total Estimated Number of Responses:* 10.

*Total Estimated Annual Time Burden:* 20 hours.

*Total Estimated Annual Other Costs Burden:* $668,900.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 21, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13806 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Exemption 1986–128 for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) revision titled, ''Prohibited Transaction Exemption 1986–128 For Securities Transactions Involving Employee Benefit Plans and Broker-Dealers,'' to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Prohibited Transaction Exemption 1986–128 For Securities Transactions Involving Employee Benefit Plans and Broker-Dealers. PTE 1986–128, as amended, permits persons who serve as fiduciaries for employee benefit plans and IRAs to effect or execute securities transactions on behalf of the plans and IRAs. The exemption also allows a fiduciary to act as an agent in an agency cross transaction for an employee benefit plan or IRA and one or more other parties to the transaction and receive reasonable compensation from the other party. The PTE requires the fiduciary relying on the exemption to obtain written authorization executed in advance by an independent fiduciary of the employee benefit plan whose assets are involved in the transaction. This information collection is a revision because the Department is renewing the information collections contained in PTE 75–1 that had been in place prior to 2016. Section 408 of the Employee Retirement Income Security Act of 1974 (''ERISA'') authorizes this information collection. *See* U.S. Code 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0059.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice

published in the **Federal Register** on April 5, 2019 (84 FR 13719).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty-(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0059. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Prohibited Transaction Exemption 1986–128 For Securities Transactions Involving Employee Benefit Plans and Broker-Dealers.

*OMB Control Number:* 1210–0059.

*Affected Public:* Private Sector, Businesses or other for-profits, Not-for-profit institutions.

*Total Estimated Number of Respondents:* 11,894.

*Total Estimated Number of Responses:* 819,448.

*Total Estimated Annual Time Burden:* 19,495 hours.

*Total Estimated Annual Other Costs Burden:* $661,045.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 21, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13801 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Unemployment Compensation for Ex-Servicemembers Handbook

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Unemployment Compensation for Ex-Servicemembers Handbook,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1205-003* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Unemployment Compensation for Ex-Servicemembers Handbook. The UCX law (5 U.S.C. 8521–8523) requires state workforce agencies (SWAs) to administer the UCX program in accordance with the same terms and conditions of the paying state's unemployment insurance law, which apply to unemployed claimants who worked in the private sector. Each state agency needs to obtain certain military service information on claimants filing for UCX benefits to enable them to determine his/her eligibility for benefits. This information collection is a revision, because the ETA 841 report is no longer in use and was removed from the collection request. UCX law (5 U.S.C. 8521–8523) and Social Security Act section 303(a)(6) authorize this information collection. *See* 5 U.S.C. 8523; 42 U.S.C. 503(a)(6)

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0176. The current approval is scheduled to expire on June 30, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB will receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 28, 2018 (83 FR 67355).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty-(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0176. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Unemployment Compensation for Ex-Servicemembers Handbook.

*OMB Control Number:* 1205–0176.

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

*Total Estimated Number of Respondents:* 53.

*Total Estimated Number of Responses:* 2,711.

*Total Estimated Annual Time Burden:* 226 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 24, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13813 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–FW–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Short-Time Compensation Grants

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Short-Time Compensation Grants,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1205-009* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Short-Time Compensation Grants information collection. Middle Class Tax Relief and Job Creation Act of 2012, Subtitle D, Short-Time Compensation Program, also known as the Layoff Prevention Act of 2012, concerns States that currently participate in, or wish to initiate a layoff aversion program known as STC or work-sharing. The law requires applications, administrative processes, monitoring, and reporting of data between State Workforce Agencies (SWAs) and the ETA. The ETA has principal oversight responsibility for the Unemployment Insurance (UI) program that SWAs operate. The ETA has developed a data collection for the proper oversight of State STC programs to ensure compliance with the UI system funding and administration under the Layoff Prevention Act. Layoff Prevention Act of 2012 authorizes this information collection. *See* Public Law 112–96.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0499.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 28, 2018 (83 FR 67357).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0499. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Short-Time Compensation Grants.

*OMB Control Number:* 1205–0499.

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

*Total Estimated Number of Respondents:* 16.

*Total Estimated Number of Responses:* 120.

*Total Estimated Annual Time Burden:* 120 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 20, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13803 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–FW–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Special Enrollment Rights Under Group Health Plans

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Notice of Special Enrollment Rights under Group Health Plans,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Notice of Special Enrollment Rights under Group Health Plans. Under 29 CFR 2590.701–6(c), a group health plan must provide an individual who is offered coverage under the plan a notice describing the plan's special enrollment rights at or before the time coverage is offered. The Departments believe that the special enrollment notice is necessary to ensure that employees understand their enrollment options and will be able to exercise their rights during any 30-day enrollment period following a special enrollment event. The final regulations provide detailed sample language describing special enrollment rights for use in the notice. The sample language is expected to reduce costs for group health plans since it eliminates the need for plans to develop their own language. The Employee Retirement Income Security Act of 1974 authorizes this information collection. *See* 29 U.S.C. 1191(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0101.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 23, 2018 (83 FR 53500).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0101. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Notice of Special Enrollment Rights under Group Health Plans.

*OMB Control Number:* 1210–0101.

*Affected Public:* Business or other for-profit; Not-for-profit institutions.

*Total Estimated Number of Respondents:* 2,330,305.

*Total Estimated Number of Responses:* 8,746,897.

*Total Estimated Annual Time Burden:* 1 hour.

*Total Estimated Annual Other Costs Burden:* $76,536.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 21, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13802 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Service Members

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Service Members'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1205-010* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the ''Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Service members.'' Federal civilian and military agencies must reimburse the Federal Employees Compensation Account for the amount expended for benefits to former Federal (civilian) employees and ex-service members. Reporting Form ETA–191 informs ETA of the amount to bill such agencies. Social Security Act section 303(a)(6) authorizes this information collection. *See* 5 U.S.C. Section 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0162.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 14, 2018.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0162. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Service Members.

*OMB Control Number:* 1205–0162.

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

*Total Estimated Number of Respondents:* 53.

*Total Estimated Number of Responses:* 212.

*Total Estimated Annual Time Burden:* 1,272 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 24, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13814 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–FW–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Insurance and Annuity Contracts and Mutual Fund Principal Underwriters (PTE 1984–24)

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) revision titled, ''Insurance and Annuity Contracts and Mutual Fund Principal Underwriters (PTE 1984–24),'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1210-004* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Insurance and Annuity Contracts and Mutual Fund Principal Underwriters (PTE 1984–24). PTE 84–24, as amended, provides an exemption for insurance agents, insurance brokers and pension consultants to receive a sales commission from an insurance company in connection with the purchase, with plan or IRA assets, of an insurance or annuity contract. Relief is also provided for a principal underwriter for an investment company registered under the Investment Company Act of 1940 to receive a sales commission in connection with the purchase, with plan or IRA assets, of securities issued by the investment company. In order to ensure that the class exemption is not abused, that the rights of the participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department often requires minimal information collection pertaining to the affected transactions. This information collection is a revision because the Department is renewing the information collections contained in PTE 75–1 that had been in place prior to 2016. Section 408 of the Employee Retirement Income Security Act of 1974 (''ERISA'') authorizes this information collection. *See* U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB, under the PRA, approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0158. The current approval is scheduled to expire on June 30, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB will receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 5, 2019 (84 FR 13719).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0158. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Insurance and Annuity Contracts and Mutual Fund Principal Underwriters (PTE 1984–24).

*OMB Control Number:* 1210–0158.

*Affected Public:* Private Section; Business or other for-profits, Not-for-profits.

*Total Estimated Number of Respondents:* 2,789.

*Total Estimated Number of Responses:* 227,068.

*Total Estimated Annual Time Burden:* 18,948 hours.

*Total Estimated Annual Other Costs Burden:* $92,377.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 21, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13807 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Supply and Service Program

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Office of Federal Contract Compliance Programs (OFCCP) sponsored information collection request (ICR) revision titled, ''Supply and Service Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1250-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL—OFCCP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Supply and Service Program. OFCCP administers and enforces three equal employment opportunity laws listed below.

- Executive Order 11246, as amended (E.O. 11246)
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503)
- Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA)

These authorities prohibit employment discrimination by covered federal contractors and subcontractors and require that they take affirmative action to provide equal employment opportunities regardless of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Additionally, federal contractors and subcontractors are prohibited from discriminating against applicants and employees for asking about, discussing, or sharing information about their pay or, in certain circumstances, the pay of their co-workers. E.O. 11246 applies to federal contractors and subcontractors and to federally assisted construction contractors holding a Government contract in excess of $10,000, or Government contracts that have, or can reasonably be expected to have, an aggregate total value exceeding $10,000 in a 12-month period. E.O. 11246 also applies to government bills of lading, depositories of federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. savings bonds. Section 503 prohibits employment discrimination against applicants and employees because of physical or mental disability and requires contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. Section 503 applies to federal contractors and subcontractors with contracts in excess of $15,000. VEVRAA prohibits employment discrimination against protected veterans and requires affirmative action to ensure that persons are treated without regard to their status as a protected veteran. VEVRAA applies to federal contractors and subcontractors with contracts of $150,000 or more. This Information Collection Request addresses the collection of information associated with scheduling compliance evaluations (compliance reviews, compliance checks, and focused reviews) of federal supply and service contractors and subcontractors. This information collection has been classified as a revision because OFCCP seeks to revise the letters used to schedule compliance evaluations. In general, the proposed revisions provide clarifying edits. In addition to other more minor revisions to the scheduling letter, OFCCP proposes the collection of two types of data that will significantly benefit its mission to ensure that federal contractors are complying with equal employment opportunity obligations; (1) collect information that will properly identify subcontractors in the agency's collection universe, and (2) collect personnel activity data and compensation data in its focused review scheduling letters to enhance its enforcement efforts for individuals with disabilities and protected veterans. E.O. 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 authorize this information collection. *See* 29 U.S. Code 793 and 38 U.S. Code 4212.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1250–0003. The current approval is scheduled to expire on June 30, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 12, 2019 (84 FR 14974).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1250–0003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–OFCCP.

*Title of Collection:* Supply and Service Program.

*OMB Control Number:* 1250–0003.

*Affected Public:* Private Sector.

*Total Estimated Number of Respondents:* 112,007.

*Total Estimated Number of Responses:* 5,000.

*Total Estimated Annual Time Burden:* 10,576,133 hours.

*Total Estimated Annual Other Costs Burden:* $62,677.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 21, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13809 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–CM–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Annual Report for Multiple Employer Welfare Arrangements

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Annual Report for Multiple Employer Welfare Arrangements,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1210-004* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Annual Report for Multiple Employer Welfare Arrangements information collection. The Health Insurance Portability and Accountability Act of 1996, codified as Part 7 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), was enacted to improve the portability and continuity of health care coverage for group health plan participants and beneficiaries. In the interest of assuring compliance with Part 7, ERISA section 101(g) further permits the Secretary of Labor to require a MEWA (multiple employer welfare arrangements), as defined in ERISA section 3(40), to report to the Secretary in such form and manner as the Secretary might determine. Employee Retirement Income Security Act of 1974 (ERISA) section 101(g) authorizes this information collection. *See* 29 U.S.C. 1021(g).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0116.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 23, 2018 (83 FR 53500).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0116.

The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Annual Report for Multiple Employer Welfare Arrangements.

*OMB Control Number:* 1210–0116.

*Affected Public:* Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 572.

*Total Estimated Number of Responses:* 572.

*Total Estimated Annual Time Burden:* 120 hours.

*Total Estimated Annual Other Costs Burden:* $111,377.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 20, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13805 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Personal Protective Equipment for Shipyard Employment

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

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Personal Protective Equipment for Shipyard Employment,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 29, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201906-1218-002* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Fredrick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Personal Protective Equipment for Shipyard Employment information collection. The information collection requirements in the Personal Protective Equipment for Shipyard Employment collection require employers to provide and ensure that each affected worker uses the appropriate personal protective equipment (PPE) for the eyes, face, head, extremities, torso, and respiratory system, including protective clothing, protective shields, protective barriers, life-saving equipment, personal fall arrest systems, and positioning device systems that meets the applicable provisions of this subpart, whenever workers are exposed to hazards that require the use of PPE. The Occupational Safety and Health Act of 1970 (the OSH Act) section 2 authorizes this information collection. *See* 29 U.S.C. 651.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0215.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 5, 2019 (84 FR 1795).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0215. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–OSHA.

*Title of Collection:* Personal Protective Equipment for Shipyard Employment.

*OMB Control Number:* 1218–0215.

*Affected Public:* Private Sector—business or other for-profits.

*Total Estimated Number of Respondents:* 4,518.

*Total Estimated Number of Responses:* 2,522.

*Total Estimated Annual Time Burden:* 201 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 24, 2019.

**Frederick Licari,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13808 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Federal Mine Safety and Health Act of 1977 and the Code of Federal Regulations govern the application, processing, and disposition of petitions for modification. This **Federal Register** notice notifies the public that MSHA has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

**ADDRESSES:** Copies of the final decisions are posted on MSHA's website at *https://www.msha.gov/regulations/rulemaking/petitions-modification.* The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202. All visitors are required to check in at the receptionist's desk in Suite 4E401.

**FOR FURTHER INFORMATION CONTACT:** Sheila McConnell 202–693–9440 (voice), *mcconnell.sheila.a@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers].

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

## II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

- *Docket Number:* M–2012–147–C.
*FR Notice:* 77 FR 42015 (7/17/2012).
*Petitioner:* Marshall County Coal Company (formerly McElroy Coal Company), Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
*Mine:* Marshall County Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

- *Docket Number:* M–2012–158–C.
*FR Notice:* 77 FR 57158 (9/17/2012).
*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado 81648.
*Mine:* Deserado Mine, MSHA I.D. No. 05–03505, located in Rio Blanco County, Colorado.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

- *Docket Number:* M–2012–159–C.
*FR Notice:* 77 FR 57158 (9/17/2012).
*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado 81648
*Mine:* Deserado Mine, MSHA I.D. No. 05–03505, located in Rio Blanco County, Colorado.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

- *Docket Number:* M–2012–160–C.
*FR Notice:* 77 FR 57159 (9/17/2012).
*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado 81648
*Mine:* Deserado Mine, MSHA I.D. No. 05–03505, located in Rio Blanco County, Colorado.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

- *Docket Number:* M–2013–012–C.
*FR Notice:* 78 FR 13093 (2/26/2013).
*Petitioner:* Peabody Midwest Mining, LLC, Three Gateway Center, Suite 1500, 40l Liberty Avenue, Pittsburgh, Pennsylvania 15222.
*Mine:* Wildcat Hills Mine-Underground, MSHA I.D. No. 11–03156, located in Saline County, Illinois.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

- *Docket Number:* M–2013–013–C.
*FR Notice:* 78 FR 13094 (2/26/2013).
*Petitioner:* Peabody Midwest Mining, LLC, Three Gateway Center, Suite 1500, 40l Liberty Avenue, Pittsburgh, Pennsylvania 15222.
*Mine:* Wildcat Hills Mine-Underground, MSHA I.D. No. 11–03156, located in Saline County, Illinois.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

- *Docket Number:* M–2013–032–C.
*FR Notice:* 78 FR 49778 (8/15/2013).
*Petitioner:* Wolf Run Mining, LLC, 21550 Barbour County Hwy., Philippi, West Virginia 26416.
*Mine:* Sentinel Mine, MSHA I.D. No. 46–04168, located in Barbour County, West Virginia.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

- *Docket Number:* M–2013–033–C.
*FR Notice:* 78 FR 49779 (8/15/2013).
*Petitioner:* Wolf Run Mining, LLC, 21550 Barbour County Hwy., Philippi, West Virginia 26416.
*Mine:* Sentinel Mine, MSHA I.D. No. 46–04168, located in Barbour County, West Virginia.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

- *Docket Number:* M–2013–034–C.
*FR Notice:* 78 FR 49779 (8/15/2013).
*Petitioner:* Wolf Run Mining, LLC, 21550 Barbour County Hwy., Philippi, West Virginia 26416.
*Mine:* Sentinel Mine, MSHA I.D. No. 46–04168, located in Barbour County, West Virginia.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

- *Docket Number:* M–2014–010–C.
*FR Notice:* 79 FR 30173 (5/27/2014).
*Petitioner:* Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942.
*Mine:* Bridger Underground Coal Mine, MSHA I.D. No. 48–01646, located in Sweetwater County, Wyoming.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

- *Docket Number:* M–2015–019–C.
*FR Notice:* 80 FR 67428 (11/2/2015).
*Petitioner:* Utah American Energy, Inc., 794 North ''C'' Canyon Road, East Carbon, Utah 84520.
*Mine:* Lila Canyon Mine, MSHA I.D. No. 42–02241, located in Emery County, Utah.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

- *Docket Number:* M–2015–020–C.
*FR Notice:* 80 FR 67430 (11/2/2015).
*Petitioner:* Utah American Energy, Inc., 794 North ''C'' Canyon Road, East Carbon, Utah 84520.
*Mine:* Lila Canyon Mine, MSHA I.D. No. 42–02241, located in Carbon County, Utah.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than

power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2015–021–C.
*FR Notice:* 80 FR 67431 (11/2/2015).
*Petitioner:* Utah American Energy, Inc., 794 North ''C'' Canyon Road, East Carbon, Utah 84520.
*Mine:* Lila Canyon Mine, MSHA I.D. No. 42–02241, located in Carbon County, Utah.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2016–023–C.
*FR Notice:* 81 FR 47421 (7/21/2016).
*Petitioner:* Utah American Energy, Inc., 794 North ''C'' Canyon Road, East Carbon, Utah 84520.
*Mine:* Lila Canyon Mine, MSHA I.D. No. 42–02241, located in Carbon County, Utah.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2016–028–C.
*FR Notice:* 81 FR 79522 (11/14/2016).
*Petitioner:* River View Coal, LLC, 835 State Route 1179, Waverly, Kentucky 42462.
*Mine:* River View Mine, MSHA I.D. No. 15–19374, located in Union County, Kentucky.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2016–029–C.
*FR Notice:* 81 FR 79522 (11/14/2016).
*Petitioner:* River View Coal, LLC, 835 State Route 1179, Waverly, Kentucky 42462.
*Mine:* River View Mine, MSHA I.D. No. 15–19374, located in Union County, Kentucky.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2017–023–C.
*FR Notice:* 82 FR 60046 (12/18/2017).
*Petitioner:* Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.
*Mine:* Emery Mine, MSHA I.D. No. 42–00079, located In Emery County, Utah.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2017–024–C.
*FR Notice:* 82 FR 61033 (12/26/2017).
*Petitioner:* ICG Illinois, LLC, 5945 Lester Road, Williamsville, Illinois 62693.
*Mine:* Viper Mine, MSHA I.D. No. 11–02664, located in Sangamon County, Illinois.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2017–025–C.
*FR Notice:* 82 FR 61033 (12/26/2017).
*Petitioner:* ICG Illinois, LLC, 5945 Lester Road, Williamsville, Illinois 62693.
*Mine:* Viper Mine, MSHA I.D. No. 11–02664, located in Sangamon County, Illinois.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2017–027–C.
*FR Notice:* 82 FR 61332 (12/27/2017).
*Petitioner:* Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.
*Mine:* Emery Mine, MSHA I.D. No. 42–00079, located in Emery County, Utah.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2017–028–C.
*FR Notice:* 82 FR 61333 (12/27/2017).
*Petitioner:* Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.
*Mine:* Emery Mine, MSHA I.D. No. 42–00079, located in Emery County, Utah.
*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2017–029–C.
*FR Notice:* 82 FR 61333 (12/27/2017).
*Petitioner:* Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.
*Mine:* Emery Mine, MSHA I.D. No. 42–00079, located in Emery County, Utah.
*Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2017–030–C.
*FR Notice:* 83 FR 3027 (1/22/2018).
*Petitioner:* Bronco Utah Operations, LLC, P.O. Box 527, Emery, Utah 84522.
*Mine:* Emery Mine, MSHA I.D. No. 42–00079, located in Emery County, Utah.
*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2018–015–C.
*FR Notice:* 83 FR 29141 (6/22/2018).
*Petitioner:* Spartan Mining Company, LLC, 500 Lee Street East, Suite 701, Charleston, West Virginia 25329.
*Mine:* Rod Fork #52 Mine, MSHA I.D. No. 46–09522, located in Wyoming County, West Virginia.
*Regulation Affected:* 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–005–M.
*FR Notice:* 81 FR 55489 (8/19/2016).
*Petitioner:* United Salt Hockley, LLC, 14002 Warren Ranch Road, Hockley, Texas 77447.
*Mine:* Hockley Mine, MSHA I.D. No. 41–02478, located in Harris County, Texas.
*Regulation Affected:* 30 CFR 57.4760 (Shaft mines).

• *Docket Number:* M–2017–001–M.
*FR Notice:* 82 FR 23308 (5/22/2017).
*Petitioner:* Solvay Chemicals, Inc., P.O. Box 1167, 400 County Road 85, Green River, Wyoming 82935.
*Mine:* Solvay Chemicals Mine, MSHA I.D. No. 48–01295, located in Sweetwater County, Wyoming.
*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines)).

• *Docket Number:* M–2018–005–M.
*FR Notice:* 83 FR 23943 (5/23/2018).
*Petitioner:* Solvay Chemicals, Inc., P.O. Box 1167, 400 County Road 85, Green River, Wyoming 82935.
*Mine:* Solvay Chemicals Mine, MSHA I.D. No. 48–01295, located in Sweetwater County, Wyoming.
*Regulation Affected:* 30 CFR 57.4760 (Shaft mines).

**Sheila McConnell,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2019–13812 Filed 6–27–19; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2012–0039]**

### The Standard on Process Safety Management of Highly Hazardous Chemicals; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend and revise the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Standard on Process Safety Management (PSM) of Highly Hazardous Chemicals.

**DATES:** Comments must be submitted (postmarked, sent, or received) by August 27, 2019.

**ADDRESSES:**

*Electronically:* You may submit comments and attachments electronically at *http://*

*www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0039, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

*Instructions:* All submissions must include the agency name and the OSHA docket number (OSHA–2012–0039) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The collection of information in the standard is necessary for implementation of the requirements of the standard. The information is used by employers to ensure that processes using highly hazardous chemicals with the potential of a catastrophic release are operated as safely as possible. The employer must thoroughly consider all facets of a process, as well as the involvement of employees in that process. Employers analyze processes so that they can identify, evaluate and control problems that could lead to a major release, fire, or explosion. The major information collection requirements in this standard include: Consulting with workers and their representatives on and providing them access to process hazard analyses and the development of other elements of the standard; developing a written action plan for implementation of employee participation in process hazard analyses and other elements of the standard; completing a compilation of written process safety information; performing a process hazard analysis; documenting actions taken to resolve process hazard analysis team findings and recommendations; updating, revalidating, and retaining the process hazard analysis; developing and implementing written operating procedures accessible to workers; reviewing operating procedures as often as necessary and certifying the procedures annually; developing and implementing safe work practices; preparing training records; informing contract employers of known hazards and applicable provisions of the emergency action plan; maintaining a contract worker injury and illness log; establishing written procedures to maintain the integrity of and documenting inspections and tests of process equipment; providing information on permits issued for hot work operations; establishing and implementing written procedures to manage changes; preparing reports at the conclusion of incident investigations, documenting resolutions and corrective measures, and reviewing the reports with affected personnel; establishing and implementing an emergency action plan; developing a compliance audit report and certifying compliance; and disclosing information necessary to comply with the standard to persons responsible for compiling process safety information.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collection of information requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting that OMB approve the proposed extension and revision of the collections of information contained in OSHA's PSM Standard.

The agency is requesting an overall total decrease of 666,965 hours from the proposed 2016 ongoing burden request of 6,277,818 to 5,610,853 hours. This decrease mainly results from a reduction of the total number of covered establishments due to the agency rescinding the interpretation of the scope of the retail exemption of the PSM Standard.

*Type of Review:* Revision of a currently approved collection.

*Title:* Process Safety Management of Highly Hazardous Chemicals (PSM) (29 CFR 1910.119 and 29 CFR 1926.64).

*OMB Control Number:* 1218–0200.

*Affected Public:* Businesses or other for-profits.

*Number of Respondents:* 1,206,422.

*Frequency of Response:* On Occasion: Annually.

*Total Responses:* 1,209,601.

*Average Time per Response:* Time varies per response from three minutes (.05 hour) to generate and maintain an employee training record to 55 hours per process for large establishments to develop written management of change procedures and update process safety operating procedures.

*Estimated Total Burden Hours:* 5,610,853.

*Estimated Cost (Operation and Maintenance (capital)):* $0.

**IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number (OSHA–2012–0039) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627). Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

**V. Authority and Signature**

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on June 24, 2019.

**Loren Sweatt,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2019–13811 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2010–0046]**

### QPS Evaluation Services, Inc.: Grant of Expansion of Recognition

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** In this notice, OSHA announces its final decision to expand the scope of recognition for QPS Evaluation Services, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

**DATES:** The expansion of the scope of recognition becomes effective on June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

*General and technical information:* Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

**SUPPLEMENTARY INFORMATION:**

**I. Notice of Final Decision**

OSHA hereby gives notice of the expansion of the scope of recognition of QPS Evaluation Services, Inc. (QPS), as a NRTL. QPS's expansion covers the addition of two test standards to its scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding and, in the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details its scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

QPS submitted two applications, one dated January 16, 2017 (OSHA–2010–0046–0010) and another dated June 23, 2017 (OSHA–2010–0046–0011), to expand its recognition to include two additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing QPS's expansion application in the **Federal Register** on February 12, 2019 (84 FR 3547). The agency requested comments by February 27, 2019, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of QPS's scope of recognition.

To obtain or review copies of all public documents pertaining to QPS's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210.

Docket No. OSHA–2010–0046 contains all materials in the record concerning QPS's recognition.

**II. Final Decision and Order**

OSHA staff examined QPS's expansion application, the capability to meet the requirements of the test standards, and other pertinent information. Based on a review of this evidence, OSHA finds that QPS meets the requirements of 29 CFR 1910.7 for expansion of the recognition, subject to the specified limitation and conditions listed. OSHA, therefore, is proceeding with this final notice to grant QPS's scope of recognition. OSHA limits the expansion of QPS's recognition to testing and certification of products for demonstration of conformance to the test standards listed, in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN QPS'S NRTL SCOPE OF RECOGNITION

| Test standard | Test standard title |
|---|---|
| UL 471 | Standard for Commercial Refrigerators and Freezers. |
| UL 62368–1 | Standard for Audio/Video Information and Communication Technology Equipment—Part 1 Safety Requirements. |

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

*A. Conditions*

In addition to those conditions already required by 29 CFR 1910.7, QPS must abide by the following conditions of the recognition:

1. QPS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. QPS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. QPS must continue to meet the requirements for recognition, including all previously published conditions on QPS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of QPS, subject to the limitation and conditions specified above.

**III. Authority and Signature**

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on June 20, 2019.

**Loren Sweatt,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2019–13810 Filed 6–27–19; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL COUNCIL ON DISABILITY

### Sunshine Act Meetings

**TIME AND DATES:** The Members of the National Council on Disability (NCD) will hold a quarterly business meeting and community forum on Monday, July 15, 2019, 8:30 a.m.–5:30 p.m., Central Daylight Time), in Chicago, Illinois. Registration is not required.

**PLACE:** This meeting will occur at Access Living of Metropolitan Chicago, 115 W Chicago Ave., Chicago, Illinois 60654. Interested parties may join the meeting in person at the meeting location or may join by phone in a listening-only capacity (other than the period allotted for public comment noted below) using the following call-in information: Teleconference number: 1–866–556–2429; Conference ID: 5096693; Conference Title: NCD Meeting; Host Name: Neil Romano. In the event of teleconference disruption or failure, attendees can follow the meeting by accessing the Communication Access Realtime Translation (CART) link provided. CART is text-only translation that occurs real time during the meeting and is not an exact transcript.

**MATTERS TO BE CONSIDERED:** The Council will receive agency updates on policy projects, finance, governance, and other business. Following agency updates, the Council will receive panel presentations on complex rehabilitation acquisition; air transportation; annual required ethics training; a panel presentation on communication access; and a public comment session. Following unfinished business, the meeting will adjourn, to be followed by a public reception, providing attendees an opportunity to talk with presidentially and congressionally appointed Council Members and full-time professional staff from the National Council on Disability. Following the reception, an information session on Achieving A Better Life Experience (ABLE) accounts will occur.

**AGENDA:** The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Central):

**Monday, July 15**

8:30 a.m.–8:35 a.m.—Welcome and Introductions
8:35 a.m.–8:55 a.m.—Welcome from Chicago
8:55 a.m.–9:55 a.m.—Executive Reports
9:55 a.m.–10:10 a.m.—Break
10:10 a.m.–11:40 a.m.—Complex Rehabilitation Acquisition Panel
11:40 a.m.–1:00 p.m.—Lunch (on your own)
1:00 p.m.–2:00 p.m.—Air Transportation Panel
2:00 p.m.–2:15 p.m.—Break
2:15 p.m.–3:15 p.m.—Annual Ethics Training
3:15 p.m.–4:45 p.m.—Communication Access Panel
4:45 p.m.–5:15 p.m.—Public Comment
5:15 p.m.–5:30 p.m.—Unfinished Business
5:30 p.m. Adjourn
5:30 p.m.–6:30 p.m.—Reception
6:30 p.m.–7:30 p.m.—Achieving a Better Life Experience (ABLE) Information Session

Come learn all about ABLE accounts and the Illinois ABLE program! ABLE

accounts allow individuals with disabilities the opportunity to save and invest money without losing eligibility for certain public benefits programs, like Medicaid, Social Security, and Section 8 housing. Earnings in ABLE accounts are not subject to federal income tax, so long as funds are spent on qualified disability expenses. Deposits can be invested in different options chosen by the participant. While participants can still withdraw and spend money as needed, an ABLE account also allows money to grow for when it is needed for disability expenses.

**PUBLIC COMMENT:** Your participation during the public comment period provides an opportunity for us to hear from you—individuals, businesses, providers, educators, parents and advocates. Your comments are important in bringing attention to the issues in your community. Priority will be given to in-person attendees. Each person will be given 3 minutes to present comment. If you are presenting as a group and prefer to choose a spokesperson, your group representative will be given 6 minutes to provide comment. Any individual interested in providing public comment is asked to register their intent to provide comment in advance by sending an email to *PublicComment@ncd.gov* with the subject line ''Public Comment'' with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. To ensure your comments are accurately reflected and become part of the public record, NCD requests electronic submission prior to Friday, July 12, 2019, or immediately after the meeting to *PublicComment@ncd.gov.*

**CONTACT PERSON:** Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY), or *asommers@ncd.gov.*

**ACCOMMODATIONS:** To ensure appropriate accommodations are provided, please send an email to Anthony Simpson at *asimpson.cntr@ncd.gov* no later than July 12, indicating ''Accommodations'' in the subject line. An assistive listening system, computer assisted real-time transcription, and sign language interpreters will be available. A CART streamtext link has been arranged for this meeting. The web link to access CART (in English) on Monday, July 15, 2019 is: *http://www.streamtext.net/player?event=NCD-QUARTERLY.*

To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants. Flash photography and video documentation may occur during the meeting. Please alert staff if you are affected by photo sensitivity. Attendance at the meeting indicates consent to be photographed and recorded for NCD public affairs activities.

Due to last-minute confirmations or cancellations, NCD may substitute agenda items without advance public notice.

Dated: June 26, 2019.

**Sharon M. Lisa Grubb,**

*Executive Director.*

[FR Doc. 2019–14040 Filed 6–26–19; 4:15 pm]

**BILLING CODE 8421–02–P**

## NUCLEAR REGULATORY COMMISSION

### Atomic Safety and Licensing Board

Before Administrative Judges: Ronald M. Spritzer, Chairman, Nicholas G. Trikouros, Dr. Sekazi K. Mtingwa

In the Matter of NEXTERA ENERGY SEABROOK, LLC, (Seabrook Station, Unit 1).

Docket No. 50–443–LA–2

ASLBP No. 17–953–02–LA–BD01

June 25, 2019

### Notice of Hearing

*(Notice of Evidentiary Hearing and Opportunity To Provide Oral and Written Limited Appearance Statements)*

Pursuant to 10 CFR 2.312, the Atomic Safety and Licensing Board (Board) hereby provides notice that it will convene an evidentiary session to receive testimony and exhibits in the contested portion of this proceeding. In addition, the Board gives notice that, in accordance with 10 CFR 2.315(a), it will entertain oral and written limited appearance statements from members of the public in connection with this proceeding.

### I. Background of Proceeding

This proceeding arises from a license amendment request (LAR) filed by NextEra Energy Seabrook, LLC (NextEra),[1] concerning the operating license for Seabrook Station, Unit 1 (Seabrook), located in Seabrook, New Hampshire. The LAR sought to revise the Unit 1 Updated Final Safety Analysis Report (UFSAR) to include methods for analyzing the impact of concrete degradation caused by an alkali-silica reaction (ASR) affecting Seismic Category I reinforced concrete structures.[2] The LAR includes a monitoring program comprised of: (1) ''Periodic measurement of ASR expansion'' (ASR Expansion Monitoring); and (2) ''periodic inspections of ASR-affected structures to identify and trend building deformation'' (Structural Deformation Monitoring).[3] C–10 Research and Education Foundation (C–10) filed a petition challenging the LAR, which included ten contentions.[4]

In LBP–17–7, the Board concluded that C–10 had standing and admitted five contentions, three of which it narrowed from C–10's original proposal.[5] The Board reformulated the contentions into a single contention, finding that the reformulated contention met the NRC's admissibility requirements.[6] The contention the Board admitted—comprised of Contentions A, B, C, D, and H—is as follows:

The large-scale test program, undertaken for NextEra at the [Ferguson Structural Engineering Laboratory], has yielded data that are not ''representative'' of the progression of ASR at Seabrook. As a result, the proposed monitoring, acceptance criteria, and inspection intervals are not adequate.[7]

### II. Matters To Be Considered

The evidentiary hearing will concern the Board's single reformulated contention. Each element of the reformulated contention relates to C–10's central challenge to the representative nature of the large-scale test program conducted at the Ferguson

[1] License Amendment Request 16–03, Revise Current Licensing Basis to Adopt a Methodology for the Analysis of Seismic Category I Structures with Concrete Affected by Alkali-Silica Reaction, 1–3 of 73 (unnumbered) (Aug. 1, 2016) (ADAMS Accession No. ML16216A240) [hereinafter Original LAR].

NextEra supplemented the Original LAR on September 30, 2016, (ADAMS Accession No. ML16279A048), October 3, 2017 (ADAMS Accession No. ML17277A337), October 17, 2017 (ADAMS Accession No. ML17291B136), December 11, 2017 (ADAMS Accession No. ML17345A641), and June 7, 2018 (ADAMS Accession No. ML18158A540). Collectively, the Original LAR and all supplements, plus all enclosures and attachments constitute the ''LAR.''

[2] *See* Original LAR Enclosure 7, ''NextEra Energy Seabrook's Evaluation of the Proposed Change (Non-Proprietary),'' (unnumbered) (undated) at p. 7 of 73.

[3] Original LAR § 3.5.

[4] C–10 Research and Education Foundation, Inc. Petition for Leave to Intervene: Nuclear Regulatory Commission Docket No. 50–443 at 2–3 (April 10, 2017).

[5] LBP–17–7, 86 NRC 59, 68 (2017).

[6] *Id.* at 89–90.

[7] *Id.* at 90. The Board concluded that C–10's other contentions were inadmissible. *Id.* at 131–37.

Structural Engineering Laboratory (FSEL). The test program, along with available scientific literature, forms the basis of the license amendment request submitted by NextEra that accounts for the effects of ASR in the design basis of seismic Category I reinforced concrete structures at Seabrook.

**III. Date, Time, and Location for Evidentiary Hearing**

The evidentiary hearing will commence on the following date at the specified location and time:

*Date:* Tuesday, September 24, 2019.

*Time:* 9:30 a.m. to 5:30 p.m., EDT.

*Location:* Newburyport City Hall Auditorium, 60 Pleasant Street, Newburyport, MA 01950.

The hearing will continue from day-to-day through Friday, September 27, 2019, if necessary.

Members of the public and representatives of the media are welcome to attend and observe this evidentiary hearing, which will involve technical, scientific, and legal questions and testimony. Participation in the hearing will be limited to the parties, their lawyers, and witnesses. Please be aware that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks. No signs, banners, posters, or other displays will be permitted in the facility.[8]

**IV. Date, Time, and Location of Oral Limited Appearance Statement Session**

One oral limited appearance statement session regarding this evidentiary hearing proceeding will be held on the following date at the specified location and time:

*Date:* Monday, September 23, 2019.

*Time:* 6:00 p.m. to 8:00 p.m., EDT.

*Location:* Newburyport City Hall Auditorium, 60 Pleasant Street, Newburyport, MA 01950.

As required by NRC policy, signs, banners, posters, and displays not larger than 18 inches by 18 inches will be permitted at the oral limited appearance statement session, but may not be waved or held over one's head. Any sign, banner, poster or display affixed to a stick, or similar device, will not be permitted at the oral limited appearance statement session.[9]

All individuals attending the oral limited appearance statement session are advised that security measures may be employed at the entrance to the facility. All individuals attending the oral limited appearance statement session should bring at least one form of government issued photo identification, refrain from bringing any unnecessary hand-carried items that might need to be examined individually, and allow sufficient time for security screening.

**V. Participation Guidelines for Oral Limited Appearance Statements**

Any person not a party or representative of a party to the proceeding will be permitted to make an oral statement on a matter of concern related to the proceeding. Though these statements do not constitute testimony or evidence, they nonetheless may aid the Board and/or the parties in their consideration of the issues involved in the evidentiary hearing.

Oral limited appearance statements will be entertained during the hours specified above. In the event that all scheduled and unscheduled speakers present at the session have made a presentation, the Board reserves the right to terminate the session prior to the ending time listed above.

The time allotted for each limited appearance statement will be five minutes, but may be further limited depending on the number of requests to make an oral statement that are submitted in accordance with section VI below.

**VI. Submitting a Request To Make an Oral Limited Apperance Statement**

Although a request to make an oral limited appearance statement may be submitted either prior to or at the limited appearance session, those who have submitted timely written requests before the limited appearance session will be given priority over those who have not filed such requests. To be considered timely, a written request to make an oral statement must either be mailed, faxed, or sent by email so as to be received by 5:00 p.m. EDT on Friday, September 13, 2019.

Written requests to make an oral statement should be submitted to:

*Mail:* Molly Mattison, Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T3 A 27, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–5206 (verification (301) 415–0181).

*Email: Molly.Mattison@nrc.gov.*

**VII. Submitting Written Limited Appearance Statements**

As provided in 10 CFR 2.315(a), any person not a party or a representative of a party to the proceeding may submit a written statement setting forth his or her position on matters of concern related to the proceeding. A written limited appearance statement may be submitted at any time and should be sent to the Office of the Secretary and the Licensing Board Chairman using one of the methods prescribed below:

*Office of the Secretary*

*Mail:* Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–1101 (verification (301) 415–1677).

*Email: hearingdocket@nrc.gov.*

*Chairman of the Licensing Board*

*Mail:* Administrative Judge Ronald M. Spritzer, Chairman, Atomic Safety and Licensing Board Panel, Mail Stop T3 A 27, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax:* (301) 415–5206 (verification (301) 415–0181).

*Email: Molly.Mattison@nrc.gov.*

**VIII. Availability of Documents**

NextEra's application, and various NRC Staff documents relating to the application, are available on the NRC website at *https://www.nrc.gov/info-finder/reactors/seab1.html.* These and other documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 or electronically from the publicly-available records component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC website at *www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room).[10] Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at (800) 397–4209 or (301) 415–4737 (available between 8:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday except federal holidays), or by email to *pdr.resource@nrc.gov.*

*It is so ordered.*

For the Atomic Safety and Licensing Board. Rockville, Maryland.

[8] *See* Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001) [hereinafter Meeting Security Guidelines].

[9] *See* Meeting Security Guidelines.

[10] Documents which are determined to contain sensitive or proprietary information may only be available in redacted form. All non-sensitive documents are available in their complete form.

June 25, 2019.

**Ronald M. Spritzer,**

*Chairman, Administrative Judge.*

[FR Doc. 2019–13899 Filed 6–27–19; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2019–0118]**

## Refining and Characterizing Heat Release Rates From Electrical Enclosures During Fire

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft NUREG; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG entitled, ''Refining and Characterizing Heat Release Rates from Electrical Enclosures during Fire—Volume 2: Fire Modeling Guidance for Electrical Cabinets, Electric Motors, Indoor Dry Transformers, and the Main Control Board'' (NUREG–2178 Volume 2/EPRI 3002016052). This report is a joint product of the NRC and the Electric Power Research Institute (EPRI) collaborating under a memorandum of understanding for fire research. This report describes improved methods that can increase the realism in the modeling of selected ignition sources. The areas further investigated include the treatment of flame radiation and obstructed radiation, fire propagation between adjacent electrical cabinets, heat release rates (HRRs) for electric motors and dry transformers, fire location factor, non-suppression probability floor values, and the modeling of the main control board.

**DATES:** Submit comments by August 27, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0118. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff. For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** David W. Stroup, Office of Nuclear Regulatory Research, telephone: 301–415–1649, email: *David.Stroup@nrc.gov*; or Nicholas.Melly, Office of Nuclear Regulatory Research, telephone: 301–415–2392, email: *Nicholas.Melly@nrc.gov*. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2019–0118 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0118.
- *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*. The draft NUREG entitled ''Refining and Characterizing Heat Release Rates from Electrical Enclosures during Fire—Volume 2: Fire Modeling Guidance for Electrical Cabinets, Electric Motors, Indoor Dry Transformers, and the Main Control Board'' is available in ADAMS under Accession No. ML19162A406.
- *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.

*B. Submitting Comments*

Please include Docket ID NRC–2019–0118 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov/* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

### II. Discussion

In 2005, the EPRI and the NRC's Office of Nuclear Regulatory Research issued a joint technical report NUREG/CR–6850 (EPRI 1011989), *EPRI/NRC–RES Fire PRA Methodology for Nuclear Power Facilities.* This publication documented state-of-the-art methods, tools, and data for conducting a fire probabilistic risk assessment (PRA) for a commercial nuclear power plant application. Following this publication, many utilities developed Fire PRAs using the guidance in NUREG/CR–6850 (EPRI 1011989) to support risk informed applications, including the transition to National Fire Protection Association Standard 805 among others. The results obtained from the Fire PRA models have suggested specific elements in the fire scenario analysis where improved methods and/or guidance can reduce conservatism and increase realism in the risk estimates. Consequently, over the past fifteen years, fire PRA research covering the areas of fire ignition frequencies (*e.g.,* NUREG–2169 (EPRI 3002002936)), fire modeling (*e.g.,* NUREG–2178 (EPRI 3002005578)), human reliability analysis (NUREG–1921 (EPRI 1023001)), and spurious operations (*e.g.,* NUREG/CR–7150) have been published and made available to the industry.

The first volume of NUREG–2178 (EPRI 3002005578) was published in April of 2016. This document included methods focused on refining the modeling of fires in electrical cabinets, including updated HRR probability distributions and an obstructed fire plume model. During drafting of NUREG–2178 volume 1 (EPRI 3002005578), the joint NRC/EPRI working group authoring the document identified additional methods to further refine the modeling of selected ignition sources within the fire PRA for inclusion in a second volume. As in the

case of Volume 1 of NUREG–2178, this second volume would provide improved methods for achieving realism by reducing some of the conservatisms present in the NUREG/CR–6850 (EPRI 1011989) methods. As such, the guidance and methods described in these documents would not replace or invalidate existing methods or guidance, but rather, provide more realistic (usually less conservative) alternative approaches.

This second volume of NUREG–2178 (EPRI 3002016052) includes the following methods that can be used for refining the modeling of selected ignition sources:

- *Flame radiation and obstructed radiation:* The document describes and reviews existing methods for calculating flame radiation. From that discussion, a modified approach for computing flame radiation is developed and a detailed method for determining the thermal radiation impact from fires inside electrical cabinets is presented. This approach extends the research documented in NUREG–2178 Volume 1 (EPRI 3002005578) associated with modeling plume temperatures generated by fires inside electrical cabinets (*i.e.,* the obstructed plume temperature model) by developing guidance on predicting thermal radiation that may be obstructed by vented or unvented cabinet walls.
- *Fire propagation between adjacent electrical cabinets:* A detailed approach for modeling fire propagation between vertical sections in a bank of electrical cabinets is described in the report. This method expands upon the guidance provided in Appendix S of NUREG/CR–6850 (EPRI 1011989) which referred to this scenario as ''enclosure-to-enclosure fire spread.''
- *HRRs for electric motors and dry transformers:* Appendix G of NUREG/CR–6850 (EPRI 1011989) recommended bounding/conservative values for HRRs associated with electric motors and dry transformers based on the values used for electrical cabinet fires. However, electric motors and dry transformers are different in terms of ignition sources, modes of ignition, and combustible configuration in comparison to electrical cabinets. Consequently, revised HRRs for electric motors (including those motors associated with pumps) and dry transformers based on the size (horsepower or voltage respectively) of the equipment were developed.
- *Fire location factor:* Existing guidance suggests that fires adjacent to walls or in corners of a room may generate elevated plume temperatures when compared to fires away from these surfaces (sometimes referred to as the wall/corner plume correction factors). Based on recent fire experiments, this document discusses new guidance for estimating plume temperatures from fires along walls or in corners. The guidance is applicable to both fixed and transient ignition sources.
- *Non-suppression floor value:* Appendix P of NUREG/CR–6850 (EPRI 1011989) recommends that the non-suppression probability versus time curves be used subject to a floor (minimum) value of 0.001 for all cases. This assumption means that, in effect, 1 fire in 1000 is never suppressed which clearly contradicts the available data. This document discusses the basis and development of a lower non-suppression probability floor value.
- *Main control board fire scenarios:* Appendix L of NUREG/CR–6850 (EPRI 1011989) described a simplified model for determining the severity factor and non-suppression probability for fire scenarios associated with the main control board based on a predefined zone of influence (*i.e.,* a defined set of damage target components). Although easy to apply, this model limits the ability to integrate the main control board scenarios with other elements associated with the PRA quantification of fire scenarios inside the main control room. This document describes a comprehensive event-tree based approach for characterizing the fire scenario progression following ignition of a component in the main control board.

Dated at Rockville, Maryland, this 25th day of June 2019.

For the Nuclear Regulatory Commission.

**Mark H. Salley,**

*Branch Chief, Fire and External Hazards Analysis Branch, Division of Risk Analysis, Office of Nuclear Regulatory Research.*

[FR Doc. 2019–13893 Filed 6–27–19; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2019–176]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* July 2, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s).:* CP2019–176; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 11 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 24, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 2, 2019.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2019–13844 Filed 6–27–19; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86183; File No. SR–EMERALD–2019–19]**

## Self-Regulatory Organizations; MIAX Emerald, LLC; Order Approving a Proposed Rule Change To Amend Exchange Rule 515A Concerning the PRIME Price Improvement and Solicitation Mechanisms and Rules 516 and 517 Regarding Post-Only Orders and Post-Only Quotes

June 24, 2019.

**I. Introduction**

On April 29, 2019, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to address Post-Only trading interest in the context of the MIAX Emerald Price Improvement Mechanism (''PRIME'' or ''PRIME Auction''). The proposed rule change was published for comment in the **Federal Register** on May 10, 2019.[3] The Commission did not receive any comment letters on the proposed rule change. This order approves the proposed rule change.

**II. Description of the Proposed Rule Change**

PRIME is a process by which an Exchange member may submit for execution an order it represents as agent (''Agency Order'') against principal interest or solicited interest.[4] Currently, resting Post-Only Orders [5] and Post-Only Quotes [6] (collectively referred to as ''Post-Only OQs'') may not participate in a PRIME Auction and are rejected if received during a PRIME Auction.[7] Additionally, if trading interest on the MIAX Emerald Book (''Book'') [8] is subject to the Managed Interest Process,[9] or there is a Post-Only OQ on the Book on the same side of the market as the Agency Order, the Agency Order will be rejected by the System [10] and a PRIME Auction will not commence.[11]

*A. Post-Only OQs Resting on the Same Side as the Agency Order*

With respect to the initiation of a PRIME Auction, the Exchange proposes that for both single price submissions and auto-match, if the EBBO [12] on the same side of the market as the Agency Order represents a limit order on the Book or a Post-Only Quote subject to the POP Process,[13] the Agency Order must be stopped at a price that is at least $0.01 increment better than the Book price.[14]

*B. Post-Only OQs Received During the PRIME Auction*

As described in more detail in the Notice,[15] the Exchange proposes to no longer reject Post-Only OQs that it receives when the System is conducting a PRIME Auction. Instead, the System will accept Post-Only OQs received during a PRIME Auction and will treat them in the same manner as other unrelated interest received during a PRIME Auction.[16] Accordingly, Post-Only OQs now will participate in a PRIME Auction and be eligible to execute against the Agency Order.[17]

*C. Automatic Execution of Agency Order Against Opposite Side Post-Only Interest on the Book*

Next, the Exchange proposes, before commencing a PRIME Auction, to have trading interest on the opposite side of the market as the Agency Order that is subject to the POP Process automatically execute against the Agency Order if the execution would be at a price $0.01 inside the EBBO.[18] For an Agency Order to buy, the execution price would need to be $0.01 higher than the EBB, and for an Agency Order to sell, the execution price would need to be $0.01 lower than the EBO. If the Agency Order was not fully executed after the trading interest subject to the POP Process is fully exhausted, then a PRIME Auction would be initiated for the balance of the Agency Order. Further, with respect to any portion of an Agency Order that is automatically executed against interest subject to the POP Process, the exposure requirements contained in Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85783 (May 6, 2019), 84 FR 20665 (May 10, 2019) (''Notice'').

[4] *See* Exchange Rule 515A(a).

[5] ''Post-Only Orders'' are orders that, by their terms, will not remove liquidity. *See* Exchange Rule 516(m).

[6] ''Post-Only Quotes'' are quotes that, by their terms, will not remove liquidity. *See* Exchange Rule 517(a)(1)(i).

[7] *See* Exchange Rule 515A(a)(1)(iv).

[8] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the Exchange's system. *See* Exchange Rule 100.

[9] *See* Exchange Rule 515(c)(1)(ii).

[10] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[11] *See* Exchange Rule 515A(a).07. The Exchange proposes to delete current Interpretation and Policy .07 and adopt new Interpretation and Policy .08 to Rule 515A, to state that if trading interest exists on the MIAX Emerald Book that is subject to the Managed Interest Process pursuant to Rule 515(c) or the Post-Only price process (''POP Process'') pursuant to Rule 515(i) for the option on the same side of the market as the Agency Order, then the Agency Order will be rejected by the System prior to initiating a PRIME Auction or Solicitation Auction. The proposed new Interpretation and Policy .08 makes no substantive changes but simply clarifies that a Post-Only OQ may be handled under the Managed Interest Process or the POP Process.

[12] The term ''EBBO'' means the best bid or offer on the Exchange. *See* Exchange Rule 100.

[13] *See* Exchange Rule 515(i)(3).

[14] *See* Exchange Rule 515A(a)(2)(i)(A).

[15] *See* Notice, *supra* note 3.

[16] Post-Only Orders and Post-Only Quotes, by their terms, do not remove liquidity. Under the proposal, a PRIME Auction may conclude earlier than the end of the Request for Responses (''RFR'') period upon receipt by the System of an unrelated order, including a Post-Only Order that is received: (i) On the opposite side of the market from the RFR responses, that is marketable against either the NBBO, the initiating price, or the RFR responses; or (ii) on the same side of the market as the RFR responses, that is marketable against the NBBO. *See* Exchange Rule 515A(a)(2)(ii)(B) and (C). A PRIME Auction also may conclude early if the System receives an unrelated limit order, including a Post-Only Order, on the opposite side of the market from the Agency Order that improves any RFR response. *See* Exchange Rule 515A(a)(2)(ii)(D). Additionally, a PRIME Auction would conclude for any of the other reasons provided for in Rule 515A. *See* Exchange Rule 515A(a)(2)(ii). If the same-side Post-Only interest remains on the Book at the conclusion of a PRIME Auction, it will be subject to the POP Process. *See* Notice, *supra* note 3, at 20667.

[17] To implement this change, the Exchange proposes to amend Exchange Rules 515A(a)(1)(iv) (PRIME), 516(m) (Order Types Defined) and 517(a)(1)(i) (Quote Types Defined) to delete sentences from the rule text stating that Post-Only Quotes may not participate in a PRIME Auction and are rejected if received during a PRIME Auction.

[18] *See* Exchange Rule 515A Interpretation and Policy .07.

Rule 520(b) [19] and (c) [20] would not be satisfied just because the member utilized the PRIME.[21] A similar provision currently exists for interest in the Book that is subject to the Managed Interest Process pursuant to Exchange Rule 515(c), and the proposed rule change extends this functionality to interest that is subject to the POP Process.

*D. cPRIME Auction*

Currently, a cPRIME Agency Order will be rejected at the time of receipt if any component of the strategy involves an option that is subject to the Managed Interest Process described in Rule 515(c)(1)(ii).[22] The Exchange now proposes to also reject a cPRIME Agency Order at the time of receipt if any component of the strategy involves an option that is subject to Exchange Rule 515(d) (which describes the management process for Market Maker order and quotes) or the POP Process.

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act,[23] and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Regarding PRIME Auction eligibility and the stop price when considering existing interest resting on the Book, the proposal provides that Post-Only Quotes will now also be considered (in addition to considering resting limit orders) in determining the Auction's Agency Order stop price, which must be at least $0.01 better than the Book price if the EBBO represents a limit order on the Book or a Post-Only Quote subject to the POP Process on the same side as the Agency Order. The Commission finds that, as revised, these PRIME eligibility requirements are consistent with the Act in that they protect the priority of resting limit orders on the Book when members seek to initiate a PRIME Auction and thus they are consistent with the protection of investors and the public interest.

The Commission finds that the proposal to permit participation in a PRIME Auction by incoming Post-Only OQs received during a PRIME Auction may increase the potential liquidity available to trade with an Agency Order during a PRIME Auction and thus provide additional opportunities for price improvement to the Agency Order, thereby removing impediments to and perfecting the mechanism of a free and open market in a manner consistent with the protection of investors. The Commission notes that the participation of Post-Only interest in the PRIME Auction is limited. Specifically, Post-Only OQs may participate in a PRIME Auction if they are received during the RFR period, though they may not be submitted as responses to an RFR.[26] Further, Post-Only OQ may not participate in PRIME as an Agency Order, principal interest, or solicited interest.[27] The proposal to permit resting trading interest on the Book subject to the POP Process on the opposite side as the Agency Order to execute automatically against the Agency Order (before the System initiates a PRIME Auction) at a price $0.01 inside the EBBO is designed to accommodate within the PRIME process the presence of a preexisting, resting Post-Only OQ on the opposite side of the Agency Order, while allowing members to submit customer interest to the PRIME mechanism for potential price improvement.[28] As such, this provision is designed to provide a further opportunity for a liquidity-taking Agency Order to receive both a timely execution and meaningful price improvement. As such, it is designed in a manner that is consistent with the protection of investors.

Finally, the Commission finds that the proposal to reject a cPRIME Agency Order, and thus not commence a PRIME Auction, if any component of the complex order on the Book is subject to the POP Process is substantially similar to the current rule that provides that a cPRIME Agency Order will be rejected at the time of receipt if any component is subject to the Managed Interest Process. The Exchange intends for this provision to protect the integrity of the Book. The Commission finds that extending this protection to include interest subject to the POP Process is designed to support efficient trading in both the simple market and the complex market and remove impediments to and perfect the mechanism of a free and open market.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–EMERALD–2019–19) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 2019–13763 Filed 6–27–19; 8:45 am]

**BILLING CODE 8011–01–P**

[19] Exchange Rule 520(b) provides that members may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one second, (ii) the member has been bidding or offering on the Exchange for at least one second prior to receiving an agency order that is executable against such bid or offer, or (iii) the member utilizes the PRIME.

[20] Exchange Rule 520(c) provides that members may not execute orders they represent as agent on the Exchange against order solicited from members and non-member broker-dealers to transact with such orders unless the unsolicited Order is first exposed on the Exchange for at least one second, or the member utilizes the PRIME or PRIME Solicitation Mechanism.

[21] *See* Notice, *supra* note 3, at 20666 (for examples illustrating how Post-Only interest resting on the Book is handled).

[22] *See* Exchange Rule 515A Interpretation and Policy .12(b)(iii).

[23] 15 U.S.C. 78f.

[24] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Exchange Rule 515A(a)(2)(i)(D) (stating RFR responses shall be an Auction-or-Cancel (''AOC'') order or an AOC eQuote).

[27] *See* Exchange Rule 515A(a)(1)(iv).

[28] *See also supra* notes 19 and 20 (concerning the applicability of exposure requirements).

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86182; File No. SR–OCC–2019–803]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection To Advance Notice Concerning The Options Clearing Corporation's Proposal To Enter Into a New Credit Facility Agreement

June 24, 2019.

## I. Introduction

On April 26, 2019, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2019–803 (''Advance Notice'') pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010

(''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act'') [3] to propose to replace the 364-day term revolving credit facility that OCC currently maintains, which is due to expire on June 27, 2019.[4] The Advance Notice was published for public comment in the **Federal Register** on May 30, 2019,[5] and the Commission received no comments regarding the proposal contained in the Advance Notice. This publication serves as notice of no objection to the Advance Notice.

## II. Background

OCC maintains a $2 billion revolving credit facility to provide access to liquid resources in certain circumstances, including the default of a Clearing Member.[6] The current revolving credit facility (''Existing Facility'') was implemented on June 28, 2018 for a 364-day term, and will terminate on June 27, 2019. To maintain access to the liquid resources provided by the Existing Facility, OCC proposes to implement a replacement credit facility (''New Facility'') on substantially similar terms as the Existing Facility with one exception: OCC proposes to expand the types of collateral that OCC would be permitted to pledge under the New Facility.

OCC currently has conditional authority to borrow from the Existing Facility, using Clearing Member margin deposits or Clearing Fund contributions as collateral, (i) in anticipation of a potential default by or suspension of a Clearing Member; (ii) to meet obligations arising out of the default or suspension of a Clearing Member; (iii) to meet reasonably anticipated liquidity needs for same-day settlement as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement; or (iv) to meet obligations arising out of the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations (''Permitted Use Circumstances''). The exact same Permitted Use Circumstances will be present in the New Facility as are present in the Existing Facility.

To obtain a loan under the Existing Facility, OCC must pledge collateral. The collateral permitted under the Existing Facility includes U.S. dollars, securities issued or guaranteed by the U.S. Government or the Government of Canada,[7] S&P 500 Market Index equities, Exchange-Traded Funds, American Depositary Receipts, or certain government-sponsored enterprise debt securities. As noted above, the New Facility would permit OCC to pledge a wider range of collateral than what is contemplated by the Existing Facility. Under the New Facility, OCC would be permitted to pledge the same collateral permissible under the Existing Facility as well as debt securities issued by the Federal Republic of Germany, the Republic of France, Japan, or the United Kingdom (''Additional G7 Governments''), but only to the extent that Clearing Members are permitted to pledge such collateral as margin deposits or Clearing Fund contributions at the time that OCC obtains a loan under the New Facility.[8] In that event, under the proposed terms of the New Facility, debt securities of Additional G7 Governments would be subject to haircuts and would be permissible collateral for a loan from the New Facility only if they have minimum credit ratings of A (by Standard & Poor's) and A2 (by Moody's).

## III. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities (''SIFMUs'') and strengthening the liquidity of SIFMUs.[9]

Section 805(a)(2) of the Clearing Supervision Act [10] authorizes the Commission to prescribe regulations containing risk-management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act [11] provides the following objectives and principles for the Commission's risk-management standards prescribed under Section 805(a):

- To promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk-management standards may address such areas as risk-management and default policies and procedures, among other areas.[12]

The Commission has adopted risk-management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[13] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk management practices on an ongoing basis.[14] As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of the risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act,[15] and in the Clearing

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] *See* Notice of Filing *infra* note 5, at 83 FR 25089.

[5] Securities Exchange Act Release No. 85924 (May 23, 2019), 83 FR 25089 (May 30, 2019) (SR–OCC–2019–803) (''Notice of Filing'').

[6] *See* Securities Exchange Act Release No. 83529 (Jun. 27, 2018), 83 FR 31237 (Jul. 3, 2018) (Notice of Filing of Advance Notice of and No Objection to OCC's Proposal To Enter Into a New Credit Facility Agreement) (SR–OCC–2018–802).

[7] In 2013, OCC expanded the permissible collateral in an earlier iteration of the current revolving credit facility (''2013 Facility''). *See* Securities Exchange Release No. 70596 (Oct. 2, 2013), 78 FR 62719 (Oct. 22, 2013). In assessing the anticipated effects on and management of risk related to the 2013 Facility, OCC noted that the inclusion of Canadian Government securities as eligible collateral would increase the amount of OCC collateral that can be pledged to support borrowings under the 2013 Facility, resulting in increased availability of loans. *Id.* at 62721.

[8] OCC currently does not permit Clearing Members to pledge as margin deposits or clearing fund contributions debt securities issued by the Additional G7 Governments. As OCC clarified in its proposal, permitting Clearing Members to pledge such securities to OCC would require OCC to address certain governance requirements, including making any necessary filings with the Commission. *See* Notice of Filing, 84 FR at 25090.

[9] *See* 12 U.S.C. 5461(b).

[10] 12 U.S.C. 5464(a)(2).

[11] 12 U.S.C. 5464(b).

[12] 12 U.S.C. 5464(c).

[13] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). The Commission established an effective date of December 12, 2016 and a compliance date of April 11, 2017 for the Covered Clearing Agency Standards. OCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[14] 17 CFR 240.17Ad–22.

[15] 12 U.S.C. 5464(b).

Agency Rules, in particular Rule 17Ad–22(e)(7)(ii).[16]

*A. Consistency With Section 805(b) of the Clearing Supervision Act*

The Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act. The Commission believes that the changes proposed in the Advance Notice are consistent with promoting robust risk management, in particular management of liquidity risk presented to OCC. Renewing and maintaining a credit facility for this purpose and in the manner proposed by OCC would diversify the liquidity resources that OCC may use to resolve a Member default.[17] Additionally, the Commission believes that the terms of the New Facility providing for an expanded range of eligible collateral would promote robust risk management by giving OCC more flexibility to use assets it may already hold as a means of accessing liquidity under the New Facility. At the same time, the expansion of collateral would be limited to only those assets that Clearing Members are permitted to pledge as collateral to OCC (as margin or clearing fund contributions) at the time of the loan, which the Commission believes would further promote robust risk management by aligning the collateral necessary to access the New Facility with the actual collateral that OCC has available at that time.[18] As such, the Commission believes that the proposal would promote robust risk management practices at OCC, consistent with Section 805(b) of the Clearing Supervision Act.[19]

The Commission also believes that the changes proposed in the Advance Notice are consistent with promoting safety and soundness. As described above, the New Facility would provide OCC with an additional liquidity resource in the event of a Clearing Member default. This would promote safety and soundness for Clearing Members because it would provide OCC with a readily available liquidity resource that could enable OCC to continue to meet its obligations in a timely fashion in the event of a Clearing Member default, thereby helping to contain losses and liquidity pressures from that default. As discussed above, the expansion of the range of eligible collateral under the New Facility would further promote safety and soundness because it increases OCC's ability to access such a liquidity resource. As such, the Commission believes it is consistent with promoting safety and soundness as contemplated in Section 805(b) of the Act.[20]

In addition, the Commission believes that the proposed changes set forth in the Advance Notice are consistent with reducing systemic risks and promoting the stability of the broader financial system. As mentioned above, allowing OCC to enter into the New Facility would enable OCC to maintain an additional liquidity resource that OCC may access to help manage a Clearing Member default. Further, aligning the collateral that OCC would be permitted to pledge under the New Facility with the collateral that Clearing Members are permitted to pledge to OCC at the time that OCC accesses credit under the New Facility would give OCC flexibility to access credit under the New Facility, thereby reducing the risk that OCC would lack sufficient collateral to access the New Facility. his flexibility would, in turn, enable OCC to access additional liquidity to help manage a Clearing Member default.

Accordingly, and for the reasons stated, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[21]

**B. Consistency With Rule 17Ad–22(e)(7)(ii) of the Exchange Act**

Rule 17Ad–22(e)(7)(ii) requires, in part, OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by OCC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, holding qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i)[22] in each relevant currency for which the covered clearing agency has payment obligations owed to Clearing Members.[23] Rule 17Ad–22(a)(14) of the Exchange Act defines ''qualifying liquid resources'' to include, among other things, lines of credit without material adverse change provisions, that are readily available and convertible into cash.[24]

As described above, the implementation of the New Facility would provide OCC with continued access to a $2 billion revolving credit facility on substantially similar terms to the Existing Facility. As the Commission noted previously, the Existing Facility provides OCC with access to a single credit facility designed to help ensure that OCC has sufficient, readily-available qualifying liquid resources to meet the cash settlement obligations of its largest family of affiliated members.[25] Implementation of the New Facility on substantially similar terms to the Existing Facility would ensure that OCC maintains continued access to such a credit facility. Further, as noted above, by aligning the collateral that OCC would be permitted to pledge under the New Facility with the collateral that Clearing Members are permitted pledge to OCC at the time that OCC needs to access the New Facility, the proposed expansion of permissible collateral that OCC could pledge under the New Facility would give OCC increased flexibility to access credit under the New Facility.

[16] 17 CFR 240.17Ad–22(e)(7)(ii).

[17] OCC also maintains a minimum amount of cash in its Clearing Fund as well as a non-bank liquidity facility. *See* Securities Exchange Act Release No. 82501 (Jan. 12, 2018), 83 FR 2843 (Jan. 19, 2018) (Notice of No Objection to Advance Notice, as Modified by Amendment No. 1, Concerning the Adoption of a New Minimum Cash Requirement for the Clearing Fund) (SR–OCC–2017–808) and Securities Exchange Act Release No. 76821 (Jan. 4, 2016), 81 FR 3208 (Jan. 20, 2016) (Notice of No Objection to Advance Notice Filing, as Modified by Amendment Nos. 1, 2 and 3, Concerning The Options Clearing Corporation's Non-Bank Liquidity Facility) (SR–OCC–2015–805), respectively.

[18] The Commission is not, at this time, expressing a view regarding the specific collateral or the haircuts applicable under the New Facility as they would apply to Clearing Member margin deposits or Clearing Fund contributions. As noted, OCC currently does not permit Clearing Members to pledge as margin deposits or clearing fund contributions debt securities of Additional G7 Governments, and OCC would not be able to do so without first making any necessary filings with the Commission. *See supra* note 8. The Commission believes that an analysis of the specific collateral or haircuts that would apply to clearing member margin deposits or clearing fund contributions would be more appropriate at the time and in the context of any such future filings.

[19] 12 U.S.C. 5464(b).

[20] *Id.*

[21] 12 U.S.C. 5464(b).

[22] Rule 17Ad–22(e)(7)(i) requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by OCC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment of obligation for the covered clearing agency in extreme but plausible conditions. 17 CFR 240.17Ad–22(e)(7)(i).

[23] 17 CFR 240.17Ad–22(e)(7)(ii).

[24] 17 CFR 240.17Ad–22(a)(14).

[25] Securities Exchange Act Release No. 83529 (Jun. 27, 2018), 83 FR 31237, 31241 (Jul. 3, 2018) (SR–OCC–2018–802).

Therefore, the Commission believes that the proposal is consistent with Rule 17Ad–22(e)(7)(ii).

## IV. Conclusion

*It is therefore noticed*, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–OCC–2019–803) and that OCC is *authorized* to implement the proposed change as of the date of this notice.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–13776 Filed 6–27–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86191; File No. SR–Phlx–2019–20]**

## Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Granting Approval of Proposed Rule Change Relating to the Allocation and Prioritization of Automatically Executed Trades

June 24, 2019.

## I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change relating to the allocation and prioritization of automatically executed trades. The proposed rule change was published for comment in the **Federal Register** on May 22, 2019.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to adopt new Rule 1089 to describe in greater detail the manner in which Phlx will process, prioritize and allocate transactions. The current Phlx rule, Rule 1014(g)(vii) and (viii), describes the allocation process generally and relies on a calculation to describe how different market participants may be allocated. The Exchange now proposes to sequentially describe the manner in which an order would be allocated, including the allocation method, rounding and all potential allocation scenarios. The proposal generally codifies the Exchange's current practices while adding more explicit language to the rule text. In addition, the Exchange proposes to codify its round robin allocation of odd lots that is not set forth in its current rules.

The Exchange proposes to retain its existing allocation methodology and priorities in the new rule. For example, Public Customer orders will continue to have priority over non-Public Customer interest at the same price, provided the Public Customer order is an executable order. Generally, the Specialist and/or Directed Registered Option Trader (''DROT'') priority is then applied, before the ROT priority[4] and remaining interest. The proposed rule also codifies the manner in which rounding will be handled and makes conforming changes to the Exchange's rules.

In its proposal, the Exchange proposes one change to its existing allocation scheme. Specifically, the Exchange proposes to amend the current allocation a Specialist is entitled to receive when a Specialist is also the DROT, and the order is directed to a particular market maker (a ''Directed Order'') for 5 contracts or fewer. Today, a Specialist is entitled to the allocation of orders of 5 contracts or fewer only when such order is either not a Directed Order or is a Directed order for 5 contracts or fewer, but the DROT is not quoting at the inside price. If the order for 5 contracts or fewer is a Directed Order and the DROT is also the Specialist, then the Specialist currently is entitled to receive only the DROT allocation of 40% of the order, rather than the full size of the allocation of the order for 5 contracts or fewer.

The Exchange proposes that, assuming there is no Public Customer interest present at the same price, the Specialist would be entitled to the entire allocation of the order of 5 contracts or fewer where the Specialist is also the DROT and the Specialist receives the Directed Order and has a quote at the best price when the Directed Order is received. This specialist entitlement for orders of 5 contracts or fewer would apply only after the Opening Process and would not apply to auctions.

## III. Discussion and Commission Findings

After careful review of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[5] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

The Commission notes that the Exchange proposes to revise its rules governing how it processes, prioritizes, and allocates transactions, including by codifying practices that were not set forth in the Exchange's rules, by deleting its existing rules and adopting a new rule. The Commission believes that the Exchange's proposal protects investors and the public interest because it enhances the transparency of its transaction allocation process for market participants using its facilities. Therefore, the Commission finds that this enhanced transparency is consistent with the Act.

With respect to the Exchange's proposal to modify the specialist allocation to provide the Directed Specialist with the entire allocation of a Directed Order where the order is for 5 contracts or fewer, the Commission notes that the Directed Specialist will not be entitled to this allocation when there is a Public Customer present at the same price or when the Specialist is not quoting at the inside when the order is received. The Commission further notes that the modified specialist entitlement is identical to the existing specialist allocation of orders of 5 contracts or fewer where the order is not a Directed Order, which is provided to specialists in recognition of the specialists' affirmative market making obligations. The Commission finds that the proposed specialist allocation for Directed Orders of 5 contracts or fewer is consistent with the Act in that the proposal should promote just and equitable principles of trade.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85876 (May 16, 2019), 84 FR 23595 (''Notice'').

[4] After the DROT Priority is applied, the System excludes the Specialist/DROT from the total number of contracts that is utilized (denominator) in calculating the ROT Priority in proposed Rule 1089(a)(1)(E).

[5] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

## IV. Conclusion

*It is therefore ordered that,* pursuant to Section 19(b)(2) of the Act,[7] the proposed rule change (SR–Phlx–2019–20) be approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–13775 Filed 6–27–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86184; File No. SR–ICEEU–2019–009]**

## Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to the ICE Clear Europe Operational Risk Management Policy

June 24, 2019.

## I. Introduction

On May 1, 2019, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–ICEEU–2019–009) to formalize its Operational Risk Management Policy (''ORMP'' or ''Policy''), which consolidates, clarifies, and codifies ICE Clear Europe's current policies and practices with respect to management of operational risk. The proposed rule change was published for comment in the **Federal Register** on May 10th, 2019.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

## II. Description of the Proposed Rule Change

ICE Clear Europe is proposing to formalize its ORMP by consolidating its practices and procedures with respect to management of operational risk. The ORMP defines operational risk as the risk of an event occurring which negatively impacts the achievement of business objectives resulting from inadequate or failed internal operational controls, people, systems or external events.[4] The Policy notes several non-exhaustive examples of operational risk such as those from internal and external fraud, employment practices and workplace safety, clients, products and business practices, damage to physical assets and business disruption and system failures.[5]

The proposed ORMP would formalize ICE Clear Europe's existing process for managing operational risks by clarifying and codifying a policy governing the overall process for managing operational risks, the stakeholders responsible for executing those processes, the frequency of review of the Policy, and the governance and reporting lines for the Policy.[6] As clarified in the ORMP, risk identification and assessment is performed by the business areas exposed to the risk (referred to as ''risk owners'') at least once each year and is overseen by the Risk Oversight Department.[7] More frequent ad hoc assessments may be necessary if risks emerge or disappear between annual reviews.[8] Risk owners are also responsible for proposing and implementing remedial actions, which are approved by the ICE Clear Europe Executive Risk Committee.[9]

Under the ORMP, risk owners monitor the identified operational risk daily through the use of key performance and risk indicators.[10] The Risk Oversight Department itself monitors risks daily through risk appetite metrics and management thresholds as well as operational incidents raised by the risk owners.[11]

As formalized in the ORMP, overall oversight of the Policy rests with the Audit Committee and Risk Oversight Department.[12] Control assessments and operational incidents must also be regularly reported to senior management, the Audit Committee, the Board Risk Committee, and the Board.[13] The ORMP itself is subject to review on a biennial basis or in the event of a material change.[14]

## III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[15] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[16] and Rule 17Ad–22(e)(17)(i) thereunder.[17]

### *A. Consistency With Section 17A(b)(3)(F)*

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[18]

As discussed above, the proposed rule change would formalize ICE Clear Europe's existing policies and process for managing operational risks by clarifying, consolidating, and codifying a policy governing the overall process for managing operational risks, consolidating the existing procedures for operational risk management into a single Policy, and describing the overall process for identifying, monitoring, assessing, responding to, and reporting operational risk through the management chain. By formalizing, consolidating, and clarifying ICE Clear Europe's existing operational risk management procedures in this way, the Commission believes that ICE Clear Europe will help enhance and more clearly define the specific risk management duties, assessment metrics, and governance oversight that support ICE Clear Europe's ability to identify and respond to operational risks presented by its clearing activities. This in turn, will enhance ICE Clear Europe's ability to avoid disruption to clearing operations and address operational risks in a timely fashion, thereby promoting sound operations that facilitate prompt and accurate clearance and settlement as well as the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible. Therefore, the Commission finds that the proposed rule change is consistent with the

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–85782 (May 6, 2019), 84 FR 20671 (May 10, 2019) (SR–ICEEU–2019–009) (''Notice'').

[4] Notice, 84 FR 20671.

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] Notice, at 84 FR 20671–20672.

[14] Notice, at 84 FR 20672.

[15] 15 U.S.C. 78s(b)(2)(C).

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17Ad–22(e)(17)(i).

[18] 15 U.S.C. 78q–1(b)(3)(F).

requirements of Section 17A(b)(3)(F) of the Act.[19]

*B. Consistency With Rule 17Ad–22(e)(17)(i)*

Rule 17Ad–22(e)(17)(i) requires, in relevant part, that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, manage ICE Clear Europe's operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[20]

As described above, by formalizing, consolidating, and clarifying ICE Clear Europe's existing policies and process for managing operational risks, the ORMP is designed to enhance ICE Clear Europe's ability to identify relevant sources of operational risk, monitor them on an ongoing basis, and take appropriate and timely action to respond to such risks. Specifically, as described above, the proposed Policy provides that the business areas and functions within ICE Clear Europe that are exposed to particular operational risks will be the ''risk owners'' responsible for identifying, monitoring, assessing, and proposing approaches to the remediation of those risks. Further, as described above, these risk owners will be required as part of ongoing reporting as well as routine periodic reporting to inform multiple levels of management, up to and including the Board, of incidents, risk assessments, and plans to remediate operational risks. The Commission believes that these procedures will help ensure that the risk owners who are immediately impacted and who have the requisite expertise will regularly monitor, identify, and assess risks while also keeping ICEEU's management informed of such risks and incidents. As a result, the Commission believes that this is consistent with the obligation under Rule 17Ad–22(e)(17)(i) to identify the plausible sources of operational risk, both internal and external, and to mitigate their impact through the use of appropriate systems, policies, procedures, and controls.[21]

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act,[22] and Rule 17Ad–(e)(17)(i)[23] thereunder.

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act[24] that the proposed rule (SR–ICEEU–2019–009) change be, and hereby is, approved.[25]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 2019–13764 Filed 6–27–19; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] 17 CFR 240.17Ad–22(e)(17)(i).

[21] 17 CFR 240.17Ad–22(e)(17)(i).

[22] 15 U.S.C. 78q–1.

[23] 17 CFR 240.17Ad–22(e)(17)(i).

[24] 15 U.S.C. 78s(b)(2).

[25] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF STATE

**[Public Notice 10745]**

## 30-Day Notice of Proposed Information Collection: Smart Traveler Enrollment Program

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

**DATES:** Submit comments directly to the Office of Management and Budget (OMB) up to July 29, 2019.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PMO), U.S. Department of State, 2201 C St. NW, Washington, DC 20522, who may be reached at *RiversDA@state.gov,* or 202–485–6332.

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Smart Traveler Enrollment Program.
- *OMB Control Number:* 1405–0152.
- *Type of Request:* Reinstatement Without Change of a Previously Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–4024, 4024e.
- *Respondents:* United States Citizens and Nationals.
- *Estimated Number of Respondents:* 1,010,389.
- *Estimated Number of Responses:* 1,010,389.
- *Average Time per Response:* 20 minutes.
- *Total Estimated Burden Time:* 336,796 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

### Abstract of Proposed Collection

The Smart Traveler Enrollment Program (STEP) makes it possible for U.S. nationals to register on-line from anywhere in the world. In the event of a family emergency, natural disaster or international crisis, U.S. embassies and consulates rely on this registration information to provide registrants with critical information and assistance. 22 U.S.C. 2715 is one of the main legal authorities for use of this form.

### Methodology

99% of responses are received via electronic submission on the internet.

The service is available on the Department of State, Bureau of Consular Affairs website *http://travel.state.gov* at *https://step.state.gov/step/.* The paper version of the collection permits respondents who do not have internet access to provide the information to the U.S. embassy or consulate by fax, mail or in person.

**Michelle Bernier-Toth,**

*Managing Director.*

[FR Doc. 2019–13882 Filed 6–27–19; 8:45 am]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF STATE

**[Public Notice: 10805]**

### Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: Exhibition of Two Medieval-period Statues

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that two particular objects to be exhibited in the Department of Medieval Art of The Metropolitan Museum of Art, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about August 1, 2019, until on or about July 31, 2025, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–28 of June 10, 2019.

**Rick A. Ruth,**

*Senior Advisor, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2019–13797 Filed 6–27–19; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice: 10806]**

### Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Signs and Wonders: The Photographs of John Beasley Greene'' Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that the objects to be exhibited in the exhibition ''Signs and Wonders: The Photographs of John Beasley Greene,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the San Francisco Museum of Modern Art, in San Francisco, California, from on or about August 31, 2019, until on or about January 5, 2020, at The Art Institute of Chicago, in Chicago, Illinois, from on or about February 8, 2020, until on or about March 31, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 236–28 of June 10, 2019.

**Rick A. Ruth,**

*Senior Advisor, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2019–13796 Filed 6–27–19; 8:45 am]

**BILLING CODE 4710–05–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36284]**

### Seven County Infrastructure Coalition—Rail Construction & Operation—in Utah, Carbon, Duchesne, and Uintah Counties, Utah; Correction

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice; correction.

**SUMMARY:** The Surface Transportation Board, Office of Environmental Analysis, published a document in the **Federal Register** of June 19, 2019, concerning preparation of an environmental impact statement, scheduled scoping meetings, and a request for comments on the draft scope of study. The street address for the first scoping meeting listed was incorrect.

**FOR FURTHER INFORMATION CONTACT:** Joshua Wayland, Office of Environmental Analysis, Surface Transportation Board, 395 E Street SW, Washington, DC 20423, call the toll-free number at 1–855–826–7596, or visit the Board-sponsored project website at *www.uintabasinrailwayeis.com.*

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of June 19, 2019, in FR Doc. 2019–12836, on page 28612, in the third column, correct the first bullet point under the Public Scoping Meetings caption to read:

- Monday July 15, 2019, 3–5 p.m. at the Ute Tribal Auditorium, 6964 East 1000 South, Fort Duchesne, Utah.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2019–13890 Filed 6–27–19; 8:45 am]

**BILLING CODE 4915–01–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2019–0006]**

## Annual Review of Country Eligibility for Benefits Under the African Growth and Opportunity Act

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of initiation of review, public hearing, and request for comments.

**SUMMARY:** The Office of the U.S. Trade Representative (USTR) is announcing the initiation of the annual review of the eligibility of the sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (Subcommittee) is developing recommendations for the President on AGOA country eligibility for calendar year 2020. The Subcommittee requests comments for this review and will conduct a public hearing on this matter.

**DATES:**

*August 14, 2019 at noon EDT:* Deadline for filing requests to appear at the August 27, 2019 public hearing, and for filing pre-hearing briefs, statements, or comments on sub-Saharan African countries' AGOA eligibility.

*August 27, 2019:* The Subcommittee will convene a public hearing at 10:00 a.m. in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, to receive testimony related to sub-Saharan African countries' eligibility for AGOA benefits.

*September 3, 2019:* Deadline for filing post-hearing briefs, statements, or comments on this matter.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal Rulemaking Portal: *https://www.regulations.gov,* using docket number USTR–2019–0006. Follow the instructions for submitting comments in ''Requirements for Submissions'' below. For alternatives to on-line submissions, please contact Alan Treat, Deputy Assistant U.S. Trade Representative for Africa, at (202) 395–9514.

**FOR FURTHER INFORMATION CONTACT:** Please contact Alan Treat, Deputy Assistant U.S. Trade Representative for Africa, at (202) 395–9514.

**SUPPLEMENTARY INFORMATION:**

### I. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- A market-based economy
- the rule of law
- political pluralism
- the right to due process
- the elimination of barriers to U.S. trade and investment
- economic policies to reduce poverty
- a system to combat corruption and bribery
- protection of internationally recognized worker rights

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and more information on the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if he determines that it would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2019, the President designated the following 39 countries as beneficiary sub-Saharan African countries:

1. Angola
2. Benin
3. Botswana
4. Burkina Faso
5. Cabo Verde
6. Cameroon
7. Central African Republic
8. Chad
9. Comoros
10. Republic of Congo
11. Cote d'Ivoire
12. Djibouti
13. Eswatini
14. Ethiopia
15. Gabon
16. The Gambia
17. Ghana
18. Guinea
19. Guinea-Bissau
20. Kenya
21. Lesotho
22. Liberia
23. Madagascar
24. Malawi
25. Mali
26. Mauritius
27. Mozambique
28. Namibia
29. Niger
30. Nigeria
31. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
32. Sao Tome & Principe
33. Senegal
34. Sierra Leone
35. South Africa
36. Tanzania
37. Togo
38. Uganda
39. Zambia

The President did not designate following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2019:

1. Burundi
2. Democratic Republic of Congo
3. Equatorial Guinea (graduated from GSP)
4. Eritrea
5. Mauritania
6. Seychelles (graduated from GSP)
7. Somalia
8. South Sudan
9. Sudan
10. Zimbabwe

The Subcommittee is seeking public comments to develop recommendations to the President in connection with the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

**II. Notice of Public Hearing**

The Subcommittee will hold a hearing at 10:00 a.m. on Tuesday, August 27, 2019, to receive testimony related to sub-Saharan African countries' eligibility for AGOA benefits. The hearing will be held in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, and will be open to the public and to the press. USTR will make a transcript of the hearing available on *www.regulations.gov* approximately two weeks after the hearing date.

USTR must receive your written requests to present oral testimony at the hearing and pre-hearing briefs, statements, or comments by noon on Wednesday, August 14, 2019. You must make the intent to testify notification in the ''type comment'' field under docket number USTR–2019–0006 on the *www.regulations.gov* website and you should include the name, address, telephone number and email address, if available, of the person presenting the testimony. You should attach a summary of the testimony by using the ''upload file'' field. The name of the file also should include who will be presenting the testimony. Remarks at the hearing will be limited to no more than five minutes to allow for questions from the Subcommittee. You should submit all documents in accordance with the instructions in section III below.

**III. Requirements for Submissions**

You must submit requests to testify, written comments, and pre-hearing and post-hearing briefs by the applicable deadlines set forth in this notice. You must make all submissions in English via *http://www.regulations.gov,* using Docket Number USTR–2019–0006. USTR will not accept hand-delivered submissions. To make a submission using *http://www.regulations.gov,* enter the appropriate docket number in the 'search for' field on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'filter results by' section on the left side of the screen and click on the link entitled 'comment now.' The *regulations.gov* website offers the option of providing comments by filling in a 'type comment' field or by attaching a document using the 'upload file(s)' field. The Subcommittee prefers that you provide submissions in an attached document and note 'see attached' in the 'type comment' field on the online submission form. At the beginning of the submission, or on the first page (if an attachment) include the following text (in bold and underlined): (1) ''2019 AGOA Eligibility Review''; (2) the relevant country or countries; and (3) whether the document is a 'written comment', 'notice of intent to testify,' 'pre-hearing brief,' or 'post-hearing brief.' Submissions should not exceed thirty single-spaced, standard letter-size pages in twelve-point type, including attachments. Include any data attachments to the submission in the same file as the submission itself, and not as separate files.

You will receive a tracking number upon completion of the submission procedure at *http://www.regulations.gov.* The tracking number is confirmation that *regulations.gov* received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for the website. USTR may not consider documents you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Alan Treat, Deputy Assistant U.S. Trade Representative for Africa, at (202) 395–9514, to arrange for an alternative method of transmission. General information concerning USTR is available at *www.ustr.gov.*

**IV. Business Confidential Submissions**

If you ask USTR to treat information you submitted as business confidential information (BCI), you must certify that the information is business confidential and you would not customarily release it to the public. You must clearly designate BCI by marking the submission ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must include 'Business Confidential' in the 'type comment' field. For any submission containing BCI, you must separately submit a non-confidential version, *i.e.,* not as part of the same submission with the confidential version, indicating where BCI has been redacted. USTR will post the non-confidential version in the docket and it will be open to public inspection.

**V. Public Viewing of Review Submissions**

USTR will make public versions of all documents relating to these reviews available for public viewing pursuant to 15 CFR 2017.4, in Docket Number USTR–2019–0006 at *http://www.regulations.gov* upon completion of processing, usually within two weeks of the relevant due date or date of the submission.

**VI. Petitions**

At any time, any interested party may submit a petition to USTR with respect to whether a beneficiary sub-Saharan African country is meeting the AGOA eligibility requirements. An interested party may file a petition through *www.regulations.gov,* under docket number USTR–2019–0006.

**Edward Gresser,**

*Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.*

[FR Doc. 2019–13905 Filed 6–27–19; 8:45 am]

**BILLING CODE 3290–F9–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2019–0269]**

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Acquisition Management System (FAAAMS)

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 8, 2019 This collection involves the FAA Acquisition Management System (FAAAMS) and information collected in response to notices regarding FAA acquisitions. The information to be collected is necessary to solicit, award, and administer contracts for supplies, equipment, services, facilities, and real property to fulfill the FAA's mission. This notice revises the background based on three overall acquisition areas with applicable forms under each, and updates the figures for ''Respondents'' and ''Estimated Total Annual Burden'' below based on a revised assessment of the contractual workload.

**DATES:** Written comments should be submitted by July 29, 2019.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to

the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Tim Eckert by email at: *Tim.Eckert@faa.gov* or by phone at 202–267–7527.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0595.

*Title:* FAA Acquisition Management System (FAAAMS).

*Form Numbers:* Please see *https://fast.faa.gov/Procurement_Forms.cfm* for all forms.

*Type of Review:* Renewal of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 8, 2019 (84 FR 13987). No comments were received in response to this Notice. The FAAAMS establishes policies and internal procedures for FAA acquisition. Section 348 of Public Law 104–50 directed FAA to establish an acquisition system. The information collection is carried out as an integral part of FAA's acquisition process. Various portions of the AMS describe information needed from vendors seeking or already doing business with FAA. Our contracting offices collect the information to plan, solicit, award, administer and close individual contracts. Our small business office collects information to promote and increase small business participation in FAA contracts. AMS requires information collection through forms in the following areas (specific information collected varies by the nature of each form):

*IC–1 Market Surveys/Requests for Information*—In the initial stage of a procurement, these activities are used to identify products and services available to meet FAA needs, as well as to obtain vendor comments on draft requirements identified to satisfy an FAA need. The information obtained is important in determining the acquisition strategy in such areas as the evaluation criteria for competitive proposals or whether to set the procurement aside for a particular size of business.

Total Number of Form Responses per Year—8,572.

Average Burden Houses per Response—7.94.

Annual Burden Hours—68,044.

*Forms:*

Business Declaration—collect information on business size of prospective vendors.

SF–330 Architect-Engineer Qualifications—collect information from prospective architect-engineer firms on their qualifications.

Interested Parties Form—used to publicize information on prospective vendors for the purposes of subcontracting/teaming opportunities.

*IC–2 Solicitations*—In the next stage of a procurement, these activities are used to evaluate proposals with vendor-specific technical solutions, capabilities, and other qualifications such as subcontracting plans that may result in the award of a contract for a defined FAA need. The extent and nature of the information required from vendors varies depending on the nature of the goods and/or services procured, as well as the size and complexity of the FAA requirements.

Total Number of Form Responses per Year—28,798.

Average Burden Houses per Response—20.93.

Annual Burden Hours—602,732.

*Forms:*

SF–30—Amendment of Solicitation/Modification of Contract—communicate changes to FAA requirements to prospective vendors in amendments.

SF–252 Architect-Engineer Contract—award architect-engineer contracts.

SF–26—Award/Contract—award contracts.

DOT 4220.34 Contract Facilities Capital Cost of Money—vendors to provide complete information on facilities' capital cost of money in their cost proposals.

DOT4220–.34—Contract Pricing Summary—vendors to provide a complete summary of their costs in their cost proposal.

SF–18/33/1447—Request for Quotations/Solicitation, Offer, and Award/Solicitation/Contract—request contractor quotes/proposals.

SF–1442 Solicitation, Offer, and Award—vendor responses to construction, alteration, or repair solicitations.

*IC–3 Post-Award Contract Administration*—Depending on the complexity and size of the contract, various activities are ongoing after contract award in areas such as bonds (*e.g.,* for construction contracts), small business subcontracting (*e.g.,* applying to large businesses), the tracking and management of Government Property, and invoicing. Contract modifications vary from routine administrative updates to major additions of work.

Total Number of Form Responses per Year—110,336.

Average Burden Hours per Response—2.36.

Annual Burden Hours—249,918.5.

*Forms:*

SF–30 Amendment of Solicitation/Modification of Contract—used for contract modifications of all kinds.

DOT 4220.4 Contractor's Release—contractor release of claims for a matter under the contract.

SF–1443—Contractor's Request for Progress Payments—contractor request for payment based on a percentage of total cost or stage of completion.

Electronic Funds Transfer Waiver Request—contractor request for exemption from electronic funds payment process.

SF–1428—Inventory Schedule B/Continuation Sheet—contractor inventory of Government Property.

DOT 4220.42 Material Inspection and Receiving Report—contractor invoice submittal.

SF–25A—Payment Bond—required for certain construction contracts as defined in the AMS.

SF–25—Performance Bond Annual—where a performance bond is appropriate for all covered contracts.

SF–1439—Schedule of Accounting Information—for contractor termination settlement proposal submittals.

SF–1443—Statement and Acknowledgment—in construction contracts for each subcontract awarded.

*Respondents:* Contractors with an interest in or involved with FAA Acquisitions: 9,240.

*Frequency:* On occasion.

*Estimated Average Burden per Response:* 6.2.

*Estimated Total Annual Burden:* 921,739 (any differences from cumulative area information due to rounding).

Issued in Washington, DC, on June 24 2019.

**Michelle G. Brune,**

*Division Manager, Acquisition Policy Division (AAP–100).*

[FR Doc. 2019–13789 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2019–0287]**

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certificated Training Centers—Simulator Rule

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 18, 2019. The collection involves Certificated Training Centers. Operators pay Certificated Training Centers to provide training to their employees, typically pilots, on different types of equipment if training is not done in house. The information to be collected is necessary because it allows aviation safety inspectors (operations) to review and to provide surveillance to training centers to ensure compliance with airman training, testing, and certification requirements specified in other parts of the regulations. If the information were not collected, inspectors would not be able to determine if airmen who are clients are being trained, checked or tested to meet the safety standards established in other parts of the regulations. To date, FAA inspectors have used the information collected to determine and assess regulatory compliance during routine program surveillance.

**DATES:** Written comments should be submitted by July 29, 2019.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Sandra Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0570.

*Title:* Certificated Training Centers—Simulator Rule.

*Form Numbers:* There are no forms associated with this collection.

*Type of Review:* Renewal of an Information Collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 18, 2019 (84 FR 16316). Part 142 Flight Schools are subject to several collection requirements. 14 CFR part 142 is one of several Federal Regulation parts that implement the Public Law. Section 142.11 provides that application for a training center certificate and training specifications shall be made in a form and manner prescribed by the Administrator, shall provide specific information about each management, instructor position, and evaluator position, and contain certain other administrative information.

Section 142.37 provides that application for approval of training programs must be in a form and manner acceptable to the Administrator, and must provide specific information about curriculum and courses of the training program.

Chapter 447, Section 44701 of Title 49, United States Code, provides, in pertinent part, that the Administrator may find, after investigation, that a person found to possess proper qualifications for a position as an airman may be issued such certificate. That certificate shall contain such terms, conditions, and limitations as to duration thereof, as well as periodic or special examinations, and other matters as the Administrator may determine to be necessary to assure safety in air commerce.

Section 142.73 requires that training centers maintain records for a period of one year to show trainee qualifications for training, testing, or checking, training attempts, training checking, and testing results, and for one year following termination of employment the qualification of instructors and evaluators providing those services.

The respondents may be the Part 142 schools, Part 121 or 135 air carriers who utilize these schools or new applicants seeking Part 142 certification. The information may be collected in electronic forms. No specific forms are required. Information reporting may be done in accordance with the individual FAA office.

*Respondents:* 82,239 (Includes Part 142 schools, Part 121 and 135 carriers and new certifications).

*Frequency:* On occasion.

*Estimated Average Burden per Response:* 96 hours.

*Estimated Total Annual Burden:* 83,767 hours.

Issued in Washington, DC, on June 25, 2019.

**Sandra L. Ray,**

*Aviation Safety Inspector, FAA, Policy Integration Branch, AFS–270.*

[FR Doc. 2019–13892 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2019–0004–N–8]**

### Proposed Agency Information Collection Activities; Comment Request

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On February 22, 2019, FRA published a notice providing a 60-day period for public comment on the ICRs.

**DATES:** Interested persons are invited to submit comments on or before July 29, 2019.

**ADDRESSES:** Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments

may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On February 22, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 84 FR 5805. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30-days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

*Comments are invited on the following ICRs regarding:* (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Federal Railroad Administration Disadvantaged Business Enterprise (DBE) Disparity Study.

*OMB Control Number:* 2130–NEW.

*Abstract:* Congress mandated a disparity study evaluating participation by small and disadvantaged businesses in railroad contracts. This study will ensure that the requirements of the Disadvantaged Business Enterprise (DBE) program for federally funded projects administered by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA), under 49 CFR part 26, are executed properly. The purpose of this disparity study is to evaluate the market for the availability, utilization, and capability of small and disadvantaged businesses in publicly-funded railroad contracts. The data provided by the study will be used to inform FRA and DOT on the state of small and disadvantaged business contracting in the railroad industry and will be a component of FRA's Title VI compliance program.

Currently, FRA does not have statutory authority to administer a DBE program like those in place at FHWA, FTA, and the Federal Aviation Administration (FAA). DBE regulations applicable to FHWA, FTA, and FAA require State and local transportation agencies that receive DOT financial assistance to establish goals for the participation of DBEs. Each DOT-assisted State and local transportation agency is required to establish annual DBE goals, review the scope of anticipated, large prime contracts, and establish contract-specific DBE subcontracting goals. Without statutory DBE authority, FRA can only encourage recipients of its Federal financial assistance to carry out their projects in accordance with DBE guidelines, in support of DBEs, Veteran-Owned Small Businesses, and Service Disabled Veteran-Owned Small Businesses. Despite the lack of a formal DBE program, FRA fully supports the objectives of DBE programs and all FRA's grantees are required to avoid discrimination in contracting.

In late 2015, Congress passed the ''Fixing America's Surface Transportation Act'' (FAST Act), Public Law 114–94. The FAST Act codified the requirement for FRA, as the Secretary of Transportation's (Secretary) delegate, to conduct ''a nationwide disparity and availability study on the availability and use of small business concerns owned and controlled by socially and economically disadvantaged individuals and veteran-owned small businesses in publicly funded intercity rail passenger transportation projects.'' *See* FAST Act, sec. 11310, Small Business Participation Study. The legislation requires that: ''Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report containing the results of the study . . . to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.'' *Id.*

This study will include three surveys and a series of webinars with focus groups. In Survey #1, FRA will contact all FRA grant recipients to identify prime and sub-contractors, consultants, and vendors that received grant funds and the amount of those funds. This survey is necessary to determine the percentage of FRA grant funding and contracts received by DBEs.

Survey #2 will focus on DBE and non-DBE firms in the railroad industry. The survey will solicit information regarding experiences with discrimination, as well as experiences in bidding with the grantees and their prime contractors and consultants. This approach will ensure that the survey responses are accurate.

Because response rates to voluntary surveys tend to be low, FRA will develop an outreach campaign, use professionally designed surveys, incorporate cover letters signed by senior FRA officials, include multiple reminders, and enable a dedicated telephone line and email address for requesting replacement surveys and addressing other inquiries.

The study team will also collect information regarding discrimination and experiences with publicly funded railroad contracts through webinar focus groups comprised of DBE and non-DBE business owners, as well as procurement personnel at FRA and its grantees. These focus groups likewise will explore barriers to the full and fair participation of DBEs in FRA's market area and that of its grantees. The focus groups also will explore whether USDOT grant programs and policies adequately address these challenges. FRA expects these focus groups will reveal valuable information about the realities affecting DBE firms and will inform the agency how to develop its policy responses to those challenges.

In Survey #3, the study team will verify the DBE status of eligible firms. The comparison of DBEs' participation relative to their prevalence by industry and geography is crucial to developing sound, statistical evidence of potential discrimination. The study will cross-

reference additional listings and directories of DBE firms to improve the accuracy of the classification of firms. FRA will take the additional step of validating putative assignments using telephone surveys of a statistically random sample of businesses from its database.

*Type of Request:* Approval of a new collection of information.

*Affected Public:* Businesses.

*Form(s):* FRA F 6180.171; FRA F 6180.172; FRA F 6180.173; FRA F 6180.174.

*Respondent Universe:* 35,000 Grantees, Sub-Grantees, Prime Contractors, Sub-Contractors, DBEs, and Non-Disadvantaged Business Firms.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 7,750.

*Total Estimated Annual Burden:* 3,151 hours.

*Total Estimated Dollar Cost:* $181,655.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Acting Chief Counsel.*

[FR Doc. 2019–13792 Filed 6–27–19; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

**[Docket ID OCC–2019–0011]**

### Mutual Savings Association Advisory Committee

**AGENCY:** Office of the Comptroller of the Currency, Department of the Treasury.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The OCC announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

**DATES:** A public meeting of the MSAAC will be held on Tuesday, July 23, 2019, beginning at 8:30 a.m. Eastern Daylight Time (EDT).

**ADDRESSES:** The OCC will hold the July 23, 2019 meeting of the MSAAC at the OCC's offices at 400 7th Street SW, Washington, DC 20219.

**FOR FURTHER INFORMATION CONTACT:** Michael R. Brickman, Deputy Comptroller for Thrift Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** By this notice, the OCC is announcing that the MSAAC will convene a meeting on Tuesday, July 23, 2019, at the OCC's offices at 400 7th Street SW, Washington, DC 20219. The meeting is open to the public and will begin at 8:30 a.m. EDT. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory or other changes the OCC may make to ensure the health and viability of mutual savings associations. The agenda includes a discussion of current topics of interest to the industry.

Members of the public may submit written statements to the MSAAC. The OCC must receive written statements no later than 5:00 p.m. EDT on Tuesday, July 16, 2019. Members of the public may submit written statements to *MSAAC@occ.treas.gov* or by mailing them to Michael R. Brickman, Designated Federal Officer, Mutual Savings Association Advisory Committee, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Tuesday, July 16, 2019, to inform the OCC of their desire to attend the meeting and to provide information that will be required to facilitate entry into the meeting. Members of the public may contact the OCC via email at *MSAAC@OCC.treas.gov* or by telephone at (202) 649–5420. Members of the public who are hearing impaired should call (202) 649–5597 (TTY) by 5:00 p.m. EDT on Tuesday, July 16, 2019, to arrange auxiliary aids such as sign language interpretation for this meeting.

Attendees should provide their full name, email address, and organization, if any. For security reasons, attendees will be subject to security screening procedures and must present a valid government-issued identification to enter the building.

Dated: June 21, 2019.

**Joseph M. Otting,**

*Comptroller of the Currency.*

[FR Doc. 2019–13777 Filed 6–27–19; 8:45 am]

**BILLING CODE 4810–33–P**

## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

### Proposed Collection of Information: FHA New Account Request, Transition Request, and Transfer Request

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the collections of information required to comply with the terms and conditions of FHA New Account Request, Transition Request, and Transfer Request.

**DATES:** Written comments should be received on or before August 27, 2019 to be assured of consideration.

**ADDRESSES:** Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* FHA New Account Request, Transition Request, and Transfer Request.

*OMB Number:* 1530–0054.

*Form Numbers and Titles:* FS Form 5354—FHA Transaction Request, FS Form 5366—FHA New Account Request, FS Form 5367—FHA Debenture Transfer Request.

*Abstract:* The information is used to (1) establish a book-entry account; (2) change information on a book-entry account; and (3) transfer ownership of a book-entry account on the HUD system, maintained by the Federal Reserve Bank of Philadelphia.

*Current Actions:* Extension of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 300.

*Estimated Time per Respondent:* 10 minutes.

*Estimated Total Annual Burden Hours:* 50.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 2019.

**Bruce A. Sharp,**

*Bureau Clearance Officer.*

[FR Doc. 2019–13782 Filed 6–27–19; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

### Proposed Collection of Information: Application Forms for U.S. Department of the Treasury Stored Value Card (SVC) Program

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application Forms for U.S. Department of the Treasury Stored Value Card (SVC) Program.

**DATES:** Written comments should be received on or before August 27, 2019 to be assured of consideration.

**ADDRESSES:** Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Sean Kemple, Agency Enterprise Solutions Division; 401 14th Street SW, Room 348E, Washington, DC 20227, (202) 874–0132.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application Forms for U.S. Department of the Treasury Stored Value Card (SVC) Program.

*OMB Number:* 1530–0013.

*Form Number:* FS Form 2887—Application Forms for U.S. Department of the Treasury Stored Value Card (SVC) Program; FS Form 2889—U.S. Department of The Treasury Stored Value Card Contractor Agreement; and FS Form 5752—Authorization To Disclose Information Related To Stored Value Account.

*Abstract:* This collection of forms is used to collect information from individuals requesting enrollment in the Treasury SVC program along with supplemental information for contractors choosing to participate in the program, to obtain authorization to initiate debit and credit entries to their bank or credit union accounts, and to facilitate collection of any delinquent amounts. Disclosure of the information requested on the forms is voluntary; however, failure to furnish the requested information may significantly delay or prevent participation in the Treasury SVC program.

*Current Actions:* Revision of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 102,030.

*Estimated Time per Respondent:* 10 minutes for FS Form 2887 and FS Form 2889; 1 minute for FS Form 5752.

*Estimated Total Annual Burden Hours:* 17,001.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 2019.

**Bruce A. Sharp,**

*Bureau Clearance Officer.*

[FR Doc. 2019–13780 Filed 6–27–19; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

#### Notice of OFAC Actions

On June 24, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

*Individuals*

1. HAJIZADEH, Amir Ali, Iran; DOB 1961; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23,

2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

2. TANGSIRI, Ali Reza (a.k.a. TANGSIRI, Alireza), Iran; DOB 1962; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

3. GHOLAMSHAHI, Abbas (a.k.a. QOLAMSHAHI, Abbas), Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

4. ZIRAHI, Ramezan, Iran; DOB 1969; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

5. BADIN, Yadollah (a.k.a. BADIN, Yadullah), Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

6. RAVANKAR, Mansur (a.k.a. RAVANKAR, Mansour), Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

7. OZMA'I, Ali (a.k.a. OZMAIE, Ali), Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

8. PAKPOUR, Mohammad (a.k.a. PAKPUR, Mohammad), Iran; DOB 1961; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the ISLAMIC REVOLUTIONARY GUARD CORPS, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: June 24, 2019.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2019–13836 Filed 6–27–19; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

### Open Meeting of the Financial Research Advisory Committee

**AGENCY:** Office of Financial Research, Department of the Treasury.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) is convening for its 14th meeting on Thursday, July 11, 2019, in the Benjamin Strong Room at the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, beginning at 9:00 a.m. EST. The meeting will be open to the public and limited seating will be available.

**DATES:** The meeting will be held on Thursday, July 11, 2019 beginning at 9:00 a.m. EST.

**ADDRESSES:** The meeting will be held in the Benjamin Strong Room at the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045. The meeting will be open to the public. A limited number of seats will be available for those interested in attending the meeting, and those seats would be on a first-come, first-served basis. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the OFR by email at *OFR_FRAC@ofr.treasury.gov* by 5 p.m. EST on Wednesday, July 3, 2019, to inform the OFR of their desire to attend the meeting and receive further instructions about building clearance.

**FOR FURTHER INFORMATION CONTACT:** Tricia Driver, Designated Federal Officer, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 622–1766 (this is not a toll-free number), or *OFR_FRAC@ofr.treasury.gov*. Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a)(2), through implementing regulations at 41 CFR 102–3.150, *et seq.*

*Public Comment:* Members of the public wishing to comment on the business of the Financial Research Advisory Committee are invited to submit written statements by any of the following methods:

- *Electronic Statements.* Email the Committee's Designated Federal Officer at *OFR_FRAC@ofr.treasury.gov*.
- *Paper Statements.* Send paper statements in triplicate to the Financial Research Advisory Committee, Attn: Tricia Driver, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

The OFR will post statements on the committee's website, *http://www.financialresearch.gov,* including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. The OFR will also make such statements available for public inspection and copying in the Department of the Treasury's library, Annex Room 1020, 1500 Pennsylvania Avenue NW, Washington, DC 20220 on official business days between the hours of 8:30 a.m. and 5:30 p.m. EST. You may make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

*Tentative Agenda/Topics for Discussion:* The committee provides an

opportunity for researchers, industry leaders, and other qualified individuals to offer their advice and recommendations to the OFR, which, among other things, is responsible for collecting and standardizing data on financial institutions and their activities and for supporting the work of the Financial Stability Oversight Council.

Due to scheduling challenges, this meeting is being announced with less than 15 days notice (see 41 CFR 102–3.150(b)). This is the 14th meeting of the Financial Research Advisory Committee. Topics to be discussed include leveraged lending and transitioning from LIBOR to SOFR. For more information on the OFR and the committee, please visit the OFR website at *http://www.financialresearch.gov*.

Dated: June 24, 2019.

**Patricia Driver,**

*Senior Government Affairs Specialist.*

[FR Doc. 2019–13877 Filed 6–27–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974; System of Records

**AGENCY:** Veterans Health Administration (VHA), Department of Veterans Affairs (VA).

**ACTION:** Rescindment of a System of Records.

**SUMMARY:** VA is rescinding an outdated system of records entitled, ''National Chaplain Management Information System (NCMIS)–VA'' (84VA111K).

**DATES:** The system was discontinued on September 1, 2009, and VHA stopped maintaining the records on September 1, 2016 (following the retention/destruction period). Comments on this rescindment notice must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment, or unless otherwise published in the **Federal Register** by VA, the rescindment will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

**ADDRESSES:** Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026 (not a toll-free number). Comments should indicate that they are submitted in response to the National Chaplain Management Information System (NCMIS)–VA. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m. E.S.T., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, comments may be viewed online at *www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Stephania Griffin, VHA Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; telephone (704) 245–2492.

**SUPPLEMENTARY INFORMATION:** Categories of individuals covered by the system were: Chaplain Service staff, applicants for VA chaplain positions (VA employees and individuals seeking VA employment), and selected providers of services to the VA chaplaincy. Records were maintained in electronic and paper form. Each format may have included names, social security numbers, or other assigned identifiers of the individuals on whom they were maintained.

This system of records notice is being rescinded since VA no longer maintains these records. The VA National Chaplain Center disestablished the National Chaplain Management Information System Records on September 1, 2009. This electronic records information system and records associated with the system were destroyed per Record Control Schedule (RCS) 10–1, chapter 1, Subject Identification Code 1120 item 6, National Chaplain Management Information System Records, NARA job # (N1–015–95–1). This was done with the authority of the National Chaplain Center and the VA Office of Information and Technology in accordance with the Privacy Act of 1974. This system was last published in the **Federal Register** on May 8, 2009, at 74 FR 21746.

### Signing Authority

The Senior Agency Official for Privacy approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. James P. Gfrerer, Assistant Secretary for Information and Technology and Chief Information Officer, Department of Veterans Affairs approved this document on April 5, 2019 for publication.

Dated: June 25, 2019.

**Amy L. Rose,**

*Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.*

### SYSTEM NAME AND NUMBER

''National Chaplain Management Information System (NCMIS)–VA'' (84VA111K)

#### HISTORY

Last full publication provided in 74 FR 21746 dated May 8, 2009.

[FR Doc. 2019–13876 Filed 6–27–19; 8:45 am]

**BILLING CODE P**

# FEDERAL REGISTER

Vol. 84 Friday,

No. 125 June 28, 2019


Part II

## Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Electronic Monitoring Program; Final Rule

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 1511169999493–02]**

**RIN 0648–BF52**

## Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Electronic Monitoring Program

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement an electronic monitoring (EM) program for two sectors of the limited entry trawl fishery, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (FMP). The action allows catcher vessels in the Pacific whiting fishery and fixed gear vessels in the shorebased Individual Fishing Quota (IFQ) fishery to use EM in place of observers to meet the requirements of the Trawl Rationalization Program for 100-percent at-sea observer coverage. This action is necessary to increase operational flexibility and reduce monitoring costs for vessels in the trawl fishery by providing an alternative to observers. Data from the EM program will be used to debit discards of IFQ species from IFQs and mothership cooperative allocations. Through this action, NMFS has also approved and is implementing the following measures: An application process for interested vessel owners; performance standards for EM systems; requirements for vessel operators; a permitting process and standards for EM service providers; and, requirements for processors (first receivers) for receiving and disposing of prohibited and protected species from EM trips.

**DATES:** Effective July 29, 2019.

**ADDRESSES:** Copies of the regulatory amendment and analysis prepared by the Pacific Fishery Management Council (Council) are available from Chuck Tracy, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384. The Regulatory Impact Review (RIR), final environmental assessment (EA), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are accessible at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish_catch_shares/electronic_monitoring.html.* The FRFA assessing the impacts of the final measures adopted as originally proposed on small entities and describing steps taken to minimize any significant economic impact on such entities consists of the FRFA, preamble, and the summary of impacts and alternatives contained in the Classification section of this final rule and the regulatory amendment.

**FOR FURTHER INFORMATION CONTACT:** Melissa Hooper, Permits and Monitoring Branch Chief, phone: 206–526–4353, fax: 206–526–4461.

**SUPPLEMENTARY INFORMATION:**

### Background

The Pacific Coast Groundfish FMP specifies management measures for over 90 different species of rockfish, flatfish, roundfish, sharks, skates, and other species, in federal waters off the West Coast states. Target species in the commercial fishery include Pacific hake (whiting), sablefish, dover sole, and rockfish, which are harvested by vessels using primarily midwater and bottom trawl gear, but also fish pots and hook and line. The trawl fishery is managed under a catch share program called the Trawl Rationalization Program, which was implemented through Amendments 20 and 21 to the FMP in January 2011. The Program consists of an IFQ program for the shorebased trawl fleet (including whiting and non-whiting sectors) and cooperatives for the at-sea mothership and catcher/processor trawl fleets (whiting only). As part of the catch share program, Amendment 20 implemented requirements for 100-percent monitoring at-sea and dockside in order to ensure accountability for all landings and discards of allocated species. Catcher/processors and motherships are required to carry two observers at all times, depending on the length of the vessel, and catcher vessels are required to carry one observer, including while in port until all fish are offloaded. In addition, first receivers, which are processors that are licensed to receive IFQ landings, are required to have catch monitors to monitor 100-percent of IFQ offloads. Vessel owners and first receivers are responsible for obtaining and funding catch share observers and catch monitors as a necessary condition of their participation in the program. However, NMFS provided funds for the cost of observers for the first five years of the program to assist the industry in transitioning to the catch share program. The amount of these funds declined each year and ended in September 2015.

The Council developed this regulatory amendment to respond to concerns about the industry's ability to support observer costs and to implement EM as an alternative option to meet the 100-percent at-sea monitoring requirement in the fishery. As described in Chapter 2 of the EA, this action is necessary to increase operational flexibility; decrease incentives to fish in unsafe conditions; reduce monitoring costs; increase revenues; reduce the physical intrusiveness of the monitoring system; use the technology most suitable and cost effective for the monitoring system; and to maintain monitoring capabilities in small ports. This action specifies the detailed requirements necessary to implement an EM option for two components of the trawl fishery—catcher vessels using midwater trawl gear to target whiting in the mothership and shorebased sectors and trawl-permitted vessels using fixed gear to target other species in the shorebased sector. The Council has also developed EM regulations for the remaining two components of the shorebased IFQ fishery—vessels using bottom trawl and midwater trawl to target non-whiting species—which NMFS will propose in a separate rulemaking anticipated in mid-2019. A more extensive discussion of the development of the regulatory amendment and EM measures is available in the proposed rule (81 FR 61161; September 6, 2016) and is not repeated here.

Public comments were accepted on the proposed rule from September 6, 2016, through October 6, 2016. After review of public comments, NMFS has determined that the regulations are consistent with the goals and objectives of the Pacific Coast Groundfish FMP, and the requirements of the MSA and other applicable law. This determination is based on NMFS' review of the administrative record, including the Council's record, and NMFS' consideration of comments received during the comment period for the proposed rule. After considering the required statutory factors and the goals and objectives of the Pacific Coast Groundfish FMP, NMFS has determined that the Council's recommended EM program provides for an alternative method of meeting the monitoring requirements of the Trawl Rationalization Program that reduces the costs and operational burden of these requirements, while ensuring the best scientific information available for conservation and management.

### Final Measures

This section summarizes the measures contained in this final rule. To

implement these measures NMFS revises the trawl fishery regulations in §§ 660.13, 660.19, 660.130, 660.140, and 660.150, to allow for vessel owners to use EM in place of an observer and establishes new regulations in §§ 660.600–660.604 governing the use of EM.

*1. EM Program*

NMFS determined that the proposed EM program for Pacific whiting catcher vessels in the shorebased and mothership sectors and fixed gear vessels in the shorebased sector of the groundfish fishery is consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable law because it increases operational flexibility and reduces costs for these vessels, while maintaining the best scientific information available for management. Vessel owners will be able to apply to NMFS to receive an exemption from the 100-percent observer coverage requirement, provided that they use an EM system and follow the catch handling, reporting, and other requirements of the EM program. Vessel owners authorized to use EM would be required to obtain an EM system from a NMFS-permitted service provider, as well as services to install and maintain the EM system, process and store EM data (*i.e.,* video imagery, sensor data, and other associated data files), and report EM summary data and compliance information to NMFS. Vessel owners have the choice of contracting with any NMFS-permitted service provider. Vessel operators would be required to submit a logbook reporting their discards of IFQ species. NMFS would use the logbook data to debit discards of IFQ species from IFQs and cooperative allocations, and use the EM summary data reports to audit the logbook data. EM data would also be used to monitor compliance with the requirements of the catch share program. NMFS' incremental costs to administer the EM program would be recoverable through Trawl Program cost recovery fees. The requirements of the program for vessel owners, operators, first receivers, and service providers, are described in more detail in the proposed rule (81 FR 61161; September 6, 2016) and are not repeated here.

According to NMFS' analysis, EM may save some shorebased whiting vessels as much as $27,777 a year on monitoring relative to human observers. Mothership catcher vessels and fixed gear vessels may save up to $5,900 and $7,575 annually, respectively. These savings would be expected to increase net revenues and improve profitability for these vessels, and the fishery overall, consistent with the goals and objectives of the FMP. EM would also increase operational flexibility for groundfish vessels by providing them the option to choose the tool that best suits their individual operations. For some vessels, EM may be preferable because it does not require accommodating or coordinating with an observer, particularly in small or remote ports where an observer may not be readily available. In this way, EM also reduces the logistical burden and adverse economic impacts of the 100-percent at-sea monitoring requirements on these vessels and their communities, consistent with National Standard 8 of the MSA.

The EM program maintains high quality information on discards of IFQ species for management decisions, while minimizing the costs of data collection requirements, consistent with National Standards 2 and 7 of the MSA. The EM program would continue to provide estimates of discards of IFQ species, which is necessary for maintaining accountability for total mortality of these species, as well as individual IFQ allocations. While EM cannot collect all the information collected by human observers, NMFS and the Council have made every effort to ensure consistent protocols between the human observer and EM programs, to ensure comparable quality, and allow their integration for management. To ensure that the EM Program continues to provide NMFS with the best scientific information available for management, NMFS and the Council have also established strict performance standards in the regulations for EM units, vessels, and providers. In addition, NMFS intends to maintain some level of NMFS' West Coast Groundfish Observer Program coverage on EM trips to continue to collect biological and other information that EM cannot collect. NMFS and the Council have also established retention rules that minimize the mortality of bycatch to the extent practicable consistent with National Standard 9 of the MSA, by allowing discarding of those species that can be identified on camera.

NMFS received some public comments expressing concern that the cost of EM data services (*i.e.,* video review, storage, and reporting) beginning in 2020 (now 2021) would undercut the cost savings of EM and requesting delay of these requirements to a later rulemaking. As NMFS addresses further in the response to these comments, EM is not a viable alternative to observers to meet the 100-percent at-sea monitoring requirement of the catch share program without analysis of the EM data and submission of reports to NMFS. Without these elements, the EM Program would not meet the goals and objectives of the Trawl Rationalization Program and, consequently, the Pacific Coast Groundfish FMP. NMFS understands the industry's concerns about the costs of monitoring overall and has committed to working with the Council to continue to find ways to improve the cost savings of the EM program, such as by reducing the amount of video reviewed to prepare EM summary reports, and the length of time that industry must store its EM data (specifically the video data), while still ensuring that the EM Program provides an appropriate alternative to observers. In addition, as explained in response to comment 2 below, NMFS has paid for EM video review and storage under the EM Exempted Fishing Permit (EFP) program, which has been testing camera systems and EM video data review protocols, and intends to continue to do so through 2020, subject to available appropriations. However, NMFS cannot commit to providing funds beyond 2020, because NMFS' funding is uncertain and subject to Congressional appropriations. To do so would also be inconsistent with NMFS' national Policy on Electronic Technologies and Fishery-Dependent Data Collection in which NMFS stated that it would not approve any EM program that created an unfunded cost of implementation or operation. For these reasons, NMFS determined that the data services requirements for EM vessels in this final rule are consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

*2. Catch Retention Requirements*

Through this final rule, NMFS is implementing a clarified definition of ''maximized retention'' for whiting vessels for the purposes of the EM program (see 50 CFR 660.604(p)(1)). Under the clarified definition, the following discards would be permitted on whiting trips as ''minor operational discards'': Mutilated fish, large animals (longer than 6 feet (1.8 meters) in length), fish inadvertently spilled from the codend during transfer to the mothership, damaged or mutilated fish picked from the gear or washed from the deck during cleaning, and fish vented from an overfull codend. Discards of invertebrates, trash, and debris, and discard events outside the control of the vessel operator would also be allowed. Minor operational discards would not include discards as a result from taking more catch than is necessary to fill the hold (a.k.a. ''topping off''), which would

continue to be prohibited. Minor operational discards would also not include discards of fish from a tow that was not delivered. This occurs when there is not enough catch worth delivering to a mothership or not of the desired species composition, sometimes called ''test tows'' or ''water tows.'' This clarified definition was not included in the version of the regulations deemed by the Council because the need for clarification occurred after deeming, so NMFS proposed the revised definition in the proposed rule as a technical change needed for clarity. NMFS specifically requested comment on this proposed definition but did not receive any comments opposing this revised definition.

NMFS determined this definition in the final regulations is necessary to implement the program because it minimizes discards in the whiting EM program, reduces uncertainty in the species composition of discards, and ensures data produced through the program is the best scientific information available for management. These discards are currently allowed if first sampled by an observer, but in an EM program, an observer would no longer be on board to sample the catch before discarding. In addition, as no catch from the haul would be delivered to either a mothership or a plant, there would be no species composition to extrapolate to the discarded weight. Because these tows can sometimes include overfished or endangered species, these discards will be prohibited under the EM program.

The proposal to clarify the definition of minor operational discards is also supported by the apparent failure of many of the whiting vessels participating in the EM EFP program to comply with the EFP discard requirements over the past year, resulting in a troubling increase in discards under the EFP. Through this final rule, NMFS is providing additional examples of allowable and prohibited discards to further clarify the definition. Additional examples of allowable discards include discards for verifiable safety reasons; opening a blow-out panel because the net is otherwise too large to bring up the stern ramp; on mothership (MS)/catcher vessel (CV) trips, loss of fish forward of where the codend is tied-off for transfer to the mothership; net bleeds/venting of overfull codend that is outside the vessel operator's control; damaged or mutilated fish picked from the gear or washed from the deck during cleaning up to 1,000 lb per haul; and discards due to mechanical failure (but not including failure of a catch sensor). Additional examples of prohibited discards include: A portion of a haul is retained and the remainder is discarded because there is not enough room in the hold; discard when more catch is taken than is necessary to fill the hold due to failure of a catch sensor; discarding the remainder of a haul by flushing the codend; large amounts of fish hosed off the deck, out the scuppers, or down the stern ramp, after a portion of the haul is retained. Thus, discarding an entire haul or discarding for marketability reasons, including discards of small fish, would also be prohibited. Whiting vessels may also not selectively discard non-whiting species (*e.g.,* rockfish, salmon) other than large marine organisms.

To assist vessel captains and crew with complying with the clarified definition, NMFS will provide further guidance in a compliance guide, EM program guidance documents, and the mandatory captain training. NMFS intends to continue to work with EM participants as appropriate to address any issues that may arise related to discard rules.

Through this final rule, NMFS is also implementing ''optimized retention'' for fixed gear vessels. Optimized retention was the Council's preferred alternative and would allow vessels to discard any species that could be differentiated on camera, except for salmon. NMFS requested comment on both maximized and optimized retention options in the proposed rule. NMFS received one public comment in favor of optimized retention for fixed gear vessels. As detailed further in the Comments and Responses section, The Nature Conservancy supported optimized retention for fixed gear vessels, because it was being practiced with success in the EM EFP program and would be more consistent with traditional operations and less disruptive to continue under the regulations.

NMFS agrees and is implementing the Council's preferred optimized retention for fixed gear vessels in this final rule, because it is more consistent with traditional fishing practices than maximized retention and therefore less burdensome for fixed gear vessels. Optimized retention is also consistent with the protocols used in the 2016–2018 EFP program and would be less confusing for EM vessels to maintain. In addition, updated data from the 2016 and 2017 EFPs in the final EA shows that optimized retention would not substantially increase uncertainty in catch estimates, because fixed gear trips continue to have low bycatch and discards. For these reasons, NMFS determined that optimized retention for fixed gear vessels is consistent with the goals and objectives of the FMP to minimize the burden of management requirements while providing the best scientific information available, as well as National Standards 2, 7, and 8 of the MSA. Allowing the discard of bycatch species that can be identified on camera would also minimize mortality of bycatch to the extent practicable, consistent with MSA National Standard 9.

NMFS revised the final regulations at § 660.604(p)(2) to reflect optimized retention accordingly. The proposed regulations contained the more restrictive maximized retention rules, which were deemed by the Council at its April 2016 meeting. NMFS further consulted with the Council at its April 2016 meeting about its intentions to propose and implement the Council's preferred alternative of optimized retention in the final rule, pending public comment and final data from the 2016 EM EFPs to support this alternative. As NMFS has determined that optimized retention is consistent with the Pacific Coast Groundfish FMP, the MSA, and other applicable law, NMFS has revised the final regulations to reflect the Council's preferred alternative.

*3. Video Data Retention*

EM service providers will be required to maintain EM data and other vessel owner records for a minimum of three years (see § 660.603(m)(6)). This data storage would be part of the data services that a vessel owner receives from its EM service provider. Vessel owners would be responsible for these storage costs, along with the other services rendered by the EM provider, as a condition of the vessel owner's participation in the program. In the proposed rule, NMFS specifically requested comment on the length of time that a vessel owner must store its EM data through its EM provider. NMFS initially recommended a five-year retention period, based on the five-year statute of limitations for violations of the MSA, to ensure that the EM data and other records used to produce summary and compliance reports for NMFS are available to NMFS and authorized officers for inspection to evaluate the providers' and vessels' performance and to effectively administer the EM program and enforce the regulations. As indicated by public comment on the proposed rule and at Council meetings during development of this action, some industry members are concerned about the costs of storing such a large amount of video data, as well as the potential for enforcement personnel or other entities to access it for other purposes. They

would prefer the EM data be destroyed after one year, and only the summary reports resulting from the video review be retained. As a compromise, NMFS proposed and the Council supported a three-year retention period in the draft regulations. However, the Council also recommended that NMFS review this requirement before implementation to determine if it can be reduced. NMFS specifically requested comment on whether a one, three, or five year, retention period is appropriate for EM data.

NMFS received two public comments stating that EM data should only be retained for a few months to one year. The commenters asserted that information of value would be extracted from the EM data in the initial analysis and any additional value of retaining the video further was low. As NMFS discusses further in its response to these comments, at this time NMFS believes that the three-year retention period proposed by the Council and NMFS strikes the right balance between minimizing the costs of the EM program and ensuring that vessel owners' EM data is available to NMFS and its authorized officers to inspect or obtain for review for data quality assurance and compliance and enforcement. NMFS believes that, in the future, a shorter video retention period may be appropriate, once all the protocols have been established to extract the necessary information from the EM data before it is destroyed and the costs and benefits of different retention periods have been weighed by the Council and NMFS. However, at this time, the groundfish EM program is still in its early stages and NMFS and the Council are still developing the video sampling and auditing protocols and timelines. These protocols would factor heavily into NMFS' and the Council's analysis of the costs and benefits of different retention periods. NMFS understands the Council's and industry's concerns regarding the cost of storing EM data (specifically the video data) and the desire to minimize the costs of the EM program. NMFS has committed to working with the Council to evaluate whether shorter retention periods may be feasible in the future, and is in the process of developing a national policy on the minimum time that EM data must be retained. However, at present, NMFS believes that a three-year retention period is necessary to ensure that the EM data is available for NMFS to inspect to evaluate the providers' and vessels' performance and to effectively administer the EM program and enforce the regulations. Therefore, NMFS determined the three-year retention requirement in the proposed regulations is consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

*4. Switching Between Observers and EM*

NMFS is waiving the limit on the number of times whiting vessels may switch between EM and observers in the same calendar year, because NMFS has determined that it is not necessary for purposes of observer deployment. The regulations implemented through this rule (§ 660.604(m)) limit the number of times whiting vessels may switch between EM and observers, in order to limit disruption to observer deployments. These regulations allow NMFS to waive this requirement, with prior notice, if NMFS determines that it is not necessary for purposes of observer deployment. NMFS has determined that information that will be gathered in the annual application process for EM vessels and the pre-trip declaration to the observer program is all the information that is needed to plan observer deployments at this time. NMFS reserves the right to reinstitute the limit on switching for whiting vessels, with prior notice, should it become necessary. If reinstituted, a whiting vessel would be limited to changing its monitoring declaration twice in the same calendar year. Additional revisions may be made if the EM system has malfunctioned and the vessel operator has chosen to carry an observer; or subsequently, the EM system has been repaired; and upon expiration or invalidation of the vessel's EM Authorization. NMFS requested comment on the two-change limit in the proposed rule but no comments were received.

*5. Additional Corrections*

NMFS identified a number of corrections and clarifications to the proposed regulations that were needed to clarify the regulations and to achieve the objectives of the FMP. NMFS consulted with the Council on these changes, as allowed by section 304(b)(3) of the MSA, through an exchange of letters dated October 24 and November 5, 2018 and May 23 and 30, 2019.

In 50 CFR 660.604(p)(2), NMFS revised the fixed gear retention rules to be consistent with the Seabird Avoidance Program at 50 CFR 660.21. The proposed regulations required fixed gear vessels to discard seabirds. While this is correct for pot vessels, longline vessels are required by the Seabird Avoidance Program to retain short-tailed albatross carcasses and turn them over to the U.S. Fish and Wildlife Service. Therefore, NMFS has revised the final retention rules for fixed gear vessels to reference and not contradict the requirements of the Seabird Avoidance Program.

In 50 CFR 660.604(e)(3)(iii)(H), NMFS changed the requirement that a vessel monitoring plan (VMP) include measurements for bins and baskets to include other tools, because some species are measured using a length board and length-weight regression rather than volumetric estimates.

NMFS also revised the regulations governing the transmission and handling of EM data throughout 50 CFR 660.603 and 660.604 to reference EM data more generally, rather than hard drives specifically, to allow for other types of technology to be used to transmit EM data in the future (*e.g.,* satellite, WiFi). NMFS discussed this change with the Council at its June 2018 meeting.

In 50 CFR 660.603(b) and 660.604(e), NMFS also revised the renewal procedures for vessel authorizations and provider permits to clarify the effective date and conditions under which authorizations and permits may expire. The proposed regulations were not clear that EM authorizations and provider permits have an expiration date and that vessels and providers must apply to renew them. This is in contrast to VMPs, which will be living documents that are effective unless changed. A renewal requirement for EM Authorizations is necessary for NMFS to maintain up-to-date information on an individual's eligibility to continue to participate in the program. To address EM service providers' desire for stability in planning, NMFS has made EM provider permits effective for two years instead of one.

In 50 CFR 660.603(i), NMFS has removed the requirement for EM providers to maintain insurance coverage under the Jones Act and the U.S. Longshore and Harbor Workers' Compensation Act. NMFS proposed requiring insurance to cover potential claims by EM provider employees under these Acts. However, after further review, NMFS has determined that these Acts do not apply to EM service providers and technicians and, therefore, are unnecessary.

NMFS revised 50 CFR 660.13 to be consistent with changes made to VMS declarations by the final rule that revised trawl gear requirements in the Pacific Coast Groundfish regulations (83 FR 62269, December 3, 2018).

NMFS added definitions for ''EM data'' and ''EM datasets'' and accordingly revised the regulations throughout to clarify the difference

between different types of raw and summary EM data, and different types of EM program records.

NMFS revised 50 CFR 660.603(l) to clarify that EM service providers must provide NMFS information, rather than support, that may be used in litigation and enforcement action, in response to a public comment.

NMFS clarified the terminology used to describe those with the authority to access and obtain EM data and other records, and other technical and litigation information to be consistent in 50 CFR 660.603(l), m(6), and (n)(3), and 660.604(o) and (t).

NMFS revised 50 CFR 660.603(n)(3) in response to a public comment to make clear that a vessel owner or authorized representative may authorize the EM service provider to the release of the vessel owner's EM data.

NMFS revised 50 CFR 660.600(b) and 660.603(b)(1)(vii), (k) and (m), to centralize the defined purpose of the EM program and reduce repetition throughout, and to clarify how the EM Program Guidelines and EM Program Manual will be used to evaluate EM service provider and vessel plans and performance.

NMFS revised the regulations at 50 CFR 660.603(a), (b)(5)(iii), (h)(2), (m), (m)(1), (m)(5)–(6), (n) and (n)(1) to clarify the role of EM service providers in the EM Program as the contracted agents of participating vessel owners.

NMFS revised 50 CFR 660.600(a), 660.603(m), and 660.604(b)(7), to implement third party EM service provider data services (*i.e.,* video review, reporting, and data storage) beginning January 1, 2021, consistent with the updated timeline discussed by the Council at its April 2019 meeting. NMFS proposed the revised timeline, and the Council agreed, to provide additional time to NMFS and the Council to work on the EM program guidelines and to prepare for implementation of third party video review. In addition, NMFS was able to locate funding to support PSMFC to continue to review video from the EM EFP through 2020. Vessels may continue to participate in the EM EFP Program through 2019. The Council is scheduled to renew the EM EFP through 2020 at their September 2019 meeting.

Finally, NMFS made a number of other minor revisions to clarify the prohibitions at 50 CFR 660.602 and to correct typos throughout the regulations.

**Comments and Responses**

NMFS received a total of four comments on the proposed rule during the public comment period. Letters were received from two environmental organizations, one EM service provider, and one member of the public. One of the same environmental organizations and some members of the fishing industry submitted two additional letters to the NMFS West Coast Regional Administrator and the Council at the April 2017 Council meeting commenting further on the proposed rule. Although these letters were received outside of the public comment period, we have addressed them in this final rule. Four comments generally supported the EM program. One of the comments did not address the proposed measures and thus it is not included here. Where possible, responses to similar comments on the proposed measures have been consolidated.

*Comment 1:* Environmental Defense Fund (EDF) generally supported implementing the EM program because it would reduce the costs of monitoring.

*Response:* NMFS agrees with EDF that EM provides a lower-cost option for vessel owners to meet the 100-percent at-sea observer coverage requirements of the catch share program and has approved the EM program for whiting and fixed gear vessels through this final rule. According to the economic analysis, a shorebased whiting vessel may save an estimated $27,777 per year, an MS/CV vessel $5,900 per year, and a fixed gear vessel $7,575 per year, compared to the cost of using an observer. These savings would increase net revenues for these vessels and the fishery overall, consistent with the Council's objectives for the program. The EM program also increases operational flexibility for vessel owners, by providing an alternative to observers for meeting the monitoring requirements of the catch share program. Having the option to use EM or an observer allows vessel owners to choose the tool that is the most cost effective and suitable for their individual operation. Although the cost savings relative to observers may be smaller for some vessels, some vessel owners may choose to use EM in order to avoid carrying another person onboard, or because it gives them the flexibility to depart on trips without carrying an observer, which may not be available at the desired time, particularly in some remote ports. NMFS finds that the EM program reduces the burden from the 100-percent at-sea monitoring requirement of the catch share program and increases profitability and flexibility for participating vessels, and it is consistent with the goals and objectives of the FMP, the MSA, and other applicable laws.

*Comment 2:* The Nature Conservancy (TNC) and a letter from groundfish industry representatives, consisting of the California Groundfish Collective, Oregon Trawl Commission, Fort Bragg Groundfish Association, Half Moon Bay Groundfish Marketing Association, Morro Bay Community Quota Fund, the EM Fixed Gear EFP, and an individual commercial fisherman, supported implementing EM as a lower-cost monitoring option, but opposed requiring industry to procure video review, data storage, and reporting services from third party service providers in this rulemaking and instead requested these requirements be postponed to a later rulemaking. TNC and the California Groundfish Collective et al. commented that requiring industry to bear these costs now would undercut the cost-savings of EM and should be delayed until the costs of the program requirements can be reduced and/or industry is able to find a way to defray the costs of the program, such as by securing rights to access and sell their EM data. They noted that for bottom trawl vessels EM is approximately equal to the cost of observers and EM only provides a small amount of savings for fixed gear vessels. The California Groundfish Collective et al. want to defer third party video review to maintain Pacific States Marine Fisheries Commission (PSMFC) as a video reviewer, because they believe it is less costly than a private sector service provider.

*Response:* NMFS disagrees with the commenters about delaying requirements to a later rulemaking. As NMFS has previously stated in discussions on this issue at the September and November 2015 and April 2016 Council meetings, excluding requirements for participants to procure video review, data storage, and reporting services from this rulemaking would not be consistent with the goals and objectives of the Trawl Rationalization Program and the Pacific Coast Groundfish FMP and, therefore, is not a reasonable alternative. A vessel's raw EM data (*e.g.* imagery, sensor data, and other associated data files) cannot be used by NMFS for catch accounting. Without the required analysis and reporting, the EM data would not be a usable substitute for observer data and the EM Program would not be an equivalent alternative to human observers for meeting the 100-percent at-sea monitoring requirements of the catch share program. Therefore, the requirement for participants to procure services to analyze the vessel's EM data and report EM summary data to NMFS

cannot be severed and postponed to a separate rulemaking.

Furthermore, NMFS has determined that a vessel owner that chooses EM in lieu of a human observer must be responsible for the cost of processing of his or her EM data and delivery of summary data to NMFS. NMFS has paid these costs under the EM EFP program, which has been testing camera systems and EM video data review protocols, and intends to continue to do so through 2020. Thereafter, vessel owners who choose to participate in the EM program will be responsible for paying for analysis and storage of their EM data and for delivery of the vessel owner's summary data to NMFS. NMFS would continue to pay for its costs to administer components of the EM program, including the agency's review of any EM data selected for secondary evaluation or compliance and enforcement purposes, and the storage costs of any EM data that NMFS obtains and makes part of its records for these purposes. NMFS cannot commit to providing funds to pay for the industry's portion of the video review and storage beyond 2020 because NMFS funding is uncertain and subject to Congressional appropriation and to do so would be inconsistent with NMFS' own Policy on Electronic Technologies and Fishery Dependent Data Collection. As NMFS has stated at Council meetings on this issue, and in the preamble to the proposed rule and this final rule, the analysis and storage of the vessel owner's EM data is the vessel owner's responsibility. Industry-funded, third party video review is needed beginning in 2021 if the program is to continue and provide a viable alternative to observers. As with the observer and catch monitor programs, when appropriations were available NMFS provided funds to assist with testing cameras and protocols. However, after the EM funds are expended in 2020, industry must assume its share of the EM program costs as it did with observer and catch monitor costs in 2015. Therefore, NMFS determined that the requirements for third-party data services in this final rule are consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

Regarding the modest savings for some vessels, the EM program is not a panacea for all fishing operations. As has been shown by NMFS' cost analyses, the amount of savings relative to using observers is largely driven by the number of days fished due to the high initial fixed costs of EM. Vessels fishing more sea days see a greater savings from EM because the fixed costs of equipment, installation, and field services are spread among more sea days, creating a lower average sea day rate. For vessels that fish comparatively few sea days, EM has high initial and annual costs that may not be worth the investment and using an observer may actually be cheaper. However, as described in the response to Comment 1, EM can provide substantial cost savings for some vessels, even after NMFS' funding has ended. For those vessels for whom cost savings are marginal, EM may provide other benefits that may make it preferable to an observer, such as flexibility in scheduling trips and not having to accommodate another person onboard. Although EM may not be the most cost effective option for everyone, NMFS believes this should not preclude making an EM option available for those it may benefit. For these operations, the EM program is consistent with the objectives of the FMP and the MSA, to increase flexibility, minimize costs, and avoid adverse economic impacts from monitoring requirements. In addition, NMFS and the Council are continuing to work to identify ways to reduce the costs of the EM program to increase benefits for all participants, such as by reducing the amount of video reviewed and stored. Therefore, NMFS determined the EM program recommended by the Council is consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

Finally, with respect to delaying the regulations in order to maintain PSMFC as a video reviewer, NMFS stated to the Council in its supplemental NMFS report at the September 2017 Council meeting that PSMFC may obtain a permit as a third party EM service provider from NMFS, same as any other third party provider through the regulations. The regulations do not preclude PSMFC from continuing to conduct video review on industry's behalf after 2020 and, therefore, no change or delay to the regulations is needed.

*Comment 3:* TNC and the California Groundfish Collective et al. further commented that the final rule should be delayed because the economic analysis underestimated the cost of the program to the fleet and did not analyze a significant alternative, which would have considered deferring requirements for industry to procure third party video review services until confidentiality requirements could be revised to allow industry to sell their EM data. They stated that the economic analysis failed to account for costs that NMFS would continue to perform after the program transitions to industry-funded, third party video review and the cost of scientific observer coverage that NMFS intends to maintain on EM trips, which may be passed on to harvesters through cost recovery fees. The California Groundfish Collective et al. commented that the economic analysis was based on PSMFC's costs, a quasi-government, non-profit entity, which are not representative of and likely underestimate the costs of private sector service providers. They further argued that private sector, third party provider costs cannot be estimated because some components of the program, such as sampling rates, remain unspecified. TNC also asserted that the economic analysis should have evaluated the affordability of EM and observers relative to vessel revenues, rather than simply comparing the costs of the two options.

*Response:* NMFS believes the commenters are misunderstanding the assumptions used in the economic analysis. Contrary to the commenters' assertions, the analysis did include NMFS' costs to administer the program once it transitions to third party video review and the amount of this cost that would be expected to be recovered from industry through cost recovery fees. Pages 8–10 of the draft RIR/IRFA and final RIR/FRFA describe NMFS' anticipated duties and costs when the program transitions to third party video review, including a table on page 10 that shows the expected change in cost recovery fees as a result—no change for the shorebased sector, which is already at the 3-percent limit allowed by the MSA, and an increase of approximately 0.02-percent for the mothership sector. The estimated change to the cost recovery fee for the mothership sector was not included in the estimated EM sea day rate used to compare to the observer sea day rate in earlier tables, which may be the source of confusion. The change to the cost recovery fee was not included in the estimated EM sea day rate, because the portion of the cost recovery fee from NMFS' costs to administer the observer program are not included in the observer sea day rate and so including it in the EM sea day rate would not have been appropriate for comparison.

The cost to NMFS for maintaining scientific observer coverage on EM trips was not included in the estimated costs of the EM program, because NMFS intends to cover these costs itself as it did prior to the beginning of the Trawl Program. This is consistent with NMFS' policy of not recovering the portion of its costs for administering the catch share observer program that corresponds to the level of coverage NMFS provided

to the fleet prior to the beginning of the Trawl Program.

Regarding third party service provider costs, NMFS disagrees that the economic analysis does not capture the likely costs to industry from third party video review services. NMFS made estimates of these costs based on the actual costs of the EM EFP program since 2015, which are summarized as the video review and data storage costs in tables on pages 7 and 8 of the RIR/FRFA and Table 17 in the final EA (available at *regulations.gov,* see **ADDRESSES**). Although it is not known what exact fees third party providers will charge for these services, NMFS used various assumptions in the economic analysis to provide an estimate of these costs to industry based on the best scientific information available. While private sector service providers may charge higher fees than PSMFC, the economic analysis also contained conservative assumptions about the amount of video that would need to be reviewed and stored. These conservative assumptions were necessary to capture the range of potential sampling rates, and resulting costs, for video review and data storage to industry. For example, NMFS' analysis assumed that 100 percent of EM data would be reviewed and stored. This level of review and storage is not expected to continue into the future as the program transitions to the logbook audit model, so these costs were likely an overestimate of the actual costs to industry. Although PSMFC may be able to carry out these duties at a lower cost than a private sector service provider, private sector providers will likely be conducting the video review and storage at lower rates once a logbook audit protocol is implemented. NMFS also assumed that EM units would need to be replaced every 3 years, rather than 5 or 10 years as has been seen in some programs, likely overestimating the annual, amortized equipment costs. Therefore, NMFS anticipates that even if it has underestimated the overhead costs or video review costs charged by providers, the total costs estimated have captured the total costs of the program to industry.

NMFS disagrees with the commenters that the economic analysis was deficient because it did not examine the affordability of monitoring relative to vessel revenues for different components of the fishery. NMFS believes that the commenters have misunderstood the purpose of the action, which was to evaluate making EM an option for meeting monitoring requirements of the catch share program, compared to observers. The objective of the action was not to revisit the requirement for 100-percent at-sea observer coverage and whether it is affordable or justifiable; a decision that was analyzed and made in Amendment 20. Therefore, it would not have been appropriate to analyze the affordability of the EM and observer programs, relative to less or no monitoring, because those are not alternatives under consideration in this action. Instead, NMFS' analysis compared the cost and other aspects of EM relative to observers, because this action is offering a choice between the two and the decision for NMFS and the Council is whether having a choice is of greater benefit than not having a choice. In addition, TNC's analysis focused in part on differences in revenues for bottom trawl vessels depending on target species, because NMFS' economic analysis included bottom trawl vessels. However, EM for bottom trawl vessels is not part of this rulemaking, but will be considered in a separate rulemaking. NMFS' economic analysis included bottom trawl vessels for purposes of apportioning those costs from the EM EFP program to each gear type for the analysis. NMFS has added language to the final RIR/FRFA to clarify this point.

NMFS disagrees that deferring industry-funded, third party video review to a later rulemaking is a significant alternative that should have been analyzed in the RIR/IRFA. See response to Comment 2 for a detailed explanation. With regard to vessel owner access to EM data, see response to Comment 4.

*Comment 4:* TNC commented that the requirement for EM service providers to maintain the confidentiality of the EM data was too restrictive and would not allow EM vessels to extract additional economic value from the EM data that might be used to offset the costs of the EM program. TNC requested that NMFS revise the proposed regulations at § 660.603(n)(3) to explicitly allow vessel owners to have rights to control access to their EM data.

*Response:* Proposed § 660.603(n)(3) was not intended to affect vessel owners' ability to access or authorize release of EM data collected on board their vessels or other related records. NMFS considers EM data and related records that a vessel owner stores with its EM service provider as owned by the vessel owner. In response to comments, NMFS has revised § 660.603(n)(3) to clarify that an EM service provider and its employees may release a vessel's EM data and related records to other persons if authorized by the vessel owner or their authorized representative. Note that vessel owners' rights with respect to their data does not affect the authority of NMFS or its authorized officers to obtain EM data or other records directly from an EM service provider for the purposes specified in the regulations. See §§ 660.603(m)(6), (n)(3). EM data and records that NMFS receives from the EM service provider will be handled consistent with section 402(b) of the MSA, the Federal Records Act (FRA), the Freedom of Information Act (FOIA), and other applicable law. EM data that NMFS does not receive from the EM data provider are not records for purposes of the FRA or FOIA.

NMFS has also made other minor edits to simplify or clarify the text, including deleting the phrase ''consistent with the MSA.'' NMFS has concluded that the rule overall is consistent with the MSA; it is not necessary to reiterate that in a subparagraph of the regulatory text.

*Comment 5:* Two commenters commented that the length that EM data (specifically video data) must be retained by the EM service provider should be shorter than 3 years. An EM service provider commented that EM datasets should not be retained for more than a few months, except where compliance issues are identified, due to the costs of archiving large video datasets. He further stated that the data of interest is the fishery activities which are already extracted from the initial video review. He cited the Canadian EM program as an example, where datasets are generally deleted about a month after they are processed unless a compliance issue is identified, in which case the full video is turned over to the government. EDF commented that the video imagery should be held for one year, because the catch data extracted from the video review will be held permanently and the need to review past imagery is likely low. EDF further commented that the standards for record retention should not be higher than for vessels carrying observers, or for vessels in other fisheries.

*Response:* NMFS disagrees with the commenters that the EM data should be held for a few months to one year at this time. It is not reasonable to compare the current groundfish EM program to the Canadian EM program where protocols are well established and the program has demonstrated performance over many years. The current groundfish EM program is in its early stages and not all the protocols and associated timelines have been established. NMFS and the Council are still developing sampling protocols for the video review that would be expected to influence how much video would need to be archived

and for how long. For example, at this time, PSMFC is only reviewing video imagery from gear retrievals during which time most discarding occurs and only reviews other parts of the video ad-hoc, such as when compliance issues are suspected. This additional review may not occur until after the end of the season. In some cases, errors may be found or video review protocols may be changed, that would require reviewers to re-review parts of video already analyzed. The costs and benefits of the retention period must take into account the sampling schemes developed for the video review and NMFS and the Council must weigh the risks and uncertainty introduced by deleting video that has not been reviewed. NMFS understands the cost burden of this requirement to industry and has committed to work with the Council to evaluate shorter retention periods. The cost of storing video data is a problem facing all EM programs, and NMFS has made it a priority to develop a national policy for the minimal retention of EM data (especially the video imagery) by service providers. NMFS agrees that in the future, it may be possible to delete the EM data more quickly after the review once protocols are well established and the costs and benefits of different retention periods have been weighed and looks forward to working with the Council and other stakeholders on developing options. At this time, NMFS believes that a retention period of three years is necessary to ensure that EM data is available for inspection for NMFS to evaluate providers' and vessels' performance and to effectively administer the EM program and enforce the regulations.

NMFS also believes a three-year retention period is necessary to preserve NMFS' ability to establish a national policy for minimum video data retention. NMFS is currently developing a draft national policy for retention of video imagery from EM programs, which is expected to be finalized in the next year or two. It is important that video imagery from the groundfish EM program not be deleted before NMFS can finalize this policy. If the final policy is different from the three year retention period in this final rule, NMFS intends to revise the groundfish regulations to be consistent with the final national policy through a proposed and final rulemaking at that time.

*Comment 6:* An EM service provider commented on the proposed requirement for EM service providers to provide support to NMFS, free of charge to NMFS (see § 660.603(l)). The EM service provider commented that such a blanket, open-ended requirement would be impossible to manage or budget and difficult to recoup through fees charged to industry and, therefore, unfair to the EM service providers. The EM service provider also stated that the potential costs of this requirement were not addressed in the economic impacts analysis and that this was a major oversight. The EM service provider stated that NMFS should instead pay for service requests.

*Response:* EM service providers will provide services to vessel owners with whom they have contracts. In addition, though, EM service providers need to have permits from NMFS. As a condition of their permits, NMFS clarifies in the final rule at § 660.603(l) that, upon request, EM service providers must provide information—not litigation support—to the agency regarding their EM systems and related data issues. NMFS may use such information for litigation, including enforcement cases. As a condition of their permits, EM service providers will be required to respond to and remedy technical issues identified by NMFS, such as recovery of corrupt data, and provide NMFS software to view and analyze the EM data to evaluate providers' and vessels' performance and to effectively administer the EM program and enforce the regulations. Vessels participating in the fishery using EM, and their contracted EM service providers, gain a benefit from the EM program. Therefore, it is reasonable for NMFS to require EM service providers to provide NMFS with information, respond to issues NMFS identifies with vessels' EM systems and data, and to provide NMFS with the proprietary tools to evaluate that data, at no additional expense to NMFS. NMFS maintains similar requirements in the regulations for vessel monitoring system (VMS) service providers (see § 600.1508).

NMFS did estimate the cost and time burden to providers from these requirements as part of the Paperwork Reduction Act (PRA) package that accompanied this rule, which was summarized in the Classification section of the proposed rule and this final rule. As part of estimating the burden of reporting and recordkeeping requirements of the proposed regulations, NMFS estimated that each service provider would receive no more than 10 requests from NMFS each year for the information listed in § 660.603(l). The largest time burden would be associated with responding to inquiries from NMFS following-up on data summaries, analyses, reports, and operational issues with vessel representatives. Most inquiries would be short phone conversations to quality assure/quality check trip data at approximately 15 minutes per trip. Some trips may require more extensive inquiries if an EM system malfunction or compliance issue occurred, potentially up to 25 hours. Assuming 90 percent of trips require some follow-up at 15 minutes per trip and 10 percent of trips require more extensive investigation (25 hours/trip) results in a total annual burden of 4,778 hours ((175 trips $\times$ 25 hours/trip) + (1,575 trips $\times$ 15 minutes/trip)). This information was summarized in the Classification section of the preamble to the proposed rule and again in this final rule. These costs were also assumed to be included in the field services and data services costs for third party service providers in the RIR/FRFA, which were based on the number of such inquiries seen in the EM EFP program to which service providers and PSMFC have responded.

*Comment 7:* One commenter commented on the level of video review specified in the proposed regulations at § 660.603(m)(1). EDF commented that more detail was needed on the conditions under which the review rate would be reduced in order to provide guidance to industry and service providers and incentives for industry to comply. EDF also commented that the 100-percent review rate and 50-percent audit rate used in the analysis was too high and the costs outweighed any benefits from this level of review.

*Response:* NMFS believes the commenter may be misunderstanding the purpose of the 100-percent review rate and 50-percent audit rate in the economic analysis. The regulations at § 660.603(m)(1) specify that the EM service provider must conduct the video review according to a sampling scheme established by NMFS but does not provide a specific rate in the regulations. As the commenter noted, it is important to maintain flexibility in the regulations, given that the audit rate may change over time based on program and fleet performance, to ensure that the EM program continues to provide the best scientific information available for catch accounting and monitoring compliance. NMFS used a 100-percent review rate in the analysis only to provide a high-end estimate of a potential range of costs to the industry. Although PSMFC, on behalf of NMFS, is reviewing 100 percent of the fishing activity at this time, NMFS is working with the Council to develop an alternate review rate with the objective of auditing the logbooks, which would be the primary source of discard information, that would be based on fleet performance. NMFS does not

anticipate requiring EM service providers to review 100 percent of the video all the time, but this number was simply provided to capture the highest possible cost of video review for the purpose of analysis. Similarly, NMFS anticipates its rate of review to audit the provider's review, *i.e.,* the EM summary reports, would be less than 50 percent. NMFS used 50 percent in the analysis because sometimes NMFS may need to review additional video from some providers, more than the standard audit rate, such as if an error is discovered that affects multiple vessels or trips. Therefore, 50 percent was only intended as a high-end estimate of the range of potential costs to industry and is likely an overestimate of actual audit costs.

*Comment 8:* The Nature Conservancy commented in support of optimized retention rules for fixed gear vessels, because fixed gear vessels have been fishing under optimized retention in the EFP and to return to maximized retention now would be confusing for captains and crew. Optimized retention is less disruptive to fishing operations because it is what captains and crew are used to doing when an observer is onboard. Maximized retention would require vessels to change practices and update their vessel monitoring plans. Optimized retention rules were developed collaboratively with industry in the EFP and not implementing them would undermine confidence in the EFP process. Optimized retention has worked well in the EFPs and provides more flexibility to vessels and the Council to adapt the program over time.

*Response:* NMFS agrees and has implemented optimized retention for fixed gear vessels in this final rule. The proposed regulations contained maximized retention, although optimized retention was the Council's final preferred alternative, because EFP data on optimized retention was not available at the time of the Council's final action in April 2016. However, NMFS also proposed and solicited comment on optimized retention in the preamble to the proposed rule in order to enable us to implement optimized retention in the final rule, if supported by updated EFP results. This approach was discussed with and approved by the Council at its April 2016 meeting.

Optimized retention is consistent with what has been practiced in the EFP since 2016 and would be less disruptive to captains and crew to maintain. In addition, it would provide maximum flexibility in vessel operations and allow captains and crew to maintain operations more closely between trips with EM and trips with observers. Optimized retention has been practiced successfully in the EFP and would not undermine data quality relative to maximized retention protocols, as shown in updated information in the final EA. Optimized retention would also minimize discard mortality, by minimizing the amount of catch that must be retained. In this way, optimized retention best meets the Council's objectives for this action to provide flexibility and reduce monitoring costs to the fleet while maintaining data quality and accountability. Therefore, NMFS determined that optimized retention for fixed gear vessels in this final rule is consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

*Comment 9:* EDF commented in support of the halibut discard mortality rate (DMR) method in the rule for whiting and fixed gear vessels, but commented that a different approach is needed for bottom trawl trips, where Pacific halibut is encountered more frequently and can constrain fishing for target species caught with it.

*Response:* NMFS agrees that the halibut DMRs are appropriate for whiting and fixed gear and has approved this measure in the final rule. The DMRs in use in the EM program have been approved by the International Pacific Halibut Commission (IPHC) and represent the best available scientific information for estimating mortality in these fleets. NMFS, the IPHC, and Council have been working on alternative methods for estimating mortality in the bottom trawl fleet, which were implemented in 2018 in the EFPs and will be addressed in a separate rulemaking for EM regulations for bottom trawl and non-whiting midwater trawl vessels.

*Comment 10:* EDF commented that NMFS should put EM information, such as forms, applications, etc. online on the vessel account system website where vessels already access their personal account information.

*Response:* NMFS agrees and intends to post links to applications forms, etc. on its website along with its other permit applications. Currently, the vessel account system presents information to the user on IFQ account balances, etc., but does not allow the user to upload documentation, as in the case of signed applications or Vessel Monitoring Plans. NMFS is interested in moving to online forms for all its permit renewals and will include EM forms if it does. NMFS is in the process of developing an online system for vessel owners to review their EM summary and compliance reports and plans to make this available to EM vessels as soon as possible.

**Changes From the Proposed Rule**

NMFS has made the following changes from the proposed rule. NMFS revised the regulations to incorporate optimized retention for fixed gear vessels (see Item 2 in the preamble). NMFS also revised the fixed gear retention regulations at § 660.604(p)(2) to be consistent with the Seabird Avoidance Program (see Item 5 in the preamble). NMFS also clarified the regulations governing VMPs and submission and handling of EM data to use more general language that would encompass a range of tools that may be used. NMFS also clarified the regulations governing EM service provider and EM vessel owner applications to make clear under what circumstances EM certifications expire and must be renewed (see Item 5 of the preamble). NMFS removed the requirement for EM service providers to have insurance for potential claims filed by their employees under the Jones Act and the U.S. Longshore and Harbor Workers' Compensation Act, because we determined that these acts do not apply to EM providers. Finally, NMFS made a number of other minor clarifications to the regulations in the final rule, as described in Item 5.

**Classification**

The Administrator, West Coast Region, has determined that the approved measures in this final rule are consistent with the Pacific Coast Groundfish FMP, MSA, and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

As discussed below in the FRFA, this rule is anticipated to result in cost savings and is a deregulatory action under E.O. 13771.

This final rule does not contain policies with federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

NMFS prepared a FRFA under section 603 of the Regulatory Flexibility Act (RFA), which incorporates the initial regulatory flexibility analysis (IRFA). A summary of any significant issues raised by the public comments in response to the IRFA, and NMFS' responses to those comments, and a summary of the analyses completed to support the action are addressed below. NMFS also prepared an RIR for this action. A copy of the RIR and FRFA are available from NMFS (see **ADDRESSES**), and per the requirements of 5 U.S.C. 604(a), the text of the FRFA follows:

**Final Regulatory Flexibility Analysis**

As applicable, section 604 of the RFA requires an agency to prepare a FRFA after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code. The following paragraphs constitute the FRFA for this action.

This FRFA incorporates the IRFA, a summary of any significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. Analytical requirements for the FRFA are described in the RFA, section 604(a)(1) through (6). FRFAs contain:

1. A statement of the need for, and objectives of, the rule;

2. A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

4. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;

5. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

6. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The ''universe'' of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (*e.g.,* user group, gear type, geographic area), that segment will be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

*Need for and Objective of This Final Rule*

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule, is contained in the preambles to the proposed rule and this final rule and is not repeated here.

*Summary of Significant Issues Raised in Public Comments*

NMFS published the proposed rule on September 6, 2016 (81 FR 61161). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule ended on October 6, 2016. NMFS received 6 comment letters on the proposed rule. Two comments raised significant issues with respect to the economic analysis, asserting that NMFS' analysis was deficient because it did not consider a significant alternative and did not include some future costs. The Chief Counsel for Advocacy of the SBA did not file any comments on the IRFA or the proposed rule. NMFS' response to all comments received on the proposed rule, including those that raised significant issues or commented on the economic analyses summarized in the IRFA can be found in the ''Comments and Responses'' section of this rule and is not repeated here.

*Description and Estimate of Number of Small Entities to Which the Rule Will Apply*

This regulatory amendment impacts mainly commercial harvesting entities engaged in the groundfish limited entry trawl fishery. Although this action proposes an EM program for only two components of the limited entry trawl fishery—the Pacific whiting fishery and the fixed gear shorebased IFQ fishery—any limited entry trawl vessel may participate in these components, provided they comply with its requirements, and therefore may be eligible to use EM. In addition, vessels deploying EM are likely to be a subset of the overall trawl fleet, as some vessels would likely choose to continue to use observers. However, as all trawl vessels could potentially use EM in the future, this IRFA analyzes impacts to the entire trawl fleet.

A general description of the limited entry trawl fishery and catch share program is contained in the preamble to this section. Most recent permit information indicates that there are approximately 175 limited entry trawl permits. According to information from the Northwest Fishery Science Center Economic Data Collection Program, in 2014, the fourth year of the catch share program, there were 102 catcher vessels that participated in the West Coast Groundfish Trawl Catch Share program. Catcher vessels generated $85 million in income and 954 jobs from deliveries of fish caught in the catch share program. Catcher vessels spent an average of 62 days fishing in the catch share program and spent an average of 80 additional days fishing in non-catch share fisheries. West Coast catcher vessels deliver to ports in Washington, Oregon, California, and at-sea; the two ports with the highest landings in 2014 were Astoria and Newport, both in Oregon. An average of 2.4 crew members worked aboard each West Coast catcher vessel, each earning an average compensation of $54,500. In 2014, 31 percent of vessels were owner-operated at least part of the year. The average ex-vessel revenue per vessel from participation in the catch share program was $646,000. Average variable cost net revenue (ex-vessel revenue minus variable costs) per vessel was $256,000 from participation in the catch share program, and the fleet-wide variable cost net revenue was $26.2 million. Average total cost net revenue (ex-vessel revenue minus variable costs and fixed costs) per vessel was $127,000 and the fleet-wide total cost net revenue was $12.9 million (Northwest Fisheries Science Center (NWFSC), 2014; *http://www.pcouncil.org/wp-content/uploads/2016/06/G5b_NMFS_Rpt4_MS_ElecVer_JUN2016BB.pdf*). It should be noted that some industry members have questioned the results of economic data collection (EDC) data which is based on cost-earnings surveys where all participants are required to respond to. However, NMFS' NWFSC economists conduct extensive QA/QC of the data and it represents the best available scientific information on costs in the fishery.

With respect to monitoring costs, the NWFSC 2014 EDC report states the following: ''One other change resulting from the implementation of the catch share program was a shift to 100% observer coverage with partial industry funding. Prior to catch shares, there was approximately 20% observer coverage, paid for by NMFS'' (page 16 of the

report *https://www.nwfsc.noaa.gov/research/divisions/fram/documents/EDC_Catcher_Vessel_Report_October_2016.pdf*). The report noted that in order to lessen the cost of transitioning to the required 100-percent observer coverage, catcher vessels received a maximum of $328.50 per day in 2011 and 2012, $256 per day in 2013, $216 per day in 2014, and $108 per day in 2015 with NMFS funding ending in 2015. Catcher vessels spent on average $14,400 on observer coverage (excluding the NMFS funding) while operating in the catch share program in 2014. Note that in 2011, observer costs represented 0.6 percent of total vessel operational costs, and this increased to 2.8 percent in 2014. Currently the industry is paying about $500 per day for observers.

This rule would apply to those entities that elect to use EM in lieu of observers. In 2015, a total of 36 vessels participated in the EM EFP program. This total includes 20 vessels that participated in the Pacific whiting fishery (11 that participated in both the shorebased and mothership sectors, 9 that fished only in mothership) and 7 fixed gear vessels. This is likely an underestimate of the number of vessels that would use EM in the future. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. For for-hire fishing and fish processing entities, the Small Business Administration (SBA) defines a small business as one that is: Independently owned and operated; not dominant in its field of operation; has annual receipts not in excess of $7.0 million in the case of for-hire fishing entities; or if it has fewer than 500 employees in the case of fish processors, or 100 employees in the case of fish dealers. When applying for their permits, entities were asked to classify themselves as a small business based on the finfish standard of $20.5 million. Only 5 indicated that they were ''large'' businesses and thus would continue to be large businesses under the $11.0 million standard. In 2015, ex-vessel revenues for all west coast fisheries for the remaining vessels ranged from $1,000 to $1.4 million. In 2014, ''other fisheries revenue'' collected on these vessels ranged from $0 to $5.0 million. Based on these ranges, NMFS concludes that the remaining vessels would be considered ''small'' even after factoring in the possibility of the vessels participating in Alaska fisheries.

*Impacts of the Action on Small Entities*

This action allows vessels in the groundfish fishery to use EM in place of observers, and the no action alternative, which would not create an EM option. The proposed regulatory amendment also considered several sub-options for design elements within the preferred alternative, which are described in the accompanying EA and summarized in the preamble to the proposed rule and are not repeated here. This final rule implements the Council's preferred alternative as originally proposed.

This final rule is presenting a choice to fishermen—they can either continue to pay for 100-percent observer coverage or elect to pay for EM (*i.e.,* equipment, maintenance, and video review). Using 2015 EFP cost estimates developed jointly by PSMFC and NMFS, NMFS developed a model for assessing the vessel, fleet, and government costs from the preferred alternative. The results indicate economic impacts on small entities from the preferred alternative would be positive as these entities would have a choice between hiring an observer and using EM. The current cost of an observer is approximately $500 per day. Presumably, vessel owners would choose between using an observer or EM based on relative costs and operational flexibility. NMFS estimates indicate fixed gear vessels will save approximately $98 per day, mothership catcher vessels $159 per day, and shoreside vessels $330, using EM. Vessels that participated in the EFPs already own EM systems (most whiting vessels and approximately half of the fixed gear vessels), so they may see a greater cost savings compared to new entrants, until such time that the cameras need to be replaced. Annual vessel estimates show fixed gear and mothership catcher vessels saving $3,000 to $4,000 and shoreside whiting vessels saving $24,000 per year, relative to the cost of observers. Annual fleet estimates show similar results.

In addition to the direct costs of the program, vessel owners would be responsible for reimbursing NMFS for its incremental costs for administering the EM program. NMFS collects cost recovery fees to cover the incremental costs of management, data collection, and enforcement of the trawl rationalization program. Fees are limited to a maximum of 3 percent of ex-vessel revenues. NMFS' incremental costs for administering the shorebased sector already exceed 3 percent, so the shorebased sector would not be likely to see a change in fees from the preferred alternative in the short term. The mothership sector fees are currently below 3 percent of ex-vessel revenue, so NMFS would be able to recover this sector's portion of EM program costs by increasing the fees.

As mentioned in the preamble to this final rulethe, NMFS intends to fund PSMFC to conduct the video review through 2020, contingent on available funding, while the standards and protocols for third party service providers are developed. The requirement for industry to fund the video review would take effect in 2021. When video review responsibilities shift to third party providers, NMFS' responsibilities would be reduced to oversight and quality assurance, which may include auditing the service providers' video review results. To conservatively estimate government costs and corresponding fee increases, NMFS assumes that service providers would review 100 percent of the video and that NMFS would audit 50 percent of the video. Government costs include video review and storage costs for trips that NMFS reviewed as part of its audit or for enforcement purposes, as well as program management costs, statistician costs, database management, and overhead. With the full transition in 2021, NMFS estimates the government costs would be approximately $286,000 per year. Under current fee rates, only the portion of the costs related to the mothership catcher vessel fleet would be recouped by the cost recovery fee, which would result in an increase of 0.02 percent. NMFS estimates that compared to the costs of observers, the preferred alternative would still present a lower cost option for whiting and fixed gear vessels.

Under Alternative 2, seven sub-options were developed to address various aspects of program design. These sub-options are summarized in the preamble to the proposed rule. Generally speaking, the Council's sub-options would either have no effect on the overall cost of the program (sub-options A2, D1, E1), reduce the cost of the program (sub-options E1, B1), or provide industry additional flexibility (sub-options C2, F1, G1-Fixed Gear, G2-Whiting).

*Measures Proposed To Mitigate Adverse Economic Impacts of the Final Rule*

There are no significant alternatives to the final rule that would accomplish the stated objectives and that minimize any significant economic impact of the final

rule on small entities. Alternatives that were considered and rejected, and the reason the Council or NMFS rejected them, are summarized in Section 3.3 of the EA. The other sub-options considered, and the reasons the Council and NMFS did not propose them, are summarized in the preamble to the proposed rule. As fishermen would be given a choice between two alternative monitoring systems (observers versus EM), this rule is likely to have positive effects on small entities. NMFS believes that the preferred alternative for this rule would not have a significant impact when comparing small versus large businesses in terms of disproportionality and profitability given available information. These regulations are likely toreduce fishing costs for both small and large businesses. Nonetheless, NMFS has prepared this FRFA. The final rule and alternatives are described in detail in the Council's regulatory amendment and the accompanying EA and RIR/IRFA, and the preamble to the proposed rule (see **ADDRESSES**).

*Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements*

The final rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval. The final rule does not duplicate, overlap, or conflict with any other Federal rules.

This final rule adjusts notification requirements for groundfish vessels using EM and first receivers receiving catch from EM trips. Vessels will now be required to declare the type of monitoring they will use on a given trip—observer or EM. This change is necessary to provide vessels the flexibility to switch between different types of monitoring, depending on what is most cost effective and efficient for their operation at that time, while allowing NMFS to track which fleets vessels are participating in. This change would only add additional potential answers to an existing question and not affect the number of entities required to comply with the declaration requirement (OMB Control Number 0648–0573). Therefore, this change is not be expected to increase the time or cost burden associated with this requirement. Similarly, the requirement for EM vessels to notify the observer program before each trip would be in place of the existing notification to an individual vessel's observer provider when using a catch share observer, and is not expected to increase the time or cost burden associated with the existing notification requirements approved under OMB Control Number 0648–0593. The requirement for first receivers to report protected and prohibited species landings was previously approved under OMB Control Number 0648–0619 and this action is not expected to change the time or cost burden or number of entities associated with this requirement.

This final rule also requires vessel owners to submit an application to NMFS to be approved to use EM in place of an observer. This application includes an application form, the purchase or lease and installation of an EM system, a VMP, and attendance of a mandatory training session. The time burden associated with these requirements is estimated to be approximately 10 hours per vessel owner to prepare and submit the application package, install the EM system, and attend training. The training would be given via webinar to maximize convenience and minimize travel costs for vessel captains. The cost of an EM system and installation is estimated at $12,000 per vessel. Approximately half the active vessels in the fleet have already received EM units through their participation in the EFPs and would not need to purchase a new unit to participate in the program. Vessel owners would likely have to purchase new EM units every 5–10 years, depending on the life of the equipment. Vessel owners would also be responsible for maintaining the EM units in good working order, likely through a service contract with a NMFS-permitted EM service provider. NMFS estimates the annual average cost burden per vessel from this requirement to be approximately $5,600.

If denied an EM Authorization, vessel owners would be able to appeal NMFS' decision through the existing appeal process at § 660.25(g). NMFS estimates the time burden associated with preparing and submitting an appeal to be approximately 4 hours per entity, with a cost of $3.00 for copies and postage. Vessel owners would be able to make modifications to their VMPs during the year by submitting a request and amended VMP to NMFS. These requests would be made electronically via email and, therefore, would not be expected to have a cost burden associated with them. NMFS estimates the time burden associated with this requirement from preparing and submitting the request to be 0.5 hours per request per entity.

Vessel owners would be required to renew their EM authorization annually. This is necessary to ensure that the vessel owners' contact information, VMPs, and fishing plans remain up to date. Industry participants raised concerns with the time burden associated with having to complete the application process each year, as was proposed in an earlier draft of the regulations. To address these concerns, NMFS is proposing to instead provide vessel owners with pre-filled renewal forms and their current VMPs to review and certify as correct in a simplified renewal process. NMFS estimates a time burden of approximately 0.5 hours per entity to review and return the pre-filled package.

Vessel operators would be required to complete and submit a logbook for each trip, with an estimated time burden of 10 minutes per submission. The logbooks are provided by NMFS and state agencies, so the cost of requirement mainly derives from postage at $0.46 per submission. To eliminate duplication, NMFS would allow vessel operators to submit a state logbook that contains all the required information. Vessel operators would also be required to submit the EM data to the vessels' EM service providers using a method that provides a return receipt. This is necessary for NMFS and vessel operators to be able to track submissions. This requirement has an average cost of $15.00 per submission and a time burden of 10 min to retrieve and package the hard drive for mailing.

EM service providers would be required to apply to receive a permit from NMFS to provide EM services for vessels. EM service providers would be required to submit an application to NMFS that includes an application form, an EM Service Plan that describes how they plan to provide services, and statements of prior experience and qualifications. If requested, the EM service provider may also be required to provide NMFS copies of contracts with vessel owners and standard operating procedures and manuals describing their operations in more detail. In an earlier draft of the regulations, NMFS proposed requirements very similar to those for observer service providers, with minimal requirements for the provider and NMFS training and certifying individual observers. However, at the November 2015 Council meeting EM service providers commented that different service providers may have different models and that the observer model is not appropriate for EM services providers. Some EM service providers may employ less highly trained analysts to initially review video and a biologist to verify species identification, whereas another service provider may employ highly

trained biologists to do it all. They recommended that the regulations provide more flexibility for different business models. This final rule contains an expanded application process, incorporating an EM Service Plan, to provide the flexibility that service providers seek. The addition of an EM Service Plan allows NMFS to consider different business models proposed by different providers as meeting the EM program requirements. However, this requires EM service providers to prepare and submit a detailed service plan and other documents, in order to provide NMFS with sufficient information to evaluate them. NMFS estimates the time and cost burden associated with preparing and submitting the permit application to be 47 hours and $30 (for copies and postage). Most likely much of this information would be submitted electronically. If requested by NMFS, EM service providers would be required to provide NMFS two EM units and two copies of any software for EM data analysis for a minimum of 90 days for evaluation. Due to their use by NMFS, the value of the EM units may depreciate and the EM service providers may not be able to resell the EM units for their full value. NMFS estimates the EM providers would be able to recoup 50 percent of the EM unit value at approximately $5,000 per unit. This results in a total cost associated with this requirement at $10,215 per provider (including $215 in materials and postage to send the equipment to NMFS).

An EM service provider would be able to appeal a permit decision to NMFS following the procedures at § 660.19. NMFS estimates the time and cost burden of preparing and submitting an appeal to be 4 hours and $5 per entity. EM service providers would be able to make modifications to their EM Service Plans during the year by submitting a request and amended EM Service Plan to NMFS via email (2 hours per submission). EM service providers would be required to renew their permits annually. At the April 2016 Council meeting, EM service providers requested a longer effective period to provide more stability for planning for future fishing years. In response to that request, this final rule contains an abbreviated renewal process in which NMFS would provide pre-filled renewal forms and the current EM Service Plan for the EM service provider to review and certify. This would reduce the time burden for EM service providers, while ensuring NMFS has up-to-date information. NMFS has also revised the final regulations to make provider permits effective for 2 years. NMFS estimates the annual time and cost burden of the renewal to be 1 hour and $5 per entity.

EM service providers would be responsible for providing technical assistance and maintenance services to their contracted EM vessels. EM service providers would be required to provide technical support to vessels at sea, with an annual time burden of approximately 7 hours per entity. Under the terms of their permit, EM service providers and their employees would also be required to report instances of non-compliance by vessel owners and intimidation or harassment of EM technicians to NMFS. The estimated burden for reporting these events is 30 minutes per report (18 hours per entity per year). Employees of EM service providers have to respond to inquiries by NMFS staff or authorized officers on technical or compliance issues with an estimated burden of 1 hour per trip (350 hours per entity per year).

On behalf of their contracted vessels, EM service providers would also be responsible for reviewing vessels' videos from trips, preparing and submitting vessels' catch data and compliance reports to NMFS, and providing feedback to vessel operators on their catch handling, camera views, etc. NMFS would prepare burden estimates for these requirements for OMB approval and public comment through a **Federal Register** notice in 2020 or earlier.

Public reporting burden for these requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office (see **ADDRESSES**), and the guide will be included in a public notice sent to all members of the groundfish email group. To sign-up for the groundfish email group, click on the ''subscribe'' link on the following website: *http://www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/recent_public_notices.html.* The guide and this final rule will also be available on the West Coast Region's website (see **ADDRESSES**) and upon request.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

Pursuant to Executive Order 13175, this rule was developed after meaningful collaboration with tribal officials from the area covered by the FMP. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The regulations do not require the tribes to change from their current practices.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, and Indian Fisheries.

Dated: June 18, 2019.

**Samuel D. Rauch, III,**

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

For the reasons stated in the preamble, 50 CFR part 660 is amended as follows:

## PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.13, revise paragraph (d)(4)(ii) through (iv) to read as follows:

**§ 660.13 Recordkeeping and reporting.**

* * * * *

(d) * * *

(4) * * *

(ii) A declaration report will be valid until another declaration report revising the existing gear, monitoring, or fishery, declaration is received by NMFS OLE. The vessel operator must send a new declaration report before leaving port on a trip that meets one of the following criteria:

(A) A gear type that is different from the gear type most recently declared for the vessel will be used, or

(B) A monitoring type that is different from the monitoring type most recently declared for the vessel will be used, or

(C) A vessel will fish in a fishery other than the fishery most recently declared.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear and monitoring type other than a gear type and monitoring type declared by the vessel or fish in a fishery other than the fishery most recently declared.

(iv) Declaration reports will include: The vessel name and/or identification number, gear type, and monitoring type where applicable, (as defined in paragraph (d)(5)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using nontrawl gear may declare more than one gear type with the exception of vessels participating in the Shorebased IFQ Program (*i.e.* gear switching), however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(5)(iv)(A) of this section on any trip and may not declare nontrawl gear on the same trip in which trawl gear is declared.

(A) One of the following gear types or sectors, and monitoring type where applicable, must be declared:

(*1*) Limited entry fixed gear, not including shorebased IFQ,

(*2*) Limited entry groundfish non-trawl, shorebased IFQ, observer,

(*3*) Limited entry groundfish non-trawl, shorebased IFQ, electronic monitoring,

(*4*) Limited entry midwater trawl, non-whiting shorebased IFQ,

(*5*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, observer,

(*6*) Limited entry midwater trawl, Pacific whiting shorebased IFQ, electronic monitoring,

(*7*) Limited entry midwater trawl, Pacific whiting catcher/processor sector,

(*8*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel or mothership), observer,

(*9*) Limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel), electronic monitoring,

(*10*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl,

(*11*) Limited entry demersal trawl, shorebased IFQ,

(*12*) Non-groundfish trawl gear for pink shrimp,

(*13*) Non-groundfish trawl gear for ridgeback prawn,

(*14*) Non-groundfish trawl gear for California halibut,

(*15*) Non-groundfish trawl gear for sea cucumber,

(*16*) Open access longline gear for groundfish,

(*17*) Open access Pacific halibut longline gear,

(*18*) Open access groundfish trap or pot gear,

(*19*) Open access Dungeness crab trap or pot gear,

(*20*) Open access prawn trap or pot gear,

(*21*) Open access sheephead trap or pot gear,

(*22*) Open access line gear for groundfish,

(*23*) Open access HMS line gear,

(*24*) Open access salmon troll gear,

(*25*) Open access California Halibut line gear,

(*26*) Open access Coastal Pelagic Species net gear,

(*27*) Other gear,

(*28*) Tribal trawl, or

(*29*) Open access California gillnet complex gear.

* * * * *

■ 3. In § 660.19, revise paragraph (a) to read as follows:

**§ 660.19 Appeals process for catch monitors, observers, and provider permits.**

(a) *Allowed appeals.* This section describes the procedure for appealing IADs described at §§ 660.17(g), 660.18(d) and (f), 660.140(h), 660.150(j), 660.160(g), 660.603(b)(3) for catch monitor decertification, observer decertification, provider permit expirations due to inactivity, and EM service provider permit denials. Any person whose interest is directly and adversely affected by an IAD may file a written appeal. For purposes of this section, such person will be referred to as the ''applicant.''

* * * * *

■ 4. In § 660.130, revise paragraphs (d)(2)(ii) and (d)(3)(ii) to read as follows:

**§ 660.130 Trawl fishery—management measures.**

* * * * *

(d) * * *

(2) * * *

(ii) *Catcher vessels.* All catch must be sorted to the species groups specified in paragraph (d)(1) of this section for vessels with limited entry permits, except those engaged in maximized retention while declared into a Pacific whiting IFQ trip. The catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch, unless otherwise allowed under the EM Program requirements at § 660.604 of subpart J. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, other salmon. Non-groundfish species must be sorted as required by the state of landing.

(3) * * *

(ii) If sorting occurs on a catcher vessel in the MS Co-op Program, the catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch, or unless otherwise allowed under the EM Program requirements at § 660.604 of subpart J.

* * * * *

■ 5. In § 660.140, revise paragraph (g)(1) and add paragraph (h)(1)(i)(A)(*4*) to read as follows:

**§ 660.140 Shorebased IFQ Program.**

* * * * *

(g) * * *

(1) *General.* Shorebased IFQ Program vessels may discard IFQ species/species groups, provided such discards are accounted for and deducted from QP in the vessel account. With the exception of vessels on a declared Pacific whiting IFQ trip and engaged in maximized retention, and vessels fishing under a valid EM Authorization in accordance with § 660.604 of subpart J, prohibited and protected species must be discarded at sea; Pacific halibut must be discarded as soon as practicable and the discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Non-IFQ species and non-groundfish species may be discarded at sea, unless otherwise required by EM Program requirements at § 660.604 of subpart J. The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer or EM system.

* * * * *

(h) * * *

(1) * * *

(i) * * *

(A) * * *

(*4*) Is exempt from the requirement to carry an observer if the vessel has a

valid EM Authorization and is fishing with EM under § 660.604 of subpart J.
* * * * *

■ 6. In § 660.150, revise paragraphs (i) and (j)(1)(i)(B) to read as follows:

**§ 660.150 Mothership (MS) Coop Program.**
* * * * *

(i) *Retention requirements.* Catcher vessels participating in the MS Co-op Program may discard minor operational amounts of catch at sea if the observer or EMS has accounted for the discard (*i.e.,* a maximized retention fishery).

(j) * * *

(1) * * *

(i) * * *

(B) *Catcher vessels.* Any vessel delivering catch to any MS vessel must carry one certified observer each day that the vessel is used to take groundfish, unless the catcher vessel has a valid EM Authorization and is fishing with EM under § 660.604 of subpart J.
* * * * *

■ 7. Add subpart J to part 660 read as follows:

**Subpart J—West Coast Groundfish Electronic Monitoring Program**

Sec.
660.600 Applicability.
660.601 Definitions.
660.602 Prohibitions.
660.603 Electronic monitoring provider permits and responsibilities.
660.604 Vessel and first receiver responsibilities.

## Subpart J—West Coast Groundfish Electronic Monitoring Program

### § 660.600 Applicability.

(a) *General.* This subpart contains requirements for vessels using EM in lieu of observers, as authorized under § 660.140(h)(1)(i) (Shorebased IFQ Program) and § 660.150(j)(1)(i) (MS Co-op Program), and requirements for EM service providers. Vessel owners, operators, and managers are jointly and severally liable for a vessel's compliance with EM requirements under this subpart. This subpart also contains requirements for a first receiver receiving catch from a trip monitored by EM (*see* § 660.604(u)). The table below provides references to the sections that contain vessel owner, operator, first receiver, and service provider responsibilities.

| West coast groundfish fishery | Section |
|---|---|
| (1) Limited entry trawl fishery: | |
| (i) Vessel owners | 660.604 |
| (ii) Vessel operators | 660.604 |
| (iii) First receivers | 660.604 |
| (iv) Service providers | 660.603 |
| (2) [Reserved]. | |

(b) *EM program purpose.* The purpose of the EM program is to provide NMFS with the best scientific information available to determine individual accountability for catch (including discards) of IFQ species and compliance with requirements of the Shorebased IFQ Program (§ 660.140) and MS Co-op Program (§ 660.150). NMFS will develop EM Program Guidelines, which will document best practices and other information that NMFS will use to evaluate proposed service and vessel monitoring plans submitted by EM service providers and vessel owners under this subpart, and to evaluate the performance of EM service providers and vessels, in meeting the requirements of this subpart to achieve the purpose of the EM program. NMFS will develop the EM Program Guidelines in consultation with the Council and publish notice of their availability in the **Federal Register**. NMFS will maintain the EM Program Guidelines on its website and make them available to vessel owners and operators and EM service providers to assist in developing service plans and vessel monitoring plans that comply with the requirements of this subpart and meet the purpose of the EM program.

### § 660.601 Definitions.

These definitions are specific to this subpart. General groundfish definitions are found at § 660.11, subpart C, and trawl fishery definitions are found at § 660.111, subpart D.

*Active sampling unit* means the portion of the groundfish fleet in which an observer coverage plan is being applied.

*Discard control point* means the location on the vessel designated by a vessel operator where allowable discarding may occur.

*Discard event* means a single occurrence of discarding of fish or other species.

*Electronic Monitoring* or *EM* consists of the use of an electronic monitoring system (EMS) to passively monitor fishing operations through observing or tracking.

*Electronic Monitoring Authorization* means the official document provided by NMFS that allows a vessel with a limited entry trawl permit to use electronic monitoring under the provisions of this subpart.

*Electronic Monitoring System Certification Form* means the official document provided by NMFS, signed by a representative of a NMFS-permitted electronic monitoring service provider that attest that an EM system and associated equipment meets the performance standards defined at § 660.604(j) of this subpart, as required by § 660.604(e)(3)(i).

*EM data* means the information output of the Electronic Monitoring System (*e.g.,* imagery, sensor data, and other associated data files).

*EM dataset* means a collection of EM data from a single EM trip or group of EM trips.

*EM data processing* means the review, interpretation, and analysis of EM data and associated meta data.

*EM Program* means the Electronic Monitoring Program of the West Coast Region, National Marine Fisheries Service.

*EM Service Plan* means the document required under § 660.603 that describes in detail how the EM service provider will provide EM services.

*EM service provider* means any person, including their employees or agents, that is granted a permit by NMFS to provide EM services for vessels as required under § 660.603 and § 660.604.

*Electronic Monitoring System* or *EMS* means a data collection tool that uses a software operating system connected to an assortment of electronic components, including video recorders, to create a collection of data on vessel activities.

*EM technician* means an employee of the EM service provider that provides support for EM systems and technical assistance.

*EM trip* means any fishing trip for which electronic monitoring is the declared monitoring type.

*Initial Administrative Determination (IAD)* means a formal, written determination made by NMFS on an application or permit request that is subject to an appeal within NMFS.

*Non-trawl shorebased IFQ vessel* means a vessel on a declared limited entry groundfish non-trawl, shorebased IFQ trip.

*Pacific whiting fishery* refers to the Pacific whiting primary season fisheries described at § 660.131. The Pacific whiting fishery is composed of vessels participating in the C/P Co-op Program, the MS Co-op Program, or the Pacific whiting IFQ fishery.

*Pacific whiting IFQ fishery* is composed of vessels on Pacific whiting IFQ trips.

*Pacific whiting IFQ trip* means a trip in which a vessel uses midwater groundfish trawl gear during the dates of the Pacific whiting primary season to target Pacific whiting, and Pacific

whiting constitutes 50 percent or more of the catch by weight at landing as reported on the state landing receipt. Vessels on Pacific whiting IFQ trips must have a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

*Shorebased IFQ Program* or *Shorebased IFQ sector,* refers to the fishery described at § 660.140, subpart D, and includes all vessels on IFQ trips.

*Vessel Monitoring Plan* (*VMP*) means the document that describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the performance standards and purpose of the EM Program.

**§ 660.602 Prohibitions.**

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to:

(a) *Electronic monitoring program.*— (1) Make a false or inaccurate/incorrect statement on an application for issuance, renewal, or changes to an EM Authorization or NMFS-accepted VMP.

(2) Fish for or land fish from a trip without electronic monitoring or observer coverage when a vessel is required to carry electronic monitoring or an observer under §§ 660.140(h) or 660.150(j).

(3) Fish for or land fish from a trip taken under electronic monitoring without a valid EM Authorization and NMFS-accepted vessel monitoring plan onboard, and a valid gear and monitoring declaration with NMFS OLE as required by § 660.604(c)(1) and § 660.604(m).

(4) Fail to comply with the terms of a NMFS-accepted VMP.

(5) Fail to notify the NMFS West Coast Groundfish Observer Program at least 48-hours prior to departing port of the vessel operator's intent to take a trip under EM, as required by § 660.604(n).

(6) Fail to conduct a pre-departure test of the EM system prior to departing port as required by § 660.604(l)(2).

(7) Fish on an EM trip without a fully functional EM system, unless authorized by a NMFS-accepted VMP as required by § 660.604(l)(3).

(8) Fail to make the EM system, associated equipment, logbooks, EM data, and other records available for inspection immediately upon request by NMFS, its agent, or authorized officers, as required by §§ 660.604(o) and 660.604(t).

(9) Discard species other than those allowed to be discarded as specified at § 660.604(p).

(10) Fail to handle fish and other marine organisms in a manner that enables the EM system to record it as required by § 660.604(r).

(11) Fail to submit complete and accurate logbook(s) and EM data for each EM trip as specified at § 660.604(s),

(12) Tamper with, disconnect, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system or associated equipment.

(13) Assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an EM service provider, EM field services staff, or EM data processing staff.

(14) Interfere with or bias the sampling procedure employed by EM data processing staff including either mechanically or manually sorting or discarding catch outside of camera view or inconsistent with the NMFS-accepted VMP.

(15) Fail to meet the vessel owner or operator responsibilities specified in section 660.604.

(16) Fail to meet the first receiver responsibilities specified at § 660.604(u).

(17) Fail to meet the EM service provider responsibilities specified in section § 660.603.

(18) Fish without an observer when a vessel is required to carry an observer under subpart J of this part if:

(i) The vessel is inadequate for observer deployment as specified at § 600.746 of this chapter;

(ii) The vessel does not maintain safe conditions for an observer as specified at § 660.604(n);

(iii) NMFS, the observer provider, or the observer determines the vessel is inadequate or unsafe pursuant to vessel responsibilities to maintain safe conditions as specified at § 660.604(n);

(19) Fail to meet the vessel responsibilities and observer coverage requirements specified at § 660.604(n).

(b) [Reserved]

**§ 660.603 Electronic monitoring provider permits and responsibilities.**

(a) *General.* This section contains requirements for EM service providers providing EM services, pursuant to contracts with vessel owners whose vessels operate in the Shorebased IFQ Program (§ 660.140) or the MS Co-op Program (§ 660.150) and use EM under this subpart. A person must obtain a permit and endorsement as provided under § 660.603(b) in order to be an EM service provider. An EM service provider must:

(1) Operate under a NMFS-accepted EM Service Plan (*see* § 660.603(b)(3)(vii)).

(2) Provide and manage EM systems, field services, and technical assistance as required under § 660.603(k);

(3) Provide technical and litigation information to NMFS or its agent (*see* § 660.603(l)).

(4) Provide technical support to contracted fishing vessels 24-hours per day, seven days per week, and year-round as provided under § 660.603(k)(4);

(5) Provide EM data processing, reporting, and record retention services to contracted vessels using EM (*see* § 660.603(m)).

(6) Comply with data integrity and security requirements, including requirements pertaining to hard drives and data files containing EM data, (*see* § 660.603(n)).

(b) *Provider permits.* To be an EM service provider, a person must obtain an EM service provider permit and endorsement by submitting an application to the NMFS West Coast Region Fisheries Permit Office. A person may meet some requirements of this section through a partnership or subcontract with another entity, in which case the application for an EM service provider permit must include information about the partnership. An applicant may submit an application at any time. If a new EM service provider, or an existing EM service provider seeking to deploy a new EMS or software version, submits an application by June 1, NMFS will issue a new permit by January 1 of the following calendar year. Applications submitted after June 1 will be processed as soon as practicable. NMFS will only process complete applications. Additional endorsements to provide observer or catch monitor services may be obtained under § 660.18.

(1) *Contents of provider application.* To be considered for an EM service provider permit and endorsement, the service provider must submit a complete application that includes the following information. The same information must be included for any partners or subcontractors if the applicant intends to satisfy any of the EM service provider requirements through a partnership or contractual relationship with another entity.

(i) Certify that the applicant meets the following eligibility criteria:

(A) The EM service provider and its employees do not have a conflict of interest as defined at § 660.603(h), and,

(B) The EM service provider is willing and able to comply with all applicable requirements of this section and to operate under a NMFS-accepted EM Service Plan.

(ii) Applicant's contact information.

(iii) Legal name of applicant organization. If the applicant organization is a United States business

entity, include the state registration number.

(iv) Description of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and employees. List all office locations and their business mailing address, business phone, fax number, and email addresses. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(v) A narrative statement describing prior relevant experience in providing EM services, technical support, or fishery data analysis services, including recruiting, hiring, training, deploying, and managing of individuals in marine work environments and of individuals working with fishery data, in the groundfish fishery or other fisheries of similar scale.

(vi) A statement signed under penalty of perjury by an authorized agent of the applicant about each owner, or owners, board members, and officers if a corporation, authorized agents, and employees, regarding:

(A) Conflict of interest as described in § 660.603(h),

(B) Criminal convictions,

(C) Federal contracts they have had and the performance rating they received on each contract, and

(D) Any previous history of decertification or permit sanction action while working as an observer, catch monitor, observer provider, catch monitor provider, or electronic monitoring provider.

(vii) *EM Service Plan.* An EM Service Plan that describes in detail how the applicant will provide EM services for vessels. To ensure that the EM Program achieves its purpose, NMFS will develop EM Program Guidelines (*see* § 660.600(b)) and use them to evaluate proposed EM Service Plans. NMFS may consider alternative, but equivalent, methods proposed by EM service providers and vessel owners in their plans to meet the requirements of this subpart, if they achieve the purpose of the EM program. An EM Service Plan must include descriptions of the following (using pictures and diagrams where appropriate):

(A) Contact information for a primary point of contact for program operations inseason;

(B) A plan for provision of services including communications, service locations, response timelines, and procedures for services, repairs, technical support, and other program services;

(C) Procedures for hiring and training of competent program staff to carry out EM field services and data services, including procedures to maintain the skills of EM data processing staff in:

(*1*) Use of data processing software;

(*2*) Species identification;

(*3*) Fate determination and metadata reporting requirements;

(*4*) Data processing procedures;

(*5*) Data tracking; and,

(*6*) Reporting and data upload procedures.

(D) Procedures for tracking hard drives and/or data files throughout their use cycle, including procedures to ensure the integrity and security of hard drives or data files in transit, and for removing EM data from hard drives or other medium before returning them to the field;

(E) Procedures for data processing, including tracking of EM datasets throughout their processing cycle and documenting any access and modifications;

(F) Procedures for correction and resubmission of EM summary data reports and other reports that NMFS has determined are not of sufficient quality to meet the purpose of the EM program, as described at § 660.603(m)(5), and to ensure that future reports are sufficient for use by NMFS.

(G) Policies on data access, handling, and release to prevent unauthorized disclosure of EM data and other records specified in this section by the EM provider as required under § 660.603(n);

(H) Procedures for retention of records as required under § 660.603(m)(6);

(I) Identifying characteristics of the EMS to be deployed and the video review software to be used in the fishery, including but not limited to: Manufacturer, brand name, model name, model number, software version and date, firmware version number and date, hardware version number and date, monitor/terminal number and date, pressure sensor model number and date, drum rotation sensor model number and date, and GPS model number and date.

(J) EM system and software specifications, including a narrative statement describing how the EM system and associated equipment meets the performance standards at § 660.604(j).

(K) EM video review software specifications, including a narrative statement describing how the software meets the EM Program Guidelines and will provide NMFS with data to achieve the purpose of the EM Program as defined at § 660.600(b).

(viii) Provide NMFS the following, if requested:

(A) Two EM system units loaded with software for a minimum of 90 calendar days for testing and evaluation.

(B) Thorough documentation for the EM system, including: User manuals, any necessary interfacing software, performance specifications, technical support information, and tamperproof or tamper evident features.

(C) The results of at-sea trials of the EM system.

(D) Two copies of video review and analysis software for a minimum of 90 calendar days for testing and evaluation.

(E) Thorough documentation for the video review and analysis software, including: User manuals, performance specifications, and technical support information.

(F) Descriptions of database models and analysis procedures for EM data and associated meta data to produce required reports.

(2) *Application evaluation.* NMFS may request additional information or revisions from the applicant until NMFS is satisfied that the application is complete. Complete applications will be forwarded to the EM Program for review and evaluation by the EM provider permit review board. If the applicant is an entity, the review board also will evaluate the application criteria for each owner, board member, officer, authorized agent, and employee. NMFS will evaluate the application based on the EM Program Guidelines (*see* § 660.600(b)) and the following criteria:

(i) The applicant's relevant experience and qualifications;

(ii) Review of any conflict of interest as described in § 660.603(h);

(iii) Review of any criminal convictions;

(iv) Review of the proposed EM Service Plan, including evaluation of EM equipment and software;

(v) Satisfactory performance ratings on any federal contracts held by the applicant;

(vi) Review of any history of decertification or permit sanction as an observer, catch monitor, observer provider, catch monitor provider, or EM service provider; and,

(vii) Review of any performance history as an EM service provider.

(3) *Agency determination on an application.* Based on a complete application, if NMFS determines that the applicant has met the requirements of this section, NMFS will issue an initial administrative determination (IAD). If the application is approved, the IAD will serve as the EM service

provider's permit and endorsement. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at § 660.19.

(4) *Effective dates.* The provider permit is valid from the effective date identified on the permit until the permit expiration date of December 31 of the following year. Provider permit holders must renew biennially by following the renewal process specified in paragraph (f) of this section.

(5) *Expiration of the provider permit.*—(i) *Expiration due to inactivity.* After a period of 24 continuous months during which no EM services are provided by the provider in the Pacific coast groundfish fishery, NMFS will issue an IAD describing the intent to expire the provider permit or to remove the appropriate endorsement(s) and the timeline to do so. A provider that receives an IAD may appeal under § 660.19. The provider permit and endorsements will remain valid until a final agency decision is made or until the permit expiration date, whichever is earlier.

(ii) *Expiration due to failure to renew.* Failure to renew biennially will result in expiration of the provider permit and endorsements on the permit expiration date.

(iii) *Invalidation due to lapse in eligibility.* NMFS may invalidate an EM service provider permit if NMFS determines that the EM service provider no longer meets the eligibility criteria defined at paragraph (b)(1)(i) of this section. NMFS will first notify the EM service provider of the deficiencies in writing and the EM service provider must correct the deficiencies following the instructions provided. If the deficiencies are not resolved upon review of the first trip following the notification, NMFS will notify the EM service provider in writing that the provider permit is invalid and that the EM service provider is no longer eligible to provide EM services for vessels for the remainder of that calendar year. The EM service provider may reapply for an EM service provider permit and endorsement for the following calendar year.

(iv) *Obtaining a new permit or endorsement following an expiration or invalidated permit.* A person holding an expired or invalidated permit or endorsement may reapply for a new provider permit or endorsement at any time consistent with paragraph (b) of this section.

(c) *Changes to a NMFS-accepted EM Service Plan.* An EM service provider may make changes to a NMFS-accepted EM Service Plan by submitting a revised plan or plan addendum to NMFS in writing. NMFS will review and accept the change if it meets all the requirements of this section. A plan addendum must contain:

(1) The date and the name and signature of an authorized agent of the EM service provider;

(2) Address, telephone number, fax number and email address of the person submitting the addendum;

(3) A complete description of the proposed EM Service Plan change.

(d) *Change of provider permit ownership and transfer restrictions.* If an EM service provider changes ownership during the term of an EM service provider permit, the new owner must apply for a new provider permit.

(e) *Provider permit sanctions.* Procedures governing sanctions of permits are found at subpart D of 15 CFR part 904.

(f) *Renewing a provider permit.* To maintain a valid provider permit, provider permit holders must reapply biennially prior to the permit expiration date. NMFS will mail a provider permit application form to existing permit holders on or about July 15 of the year that the permit is due to expire. Providers who want to have their permits effective for January 1 of the following calendar year must submit their complete application form to NMFS by September 1. If a provider fails to renew the provider permit, the provider permit and endorsements will expire on the permit expiration date.

(g) *Fees.* NMFS may charge a fee to cover administrative expenses related to issuance of permits including initial issuance, renewal, replacement, and appeals.

(h) *Limitations on conflict of interest for providers and employees.*—(1) EM service providers and their employees must not have a direct financial interest, other than the provision of observer, catch monitor, EM, or other biological sampling services, in any federal or state managed fisheries, including but not limited to:

(i) Any ownership, mortgage holder, or other secured interest in a vessel, first receiver, shorebased or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish;

(ii) Any business involved with selling supplies or services to any vessel, first receiver, shorebased or floating stationary processing facility; or

(iii) Any business involved with purchasing raw or processed products from any vessel, first receiver, shorebased or floating stationary processing facilities.

(2) EM service providers and their employees must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, employment, or anything of monetary value from any person who conducts fishing or fish processing activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the provider's contractual duties.

(3) The EM service provider may not employ any person to handle hard drives or EM data from a vessel by which the person was previously employed in the last two years.

(4) Provisions of contracts or agreements for remuneration of EM services under this section do not constitute a conflict of interest.

(i) *Insurance.* The EM service provider must maintain sufficient commercial liability insurance to cover bodily injury and property damage caused by their employees while on a contracted vessel and State Worker's Compensation insurance. The EM service provider shall provide copies of these insurance policies to the vessel owner, operator, or vessel manager, when requested.

(j) *Warranties.* None of the provisions of this section are intended to preclude any state or federal statutes or regulations governing warranties.

(k) *Field and technical support services.* The EM service provider must provide and manage EM systems, installation, maintenance and technical support, as described below and according to a NMFS-accepted EM Service Plan, which is required under § 660.603(b)(1)(vii), and as described in the EM Program Manual or other written and oral instructions provided by the EM Program, such that the EM program achieves its purpose as defined at § 660.600(b).

(1) At the time of installation, the EM service provider must:

(i) Install an EM system that meets the performance standards under § 660.604(j);

(ii) Ensure that the EM system is set up, wires run, system powered, and tested with the vessel in operation;

(iii) Brief the vessel operator on system operation, maintenance, and procedures to follow for technical support or field service;

(iv) Provide necessary information for the vessel operator to complete the VMP, such as images and diagrams of camera views and vessel layout, specific information about system settings, and designated discard control points; and,

(v) Complete an EM System Certification Form for the vessel owner.

(2) The EM service provider must communicate with vessel operators and NMFS to coordinate service needs, resolve specific program issues, and provide feedback on program operations.

(3) The EM service provider must provide maintenance and support services, including maintaining an EM equipment inventory, such that all deployed EM systems perform according to the performance standards at § 660.604(j) and that field service events are scheduled and carried out with minimal delays or disruptions to fishing activities.

(4) The EM service provider must provide technical assistance to vessels, upon request, in EM system operation, the diagnosis of the cause of malfunctions, and assistance in resolving any malfunctions. Technical support must be available 24-hours per day, seven days per week, and year-round.

(5) The EM service provider must submit to NMFS reports of requests for technical assistance from vessels, including when the call or visit was made, the nature of the issue, and how it was resolved.

(l) *Technical assistance and litigation information.* As a requirement of its permit, the EM service provider must provide the following to NMFS or authorized officers, upon request.

(1) Assistance in EM system operation, diagnosing and resolving technical issues, and recovering corrupted or lost data.

(2) Responses to inquiries related to data summaries, analyses, reports, and operational issues with vessel representatives.

(3) Technical and expert information, if the EM system/data are being admitted as evidence in a court of law. All technical aspects of a NMFS-approved EM system may be analyzed in court for, inter alia, testing procedures, error rates, peer review, technical processes and general industry acceptance. To substantiate the EM system data and address issues raised in litigation, an EM service provider must provide information, including but not limited to:

(i) If the technologies have previously been subject to such scrutiny in a court of law, a brief summary of the litigation and any court findings on the reliability of the technology.

(ii) [Reserved]

(4) All software necessary for accessing, viewing, and interpreting the data generated by the EM system, including maintenance releases to correct errors in the software or enhance the functionality of the software.

(5) Notification NMFS within 24 hours after the EM service provider becomes aware of the following:

(i) Any information, allegations, or reports regarding possible harassment of EM provider staff;

(ii) Any information, allegations, or reports regarding possible EM system tampering;

(iii) Any information, allegations, or reports regarding any action prohibited under §§ 660.12(f) or 660.602(a)(13); or,

(iv) Any information, allegations or reports regarding EM service provider staff conflicts of interest.

(6) Notification to NMFS of any change of management or contact information or a change to insurance coverage.

(7) A copy of any contract between the service provider and entities requiring EM services;

(8) Proof of sufficient insurance as defined in paragraph (i);

(9) Copies of any information developed and used by the EM service provider and distributed to vessels, including, but not limited to, informational pamphlets, payment notifications, and description of EM service provider duties; and,

(10) EM data and associated meta data, and other records specified in this section.

(m) *Data services.* For vessels with which it has a contract (see § 660.604(k)), the EM service provider must provide and manage EM data processing, reporting, and record retention services, as described below and according to a NMFS-approved EM Service Plan, which is required under § 660.603(b)(1)(vii), and as described in the EM Program Manual or other written and oral instructions provided by the EM Program, and such that the EM Program achieves its purpose as defined at § 660.600(b).

(1) The EM service provider must process vessels' EM data according to a prescribed coverage level or sampling scheme, as specified by NMFS, and determine an estimate of discards for each trip using standardized estimation methods specified by NMFS. NMFS will maintain manuals for EM data processing protocols on its website.

(2) The EM service provider must ensure that its data processing staff are fully trained in:

(i) Use of data processing software;

(ii) Species identification;

(iii) Fate determination and metadata reporting requirements;

(iv) Data processing procedures;

(v) Data tracking; and,

(vi) Reporting and data upload procedures.

(3) The EM service provider must track hard drives and EM datasets throughout their cycles, including documenting any access and modifications. EM data must be removed from hard drives or other medium before returning them to the field.

(4) The EM service provider must communicate with vessel operators and NMFS to coordinate data service needs, resolve specific program issues, and provide feedback on program operations. The EM service provider must provide feedback to vessel representatives, field services staff, and NMFS regarding:

(i) Adjustments to system settings;

(ii) Changes to camera positions;

(iii) Advice to vessel personnel on duty of care responsibilities;

(iv) Advice to vessel personnel on catch handling practices; and,

(v) Any other information that would improve the quality and effectiveness of data collection on the vessel.

(5) On behalf of vessels with which it has a contract (see § 660.604(k)), the EM service provider must submit to NMFS EM summary reports, including discard estimates, fishing activity information, and meta data (*e.g.,* image quality, reviewer name), and incident reports of compliance issues according to a NMFS-accepted EM Service Plan, which is required under § 660.603(b)(1)(vii), and as described in the EM Program Manual or other written and oral instructions provided by the EM Program, such that the EM program achieves its purpose as defined at § 660.600(b). If NMFS determines that the information does not meet these standards, NMFS may require the EM service provider to correct and resubmit the datasets and reports.

(6) *Retention of records.* Following an EM trip, the EM service provider must maintain all of a vessel's EM data and other records specified in this section, or used in the preparation of records or reports specified in this section or corrections to these reports, for a period of not less than three years after the date of landing for that trip. EM data and other records must be stored such that the integrity and security of the records is maintained for the duration of the retention period. The EM service provider must produce EM data and other records immediately upon request by NMFS or an authorized officer.

(n) *Data integrity and security.* The EM service provider must ensure the integrity and security of vessels' EM data and other records specified in this section. The EM service provider and its employees:

(1) Must not handle or transport hard drives or other medium containing EM data except to carry out EM services

required by this section in accordance with a NMFS-accepted EM Service Plan.

(2) Must not write to or modify any EM hard drive or other medium that contains EM data before it has been copied and catalogued.

(3) Must not release a vessel's EM data and other records specified in this section (including documents containing such data and observations or summaries thereof) except to NMFS and authorized officers as provided in section § 660.603(m)(6), or as authorized by the owner or operator of the vessel.

**§ 660.604 Vessel and first receiver responsibilities.**

(a) *General.* This section lays out the requirements for catcher vessels to obtain an exemption to use EM in place of 100-percent observer coverage required by the Shorebased IFQ Program (§ 660.140(h)(1)(i)) and MS Co-op Program (§ 660.150(j)(1)(i)(B)). Requirements are also described for first receivers receiving landings from EM trips.

(b) *Vessel Owner Responsibilities.* To use EM under this section, vessel owners must:

(1) Obtain an EM Authorization from the NMFS West Coast Region Fisheries Permit Office (*see* § 660.604(e));

(2) Install an EM system using a NMFS-permitted EM service provider that meets performance standards under § 660.604(j);

(3) Have a signed EM system certification form (*see* § 660.604(e)(3)(i));

(4) Have a NMFS-accepted vessel monitoring plan (*see* § 660.604(e)(3)(iii));

(5) Ensure that the vessel operator attends a mandatory EM orientation session provided by the NMFS West Coast Region EM Program (NMFS may waive this requirement on a case-by-case basis, such as when the vessel operator has prior EM experience);

(6) Maintain logbooks and other records for three years and provide them to NMFS or authorized officers for inspection (*see* § 660.604(t)).

(7) Obtain EM data processing, reporting, and recordkeeping services from a NMFS-permitted EM service provider (*see* § 660.604(k)).

(c) *Vessel Operator Responsibilities.* To use EM under this section, vessel operators must:

(1) Maintain a valid EM Authorization and NMFS-accepted vessel monitoring plan onboard the vessel at all times that the vessel is fishing on an EM trip or when fish harvested during an EM trip are onboard the vessel;

(2) Ensure that the EM system is installed, operated, and maintained consistent with performance standards (*see* § 660.604(l));

(3) Comply with a NMFS-accepted vessel monitoring plan (*see* § 660.604(e)(3)(iii);

(4) Make declaration reports to OLE prior to leaving port (*see* § 660.604(m));

(5) Provide advance notice to the NMFS WCGOP at least 48 hours prior to departing port (*see* § 660.604(n));

(6) Comply with observer requirements, if NMFS notifies the vessel owner, operator, or manager that the vessel is required to carry an observer (*see* § 660.604(n));

(7) Ensure retention and handling of all catch as provided under §§ 660.604(p) and 660.604(r); and

(8) Comply with recordkeeping, reporting, and inspection requirements (*see* §§ 660.604(o), (s) and (t)).

(d) *First receiver responsibilities.* First receivers receiving catch from trips taken under EM must follow special disposition and sorting requirements for prohibited and protected species (*see* § 660.604(u)).

(e) *Electronic Monitoring Authorization.* To obtain an EM Authorization, a vessel owner must submit an initial application to the NMFS West Coast Region Fisheries Permit Office, then a final application that includes an EM system certification and a vessel monitoring plan (VMP). NMFS will only review complete applications. A vessel owner may submit an application at any time. Vessel owners that want to have their Authorizations effective for January 1 of the following calendar year must submit their complete application to NMFS by October 1. Vessel owners that want to have their Authorizations effective for May 15 must submit their complete application to NMFS by February 15 of the same year.

(1) *Initial application.* To be considered for an EM Authorization, the vessel owner must submit a completed application form provided by NMFS, signed and dated by an authorized representative of the vessel, and meet the following eligibility criteria:

(i) The applicant owns the vessel proposed to be used;

(ii) The vessel has a valid Pacific Coast Groundfish limited entry, trawl-endorsed permit registered to it;

(iii) If participating in the mothership sector, the vessel has a valid MS/CV endorsement;

(iv) The vessel is participating in the Pacific whiting IFQ fishery, mothership sector, or the Shorebased IFQ sector using groundfish non-trawl gear;

(v) The vessel is able to accommodate the EM system, including providing sufficient uninterrupted electrical power, suitable camera mounts, adequate lighting, and fittings for hydraulic lines to enable connection of a pressure transducer;

(vi) The vessel owner and operator are willing and able to comply with all applicable requirements of this section and to operate under a NMFS-accepted VMP.

(2) *Review of initial application.* Based on a complete initial application, if NMFS determines that the applicant meets the eligibility criteria in paragraph (e)(1) of this section, NMFS will notify the applicant in writing that the initial application has been accepted for further consideration. An applicant who receives such notice may install an EM system on his or her vessel and proceed with submission of a final application as provided under paragraph (e)(3) of this section. If an initial application has not been accepted, NMFS will provide the applicant an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at § 660.25(g).

(3) *Final application.* A final application must be complete and must include:

(i) *EM system certification.* A certification form, provided by NMFS, signed by a representative of a NMFS-permitted EM service provider that attests that an EM system and associated equipment that meets the performance standards at paragraph (k) of this section was installed on the vessel, that the system was tested while the vessel was underway, and that the vessel operator was briefed on the EM system operation and maintenance. NMFS will maintain a list of permitted EM service providers on its website.

(ii) *Tentative fishing plan.* A description of the vessel owner's fishing plans for the year, including which fishery the vessel owner plans to participate in, from what ports, and when the vessel owner intends to use EM and observers. This information is for purposes of planning observer deployments and is not binding.

(iii) *Vessel monitoring plan.* A complete vessel monitoring plan for the vessel that accurately describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the performance standards at paragraph (k) of this section. NMFS will develop EM Program Guidelines containing best practices and templates and make them available on NMFS' website to assist vessel owners in developing VMPs (*see* § 660.600(b)). NMFS may consider alternative, but equivalent, methods proposed by EM service providers and vessel owners in their plans to meet the requirements of

this subpart, if they achieve the purpose of the EM program. An EM service provider may prepare and submit a VMP on behalf of the applicant. The VMP must include descriptions of the following (using pictures and diagrams where appropriate):

(A) General vessel information including the vessel name, hull number, gear type(s), home port, captain name, and target fishery or sector;

(B) The coordinates of the home port box, if a geo-referenced port box will be used to trigger data collection;

(C) A diagram of the vessel layout with measurements of the deck and denoting the location of any designated discard control points;

(D) The number and location of cameras and with images of corresponding views;

(E) The location of lighting, control center, GPS, sensors, monitor, and other EM equipment;

(F) Frame rates, image resolution, frequency of data logging, sensor trigger threshold values, and other EM system specifications;

(G) The location and procedures for any catch handling, including designated discard control points within camera view, procedures for sorting and measuring discards, the number of crew sorting catch, and what steps will be taken to ensure that all catch remains in camera view;

(H) The measurements of all bins, baskets, compartments, and other tools that will be used to calculate estimates of weight;

(I) The detailed steps that will be taken to minimize the potential for EM system malfunctions and the steps that will be taken, when malfunctions occur, to ensure the adequate monitoring of catch;

(J) The name, address, phone number, and email address of a primary point of contact for vessel operations;

(K) The name, address, and phone number of the vessel's EM service provider, and contact information for a primary point of contact at the EM service provider;

(L) The name, address, phone number, and signature of the applicant, and the date of the application; and,

(M) Any other information required by NMFS.

(iv) Any updates to information submitted in the initial application, including updates to proposed, self-enforcing agreements, if applicable (*see* paragraph (e)(5) of this section).

(4) *Review of final application.* NMFS may request additional information or revisions from the applicant until NMFS is satisfied that the application is complete. Based on a complete application, if NMFS determines that the applicant has met the requirements of this section, NMFS will issue an IAD and an EM Authorization. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at § 660.25(g). NMFS will evaluate an application based on the EM Program Guidelines (*see* § 660.600(b)) and the following criteria, at a minimum:

(i) Review of the vessel owner's and operator's eligibility based on the eligibility criteria at paragraph (e)(1);

(ii) Review of the proposed VMP; and,

(iii) Review of the proposed self-enforcing agreement, if applicable.

(5) *Self-enforcing agreement.* In the future, through a proposed and final rulemaking, NMFS may allow for and provide requirements related to the use of voluntary self-enforcing agreements. This agreement would allow a group of eligible vessels to encourage compliance with the requirements of this section through private, contractual arrangements. If such arrangements are used, participating vessel owners must submit the proposed agreement to NMFS for review and acceptance as part of the application process as provided under paragraphs (e)(1) and (3) of this section. The existence of a self-enforcing agreement among EM vessels does not foreclose the possibility of independent enforcement action by NMFS OLE or authorized officers.

(f) *Changes to a NMFS-accepted VMP.* A vessel owner may make changes to a NMFS-accepted VMP by submitting a revised plan or plan addendum to NMFS in writing. NMFS will review and accept the change if it meets all the requirements of this section. A VMP addendum must contain:

(1) The date and the name and signature of the vessel owner;

(2) Address, telephone number, fax number and email address of the person submitting the addendum;

(3) A complete description of the proposed VMP change.

(g) *Change in ownership of a vessel.* If a vessel changed ownership, the new owner must apply for a new EM Authorization.

(h) *Effective dates.*—(1) The EM Authorization is valid from the effective date identified on the Authorization until the expiration date of December 31. EM Authorization holders must renew annually by following the renewal process specified in paragraph (e) of this section. Failure to renew annually will result in expiration of the EM Authorization and endorsements on the Authorization expiration date.

(2) *Invalidation due to lapse in eligibility.* NMFS may invalidate an EM Authorization if NMFS determines that the vessel, vessel owner, and/or operator no longer meets the eligibility criteria specified at paragraph (e)(1) of this section. NMFS would first notify the vessel owner of the deficiencies in writing and the vessel owner must correct the deficiencies following the instructions provided. If the deficiencies are not resolved upon review of the first trip following the notification, NMFS will notify the vessel owner in writing that the EM Authorization is invalid and that the vessel is no longer exempt from observer coverage at §§ 660.140(h)(1)(i) and 660.150(j)(1)(i)(B) for that authorization period. The holder may reapply for an EM Authorization for the following authorization period.

(iii) *Obtaining a new EM Authorization following an expiration or invalidation.* A vessel owner holding an expired or invalidated authorization may reapply for a new EM Authorization at any time consistent with paragraph (e) of this section.

(i) *Renewing an EM Authorization.* To maintain a valid EM Authorization, vessel owners must renew annually prior to the permit expiration date. NMFS will mail EM Authorization renewal forms to existing EM Authorization holders each year on or about: September 1 for non-trawl shorebased IFQ vessels and January 1 for Pacific whiting IFQ and MS/CV vessels. Vessel owners who want to have their Authorizations effective for January 1 of the following calendar year must submit their complete renewal form to NMFS by October 15. Vessel owners who want to have their EM Authorizations effective for May 15 of the following calendar year must submit their complete renewal form to NMFS by February 15.

(j) *EM System Performance Standards.* The specifications (*e.g.,* image resolution, frame rate, user interface) and configuration of an EM system and associated equipment (*e.g.,* number and placement of cameras, lighting) used to meet the requirements of this section must be sufficient to:

(1) Allow easy and complete viewing, identification, and quantification, of catch items discarded at sea, including during low light conditions;

(2) Continuously record vessel location (latitude/longitude coordinates), velocity, course, and sensor data (*i.e,* hydraulic and winch activity);

(3) Allow the identification of the time, date, and location of a haul/set or discard event;

(4) Record and store image data from all hauls/sets and the duration that fish are onboard the vessel until offloading begins;

(5) Continuously record and store raw sensor data (*i.e.,* GPS and gear sensors) for the entire fishing trip;

(6) Prevent radio frequency interference (RFI) with vessel monitoring systems (VMS) and other equipment;

(7) Allow the vessel operator to test and monitor the functionality of the EM system prior to and during the fishing trip to ensure it is fully functional;

(8) Prevent tampering or, if tampering does occur, show evidence of tampering; and,

(9) Provide image and sensor data in a format that enables their integration for analysis.

(k) *EM data services.* A vessel owner with a valid EM Authorization must obtain EM data processing, reporting, and record retention services from a NMFS-permitted EM service provider, as described at § 660.603(m). If the vessel owner changes EM service providers, the vessel owner must ensure the continuity of EM data retention for the entire duration of the required retention period as specified § 660.603(m)(6). NMFS will maintain a list of permitted EM service providers on its website.

(l) *EM system operation and maintenance.* The EM system must be recording imagery and sensor data at all times that fish harvested during an EM trip are onboard the vessel until offloading begins. For the purposes of this section, a fully functional EM system is defined as an EM system and associated equipment that meets the performance standards listed in paragraph (j) of this section.

(1) *Duties of care.* The operator of a vessel with a valid EM Authorization must maintain the EM system in good working order, including:

(i) Ensuring the EM system is powered continuously during the fishing trip;

(ii) Ensuring the system is functioning for the entire fishing trip and that camera views are unobstructed and clear in quality, such that the performance standards listed in paragraph (j) of this section are met; and,

(iii) Ensuring EM system components are not tampered with, disabled, destroyed, operated or maintained improperly.

(2) *Pre-departure test.* Prior to departing port, the operator of a vessel with a valid EM Authorization must turn the EM system on and conduct a system function test following the instructions from the EM service provider. The vessel operator must verify that the EM system has adequate memory to record the entire trip and that the vessel is carrying one or more spare hard drives with sufficient capacity to record the entire trip.

(3) *EM system malfunctions.* The operator of a vessel with a valid EM Authorization is prohibited from fishing on an EM trip without a fully functional EM system, unless an alternate arrangement has been specified in the NMFS-accepted VMP. In the event of an EM system malfunction, the vessel operator may voluntarily obtain observer coverage and revise the vessel's declaration following the process at § 660.13(d)(4), in which case the vessel operator is no longer exempt from the observer requirements at §§ 660.140(h) and 660.150(j).

(m) *Declaration reports.* The operator of a vessel with a valid EM Authorization must make a declaration report to NMFS OLE prior to leaving port following the process described at § 660.13(d)(4). A declaration report will be valid until another declaration report revising the existing gear or monitoring declaration is received by NMFS OLE. A vessel operator declaring a limited entry midwater trawl, Pacific whiting shorebased IFQ trip or limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel or mothership) trip may only revise the existing monitoring declaration twice during the same calendar year. NMFS may waive this limitation with prior notice if it is determined to be unnecessary for purposes of planning observer deployments. Additional revisions may be made if the EM system has malfunctioned and the vessel operator has chosen to carry an observer, as allowed under paragraph (m)(3); or subsequently, the EM system has been repaired; and upon expiration or invalidation of the vessel's EM Authorization.

(n) *Observer requirements.* The operator of a vessel with a valid EM Authorization must provide advanced notice to NMFS, at least 48 hours prior to departing port, of the vessel operator's intent to take a trip under EM, including: vessel name, permit number; contact name and telephone number for coordination of observer deployment; date, time, and port of departure; and the vessel's trip plan, including area to be fished and gear type to be used. NMFS may waive this requirement for vessels declared into the Pacific whiting IFQ fishery or mothership sector with prior notice. If NMFS notifies the vessel owner, operator, or manager of any requirement to carry an observer, the vessel may not be used to fish for groundfish without carrying an observer. The vessel operator must comply with the following requirements on a trip that the vessel owner, operator, or manager has been notified is required to carry an observer.

(1) *Notice of departure basic rule.* At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel operator that has been notified by NMFS that his vessel is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.

(2) *Optional notice—weather delays.* A vessel operator that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated delay when providing the basic notice described in paragraph (n)(1) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel operator must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.

(3) *Optional notice—back-to-back fishing trips.* A vessel operator that intends to make back-to-back fishing trips (*i.e.,* trips with less than 24 hours between offloading from one trip and beginning another), may provide a notice of departure as described in paragraph (n)(1) of this section for both trips, prior to making the first trip. A vessel operator that has given such notice is not required to give additional notice of the second trip.

(4) *Cease fishing report.* Within 24 hours of ceasing the taking and retaining of groundfish, vessel owners, operators, or managers must notify NMFS or its designated agent that fishing has ceased. This requirement applies to any vessel that is required to carry an observer, or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit.

(5) *Waiver.* The West Coast Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.

(6) *Accommodations and food.*—(i) Accommodations and food for trips less than 24 hours must be equivalent to those provided for the crew.

(ii) Accommodations and food for trips of 24 hours or more must be equivalent to those provided for the

crew and must include berthing space, a space that is intended to be used for sleeping and is provided with installed bunks and mattresses. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator or designee.

(7) *Safe conditions.*—(i) The vessel operator must maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, statutes, and guidelines pertaining to safe operation of the vessel, including, but not limited to rules of the road, vessel stability, emergency drills, emergency equipment, vessel maintenance, vessel general condition and port bar crossings, and provisions at §§ 600.725 and 600.746 of this chapter. An observer may refuse boarding or reboarding a vessel and may request a vessel to return to port if operated in an unsafe manner or if unsafe conditions are identified.

(ii) The vessel operator must have on board a valid Commercial Fishing Vessel Safety Decal that certifies compliance with regulations found in 33 CFR chapter I and 46 CFR chapter I, a certificate of compliance issued pursuant to 46 CFR 28.710 or a valid certificate of inspection pursuant to 46 U.S.C. 3311.

(8) *Observer communications.* The vessel operator must facilitate observer communications by:

(i) Allowing observer(s) to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work related messages, at no cost to the observer(s) or the U.S. or designated agent; and

(ii) Ensuring that the vessel's communications equipment, used by observers to enter and transmit data, is fully functional and operational.

(9) *Vessel position.* The vessel operator must allow observer(s) access to the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(10) *Access.* The vessel operator must allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working deck, holding bins, sorting areas, cargo hold, and any other space that may be used to hold, process, weigh, or store fish at any time.

(11) *Prior notification.* The vessel operator must notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer.

(12) *Records.* The vessel operator must allow observer(s) to inspect and copy any state or federal logbook maintained voluntarily or as required by regulation.

(13) *Assistance.* The vessel operator must provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(i) Measuring decks, codends, and holding bins.

(ii) Providing a designated safe working area on deck for the observer(s) to collect, sort and store catch samples.

(iii) Collecting samples of catch.

(iv) Collecting and carrying baskets of fish.

(v) Allowing the observer(s) to collect biological data and samples.

(vi) Providing adequate space for storage of biological samples.

(vii) Providing time between hauls to sample and record all catch.

(viii) Sorting retained and discarded catch into quota pound groupings.

(ix) Stowing all catch from a haul before the next haul is brought aboard.

(14) *Sampling station.* To allow the observer to carry out the required duties, the vessel operator must provide an observer sampling station that meets the following requirements so that the observer can carry out required duties.

(i) The observer sampling station must be available to the observer at all times.

(ii) The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch. To the extent possible, the area should be free and clear of hazards including, but not limited to, moving fishing gear, stored fishing gear, inclement weather conditions, and open hatches.

(15) *Transfers at sea.* Observers may be transferred at-sea between a MS vessel and a catcher vessel. Transfers at-sea between catcher vessels is prohibited. For transfers, both vessels must:

(i) Ensure that transfers of observers at sea via small boat under its own power are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(ii) Notify observers at least 3 hours before observers are transferred, such that the observers can finish any sampling work, collect personal belongings, equipment, and scientific samples.

(iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(iv) Provide an experienced crew member to assist observers in the small boat in which any transfer is made.

(16) *Housing on vessel in port.* During all periods an observer is housed on a vessel, the vessel operator must ensure that at least one crew member is aboard.

(o) *Inspection.* The operator of a vessel with a valid EM Authorization must make the EM system and associated equipment available for inspection immediately upon request by NMFS or any authorized officer.

(p) *Retention requirements.*—(1) *Pacific whiting IFQ and MS/CV vessels.* The operator of a vessel on a declared limited entry midwater trawl, Pacific whiting shorebased IFQ trip or limited entry midwater trawl, Pacific whiting mothership sector (catcher vessel or mothership) trip, EM trip must retain all fish until landing, with exceptions listed below.

(i) Minor operational discards are permitted. Minor operational discards include mutilated fish; fish vented from an overfull codend, fish spilled from the codend during preparation for transfer to the mothership; and fish removed from the deck and fishing gear during cleaning. Minor operational discards do not include discards that result when more catch is taken than is necessary to fill the hold or catch from a tow that is not delivered.

(ii) Large individual marine organisms (*i.e.,* all marine mammals, sea turtles, and seabirds, and fish species longer than 6 ft (1.8 m) in length) may be discarded.

(iii) Crabs, starfish, coral, sponges, and other invertebrates may be discarded.

(iv) Trash, mud, rocks, and other inorganic debris may be discarded.

(iv) A discard that is the result of an event that is beyond the control of the vessel operator or crew, such as a safety issue or mechanical failure, is permitted.

(2) *Non-trawl shorebased IFQ.* A vessel operator on a declared limited entry groundfish non-trawl, shorebased IFQ trip must retain all salmon and must discard Dungeness crab caught seaward of Washington or Oregon, Pacific halibut, green sturgeon, eulachon, sea turtles, and marine mammals. All other catch may be discarded following instructions in the VMP, except as required by the Seabird Avoidance Program at § 660.21(c)(1).

(q) *Changes to retention requirements.* Retention requirements for non-trawl shorebased IFQ vessels have been designated as ''routine,'' which means

that they can be changed after a single Council meeting following the procedures described at § 660.60(c).

(r) *Catch handling.* The vessel operator of a vessel on an EM trip must ensure that all catch is handled in a manner that enables the EM system to record it and that is consistent with the specific catch handling instructions in the NMFS-accepted VMP.

(s) *Reporting requirements.*—(1) *Discard logbook.* The operator of a vessel with a valid EM Authorization must complete, submit, and maintain onboard the vessel an accurate federal discard logbook for each EM trip on forms supplied by or approved by NMFS. If authorized in writing by NMFS, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. A state logbook that contains all the required information may be submitted in place of a federal discard logbook. If operating an MS/CV vessel, the vessel operator must provide logbook information to the mothership observer by transmitting the logbook information via radio or email to the mothership at the completion of each haul.

(2) *Submission of logbooks.* Vessel operators must submit copies of the federal discard logbook and state retained logbook to NMFS or its agent within 24-hours of the end of each EM trip.

(3) *Submission of EM data.* Vessel operators must submit EM data to the vessel owner's contracted EM service provider using a method that documents time, date, and location of transmission and receipt. Deadlines for submission are as follows:

(i) *Pacific whiting IFQ vessels.* EM data from an EM trip must be submitted within 10 calendar days of the end of that EM trip.

(ii) *Mothership catcher vessels.* EM data from an EM trip must be submitted within 24-hours of the catcher vessel's return to port.

(iii) *Non-trawl shorebased IFQ vessels.* EM data from an EM trip must be submitted within 10 calendar days of the end of that EM trip.

(t) *Retention of records.* The operator of a vessel with a valid EM Authorization must maintain federal discard logbooks onboard the vessel until the end of the fishing year during which the EM trips were conducted, and make the report forms available to observers, NMFS staff, or authorized officers, immediately upon request. The vessel owner must maintain the federal discard logbooks and other records specified in this section, or used in the preparation of records or reports specified in this section or corrections to these reports, for a period of not less than three years after the date of landing from an EM trip. The vessel owner must make such records available for inspection by NMFS staff or authorized officers, immediately upon request.

(u) *First receiver requirements.* (1) *Prohibited species handling and disposition.* To ensure compliance with fishery regulations at 50 CFR part 300, subparts E and F, and part 600, subpart H; with the Pacific Salmon Fishery Management Plan; and with the Pacific Halibut Catch Share Plan; the handling and disposition of all prohibited species in EM trip landings are the responsibility of the first receiver and must be consistent with the following requirements:

(i) Any prohibited species landed at first receivers must not be transferred, processed, or mixed with another landing until the catch monitor has: Recorded the number and weight of salmon by species; inspected all prohibited species for tags or marks; and, collected biological data, specimens, and genetic samples.

(ii) No part of any prohibited species may be retained for personal use by a vessel owner or crew member, or by a first receiver or processing crew member. No part of any prohibited species may be allowed to reach commercial markets.

(iii) Prohibited species suitable for human consumption at landing must be handled and stored to preserve the quality. Priority in disposition must be given to the donation to surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(iv) The first receiver must report all prohibited species landings on the electronic fish ticket and is responsible for maintaining records verifying the disposition of prohibited species. Records on catch disposition may include, but are not limited to: Receipts from charitable organizations that include the organization's name and amount of catch donated; cargo manifests setting forth the origin, weight, and destination of all prohibited species; or disposal receipts identifying the recipient organization and amount disposed. Any such records must be maintained for a period not less than three years after the date of disposal and such records must be provided to NMFS or authorized officers immediately upon request.

(2) *Protected Species handling and disposition.* All protected species must be abandoned to NMFS or the U.S. Fish and Wildlife Service or disposed of consistent with paragraphs (u)(2)(i) and (ii) of this section. No part of any protected species may be retained for personal use by a vessel owner or crew member, or by a first receiver or processing crew member. No part of any protected species may be allowed to reach commercial markets.

(i) *Eulachon and green sturgeon.* Must be sorted and reported by species on electronic fish tickets and state landing receipts and may not be reported in unspecified categories. Whole body specimens of green sturgeon must be retained, frozen, stored separately by delivery, and labeled with the vessel name, electronic fish ticket number, and date of landing. Arrangements for transferring the specimens must be made by contacting NMFS Southwest Fisheries Science Center at 831–420–3903 within 72 hours after the completion of the offload.

(ii) *Seabirds, marine mammals, and sea turtles.* Albatross must reported to the U.S. Fish and Wildlife Service (541–867–4558 extension 237 or 503–231–6179 as soon as possible and directions for surrendering must be followed. Marine mammals and sea turtles must be reported to NMFS as soon as possible (206–526–6550) and directions for surrendering or disposal must be followed. Whole body specimens must be labeled with the vessel name, electronic fish ticket number, and date of landing. Whole body specimens must be kept frozen or on ice until arrangements for surrendering or disposing are completed. Unless directed otherwise, after reporting is completed, seabirds, marine mammals, and sea turtles may be disposed by incinerating, rendering, composting, or returning the carcasses to sea.

[FR Doc. 2019–13324 Filed 6–27–19; 8:45 am]

BILLING CODE 3510–22–P

# Reader Aids

**Federal Register**

Vol. 84, No. 125

Friday, June 28, 2019

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |

### ELECTRONIC RESEARCH

#### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

#### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATE, JUNE

25493–25678 ..... 3
25679–25974 ..... 4
25975–26330 ..... 5
26331–26542 ..... 6
26543–26738 ..... 7
26739–27026 ..... 10
27027–27192 ..... 11
27193–27502 ..... 12
27503–27702 ..... 13
27703–27906 ..... 14
27907–28170 ..... 17
28171–28428 ..... 18
28429–28714 ..... 19
28715–29028 ..... 20
29029–29370 ..... 21
29371–29794 ..... 24
29795–30020 ..... 25
30021–30576 ..... 26
30577–30852 ..... 27
30853–31170 ..... 28

## CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 1 CFR

**Proposed Rules:**
1 ..... 29591

### 2 CFR

3187 ..... 27703

### 3 CFR

**Proclamations:**
9897 ..... 26313
9898 ..... 26315
9899 ..... 26317
9900 ..... 26319
9901 ..... 26321
9902 ..... 26323
9903 ..... 26737
9904 ..... 27501
9905 ..... 27699
9906 ..... 28709

**Executive Orders:**
11888 (Amended by Proc. 9902) ..... 26323
13874 ..... 27899
13875 ..... 28711
13876 ..... 30573
13877 ..... 30849
13878 ..... 30853

**Administrative Orders:**
Memorandums:
Memorandum of May 24, 2019 ..... 27695
Memorandum of May 24, 2019 ..... 27697
Notices:
Notice of June 13, 2019 ..... 27905
Notice of June 18, 2019 ..... 28715
Notice of June 21, 2019 ..... 29793
Presidential Determinations:
Presidential Determination 2019–13 ..... 27701

### 5 CFR

894 ..... 26543

**Proposed Rules:**
532 ..... 26767
1650 ..... 26769
1651 ..... 26769

### 6 CFR

**Proposed Rules:**
5 ..... 30632, 30634
31 ..... 25495

### 7 CFR

271 ..... 29029
272 ..... 29029
273 ..... 29029
318 ..... 29938
319 ..... 29938
330 ..... 29938
352 ..... 29938
402 ..... 30857
407 ..... 30857
457 ..... 30857
760 ..... 28171
989 ..... 30862
1423 ..... 29030
1430 ..... 28171
1493 ..... 28185
1728 ..... 28186
1755 ..... 28186
3434 ..... 26544
3550 ..... 29034
3555 ..... 29034

**Proposed Rules:**
271 ..... 27743
278 ..... 27743
301 ..... 30040
340 ..... 26514
372 ..... 26514
1217 ..... 30040

### 8 CFR

234 ..... 29795
235 ..... 27704

### 9 CFR

79 ..... 28202

**Proposed Rules:**
166 ..... 28774

### 10 CFR

170 ..... 25679
171 ..... 25679

**Proposed Rules:**
Ch. I ..... 28775
50 ..... 27209
150 ..... 29811
171 ..... 26774
430 ..... 30047
431 ..... 28239, 30047

### 12 CFR

50 ..... 25975
52 ..... 29039
208 ..... 29039
249 ..... 25975
268 ..... 27027
304 ..... 29039
329 ..... 25975
1041 ..... 27907
1248 ..... 28202

**Proposed Rules:**
261 ..... 27976
702 ..... 30048

### 13 CFR

**Proposed Rules:**
115 ..... 25496

120.....29092
121.....29399
134.....29092

**14 CFR**

21.....27707
25 .....25978, 26739, 26741
39 .....25982, 25984, 26331, 26334, 26546, 26548, 26556, 26743, 27193, 27503, 27506, 27508, 27511, 27930, 27932, 28202, 28717, 28719, 28722, 29797, 30577, 30579, 30588, 30590, 30864, 30866
71 .....25679, 26341, 26342, 26343, 26558, 26746, 27935, 27937, 29414, 29419, 29421, 29423, 29426, 29429, 30593
97.....26748, 26749
**Proposed Rules:**
25.....26593
27.....30050
39 .....26023, 26025, 26027, 26373, 26598, 26601, 26775, 26778, 26781, 27042, 27990, 28429, 28431, 29102, 29105, 29108, 29431, 29815, 29818, 29821, 30052, 30055, 30637, 30956, 30958
71 .....25497, 26376, 26377, 27044, 28434, 28436, 28438, 28439, 28440, 29433
91.....30961
121.....25499
135.....25499

**15 CFR**

705.....26751
740.....25986
744.....29371, 30593
746.....25986
801.....27197

**16 CFR**

803.....30595
1112.....28205
1238.....28205

**17 CFR**

240.....27708
**Proposed Rules:**
210.....30460
227.....30460
230.....30460
239.....30460
240.....30460
249.....30460
270.....30460
274.....30460
275.....30460

**18 CFR**

141.....30620
385.....30620
401.....27035
420.....27035
**Proposed Rules:**
40.....30639

**19 CFR**

122.....29795

**20 CFR**

200.....28725
**Proposed Rules:**
651.....29433
652.....29433
653.....29433
658.....29433

**21 CFR**

101.....28726
117.....29054
507.....29054
1100.....27200
1140.....27200
1143.....27200
1301.....28212
1305.....28212
1308 .....27938, 27943, 28212
**Proposed Rules:**
15.....29112
16.....27543
601.....30968
1107.....27543

**22 CFR**

42.....25989

**25 CFR**

**Proposed Rules:**
30.....26785
273.....30647

**26 CFR**

1 .....26559, 27513, 27947, 28214, 28398, 28888, 29114, 29799
54.....28888
**Proposed Rules:**
1 .....26605, 28426, 28668, 29288

**27 CFR**

**Proposed Rules:**
9.....28442

**29 CFR**

2510.....28888
2520.....27952
2590.....28888
4022.....27713
4044.....27713
**Proposed Rules:**
29.....29970
4001.....30666
4006.....30666
4010.....30666
4041.....30666
4043.....30666

**30 CFR**

**Proposed Rules:**
913.....26802

**31 CFR**

501.....27714, 29055
510.....27714, 30868
515.....25992
535.....27714
536.....27714
539.....27714
541.....27714
542.....27714
544.....27714
546.....27714
547.....27714
548.....27714
549.....27714
560.....27714
561.....27714
566.....27714
576.....27714
583.....27714
584.....27714
588.....27714
592.....27714
594.....27714
595.....27714
597.....27714
598.....27714

**32 CFR**

171.....27201
242a.....29062
242b.....29062
338.....29375

**33 CFR**

1.....30870
26.....30870
80.....30870
81.....30870
83.....30870
89.....30870
100 .....25680, 26565, 27036, 27719, 28216, 28728, 29375, 29799, 30870, 30883, 30884, 30887
117 .....26764, 27036, 28730, 29063, 29065, 29802, 30870
147.....27036
151.....30870
154.....30870
155.....30870
156.....30870
161.....30870
164.....30870
165 .....25993, 25995, 26567, 26569, 26571, 26572, 26574, 27036, 27039, 27531, 27720, 27956, 27958, 27959, 27960, 27962, 27964, 28219, 28221, 28223, 28225, 28732, 28734, 28736, 28738, 28741, 28743, 29066, 29067, 29069, 29070, 29072, 29073, 29076, 29078, 29080, 29376, 29378, 29804, 30021, 30022, 30024, 30870, 30887, 30897, 30898, 30900, 30903, 30905, 30907, 30909, 30911, 30912, 30914, 30916
**Proposed Rules:**
100.....27743, 30058
117.....27994
165 .....25506, 25721, 25723, 27210, 29133

**34 CFR**

Ch. II.....25682
225.....25996
**Proposed Rules:**
Ch. III.....26623
600.....27404
602.....27404
603.....27404
654.....27404
668.....27404
674.....27404

**36 CFR**

7.....29081
**Proposed Rules:**
220.....27544

**37 CFR**

**Proposed Rules:**
201.....29135

**38 CFR**

4.....28227
17.....25998, 26278
61.....30026
**Proposed Rules:**
9.....30060
17.....29824

**39 CFR**

20.....26345

**40 CFR**

2.....30028
52 .....26019, 26347, 26349, 27039, 27202, 28745, 29376, 29378, 30628, 30918, 30920
70.....30068
80.....26980
180 .....26352, 27966, 28235, 28747, 29384, 30933, 30939
271.....26359
300.....26576
355.....27533
**Proposed Rules:**
52 .....26030, 26031, 26041, 26047, 26049, 26053, 26057, 26379, 26804, 26806, 27046, 27049, 27053, 27055, 27212, 27559, 27566, 27996, 28132, 28776, 29455, 29456, 29471, 29826, 30062, 30066, 30068, 30681, 30686
62.....29138
63.....25904, 30812
70.....27055, 30068
81 .....26627, 27566, 29471
141.....30524
142.....30524
174.....30976
180.....26630, 30976
228.....29828
239.....26632
257.....30977
271.....27057
300 .....25509, 25725, 28259
721.....27061

**42 CFR**

22.....27968
32.....27968
60.....27969
412.....26360
422.....26578
423.....25610, 26578
438.....26578
460.....25610
498.....26578
**Proposed Rules:**
Ch. IV.....27070
412.....28263
413.....28263
422.....30983
423.....28450
438.....27846
440.....27846
460.....27846
482.....27069
485.....27069
495.....28264

**44 CFR**

64.....27970
206.....25685

**45 CFR**

88.....26580

144.....28888
146.....28888
147.....28888
155.....28888
2105.....27721

**Proposed Rules:**

86.....27846
92.....27846
147.....27846
155.....27846
156.....27846

**46 CFR**

2.....30870
10.....26580, 30870
11.....26580, 30870
12.....30870
15.....26580, 30870
16.....30870
26.....30870
28.....30870
162.....30870

**47 CFR**

1.....26363, 28751
2.....25685
5.....25685
15.....25685
27.....26363
54.....27973
64 .....25692, 26364, 29387
73.....28751, 30631
74 .....27734, 28751, 29806
76.....28761
90.....29083

**Proposed Rules:**

1 .....25514, 26234, 26634, 27998
2.....25514, 27998
25.....25514
27.....25514, 27998
54.....27570
64 .....26379, 28264, 29478
76.....28784
96.....26634

**48 CFR**

Ch. 1.....27494, 27497
15.....27494
204.....30946
215.....30947
247.....30950, 30952
249.....30953
252 .....30946, 30947, 30950, 30952
808.....29389, 29391
817.....29391
852.....29391
6106.....29085

**Proposed Rules:**

1.....29482
5.....29482
8.....29482
9.....29482
12.....29482
13.....29482
15.....29482
19.....29482, 30071
22.....29482
25.....29482
30.....29482
42.....30071
50.....29482
52.....29482, 30071
App. D.....27745
App. J .....27745
207.....30984
215.....30984
216.....30984
228.....30986
234.....30984
239.....30988
252.....30986, 30988
Ch. 7 .....29140
701.....27745

**49 CFR**

541.....27205

**Proposed Rules:**

270.....27215
271.....27215
571.....29145
1152.....26387

**50 CFR**

14.....29807
17.....26393
20.....28769
21.....28769
300.....25493
622.....26022, 27974
635 .....25707, 29088, 29808, 30954
648 .....26766, 27741, 30038
660.....25708, 31146
665.....26394, 29394
679 .....25494, 28237, 29091, 30039

**Proposed Rules:**

21.....29835
26.....30314
32.....30314
36.....30314
71.....30314
217.....30991
622.....27576
648.....26634
660.....27072

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

**S. 1379/P.L. 116–22**
Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (June 24, 2019; 133 Stat. 905)

**H.R. 299/P.L. 116–23**
Blue Water Navy Vietnam Veterans Act of 2019 (June 25, 2019; 133 Stat. 966)

**H.R. 559/P.L. 116–24**
Northern Mariana Islands Long-Term Legal Residents Relief Act (June 25, 2019; 133 Stat. 977)

**Last List June 14, 2019**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.