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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 253

[FNS–2019–0031]

RIN 0584–AE74

Food Distribution Program on Indian Reservations: Revisions to the Administrative Match Requirement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; request for comments.

SUMMARY: Through this rulemaking, the U.S. Department of Agriculture's (the Department or USDA) Food and Nutrition Service (FNS) is codifying new and revised statutory requirements included in the Agriculture Improvement Act of 2018 (the 2018 Farm Bill). First, the Department is revising the minimum Federal share of the Food Distribution Program on Indian Reservations (FDPIR) administrative costs and State agency/Indian Tribal Organization (ITO) mandatory administrative match requirement amounts. Second, the Department is revising its administrative match waiver requirements by allowing State agencies and ITOs to qualify for a waiver if the required match share would be a substantial burden. Third, the Department is limiting the reduction of any FDPIR benefits or services to State agencies and ITOs that are granted a full or partial administrative match waiver. Last, the Department is allowing for other Federal funds, if such use is otherwise consistent with both the purpose of the other Federal funds and with the purpose of FDPIR administrative funds, to be used to meet the State agency/ITO administrative match requirement.

DATES:

Effective Date: This rule is effective September 3, 2019.

Comment Date: Written comments on this rule must be received on or before November 4, 2019.

ADDRESSES: The Food and Nutrition Service (FNS), USDA, invites interested persons to submit written comments on this rule. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to Erica Antonson, Branch Chief, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302–1592, (703) 305–2680.
- *Email:* Send comments to *FDPIR-RC@usda.gov.* Include Docket ID Number FNS–2019–0031, ''Food Distribution Program on Indian Reservations: Revisions to the Administrative Match Requirement'' in the subject line of the message.
- All written comments submitted in response to this Final Rule with Request for Comments will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Lopez, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302–1592, or by email at *Barbara.Lopez@usda.gov.*

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I. Public Comment Procedures
II. Background and Discussion of Final Rule With Request for Comments
A. State Agency/ITO Administrative Match Requirement
B. State Agency/ITO Administrative Match Waiver
C. Limitation on Reducing Benefits or Services to State Agencies/ITOs Granted an Administrative Match Waiver
D. Use of Other Federal Funds To Meet the State Agency/ITO Administrative Match
III. Procedural Matters

I. Public Comment Procedures

Your written comments on this rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason(s) for any change you recommend or oppose. Where possible, you should reference the specific section or paragraph of the rule you are addressing. This rule is effective upon publication. If the Department determines that comments received change any provisions of this rule, the Department will publish a new final rule in the **Federal Register**. Comments must be received on or before the comment period (see **DATES**) to be assured of consideration.

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these regulations easier to understand, including answers to questions such as the following:

(1) Are the requirements in the regulation clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (*e.g.,* grouping and order of sections, use of heading, and paragraphing) make it clearer or less clear?

(4) Would the rule be easier to understand if it was divided into more (but shorter) sections?

(5) Is the description of the rule in the preamble section entitled ''Background and Discussion of Final Rule with Request for Comments'' helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand?

II. Background and Discussion of Final Rule With Request for Comments

In the following discussion and regulatory text, the term ''State agency,'' as defined at 7 CFR 253.2, is used to include ITOs authorized to administer FDPIR and the Food Distribution Program for Indian Households in Oklahoma (FDPIHO) in accordance with 7 CFR parts 253 and 254. The term ''FDPIR'' is used in this rulemaking to refer collectively to FDPIR and FDPIHO.

The 2018 Farm Bill (Pub. L. 115–334) was signed into law on December 20, 2018. Section 4003 included FDPIR-specific provisions and modified Section 4(b) of the Food and Nutrition Act (FNA) (7 U.S.C. 2013(b)). This rule

codifies new and revised statutory requirements included in the 2018 Farm Bill by amending FDPIR regulations at 7 CFR part 253. Upon publication, this rulemaking makes the following changes: (1) Revises the required minimum Federal share of FDPIR administrative costs and State agency/ITO mandatory administrative match amounts; (2) allows State agencies/ITOs to qualify for an administrative match waiver if their required match share would be a substantial burden; (3) limits the reduction of FDPIR benefits or services to State agencies/ITOs that are granted a full or partial administrative match waiver; and (4) allows for other Federal funds to be used to meet the State agency/ITO administrative match requirement, if such use is otherwise consistent with the purpose of the other Federal funds. The amendments are discussed in more detail below.

The Administrative Procedure Act (APA) at 5 U.S.C. 553(a)(2) specifically exempts rules involving grants and benefits from notice-and-comment requirements, giving the Department the authority to issue final rules in grants and benefits programs, like FDPIR.[1] The Department does, however, retain the discretion to issue a final rule with a request for comments, and FNS welcomes comments on the specified sections below. The Department is issuing this final rule with request for comments in order to ensure that the provisions in this rulemaking apply to the next FDPIR administrative grant cycle, fiscal year (FY) 2020, which begins October 1, 2019. State agencies and ITOs that administer FDPIR benefit from the timely implementation of these provisions as they have a direct and positive impact on individual State agency and ITO grant allocations to operate the program. The Department determined that prolonging the implementation of these provisions would negatively impact State agencies and ITOs that administer the FDPIR by delaying their ability to utilize the new flexibilities provided for in the 2018 Farm Bill. As previously stated, if the Department, upon consideration of the comments received, decides to amend any provisions of the rule, the Department will publish a new final rule in the **Federal Register** with an explanation of the changes.

[1] Previous USDA practice pursuant to the Statement of Policy published on July 24, 1971 (36 FR 13804) was to utilize APA notice-and-comment rulemaking procedures regardless of the APA's stated exceptions, but that memo was rescinded in 2013. 78 FR 64194 (Oct. 28, 2013).

A. State Agency/ITO Administrative Match Requirement

Under Federal regulations at 7 CFR 253.11(b) and (c), the Department provides 75 percent of FDPIR administrative funds and State agencies/ITOs are required to contribute the remaining 25 percent in matching funds, unless a match waiver is granted by the Department. The State agency/ITO administrative match requirement may be a cash or non-cash (*i.e.,* in-kind) contribution, per 7 CFR 253.11(c)(1).

Section 4003 of the 2018 Farm Bill modified Section 4(b)(4) of the FNA (7 U.S.C. 2013(b)(4)) to require the Department to pay not less than 80 percent of State agencies and ITOs' administrative costs in FDPIR. Therefore, the corresponding State agency/ITO administrative match requirement would be a maximum of 20 percent. This rule amends 7 CFR 253.11(b) and (c)(1) and (2) to increase the Federal share of FDPIR administrative costs from 75 to 80 percent. This rule also amends 7 CFR 253.11(c)(1) and (2) to reduce the State agency/ITO match requirement from 25 to 20 percent.

The corresponding State agency/ITO match requirement for FY 2019 FDPIR administrative grants is 25 percent as those grants precede this rulemaking. At the time this rulemaking goes into effect (see DATES), the revised Federal share of 80 percent and revised State agency/ITO administrative match requirement amount of 20 percent, as described in this rulemaking, will apply to new FDPIR administrative grants only starting in FY 2020. FDPIR administrative grants for FY 2019 that have a period of performance through September 30, 2020 will retain the Federal share of 75 percent and the State agency/ITO administrative match requirement amount of 25 percent. This rulemaking applies to FY 2020 FDPIR administrative grants and to FDPIR administrative grants annually thereafter.

The Department does not request comments on the minimum amount of the Federal share, as the 80 percent is specified in statute. However, rulemaking is necessary to implement the 80 percent provision because the Department must exercise discretion in determining the inextricably related issues of changes to the standard for receiving an administrative match waiver, the prohibition on reducing benefits and services to State agencies and ITOs in receipt of the administrative match waiver, and the determination of what other Federal funds may count towards the 20 percent State agency/ITO administrative match requirement. This issue is discussed below.

B. State Agency/ITO Administrative Match Waiver

FDPIR regulations at 7 CFR 253.11(c)(2) allow State agencies and ITOs to request an administrative match waiver to reduce or eliminate their match requirement in the event that a State agency/ITO is unable to meet the match requirement. In its request, the State agency/ITO must provide compelling justification and include a summary statement and recent financial documents. Section 4003 of the 2018 Farm Bill adds a provision at Section 4(b)(4)(B)(i) of the FNA (7 U.S.C. 2013(b)(4)(B)(ii)) to codify the existing regulation to allow State agencies and ITOs to submit a match waiver request if they are financially unable to meet the State agency/ITO administrative match requirement. Section 4003 of the 2018 Farm Bill also provides a new provision in Section 4(b)(4)(B)(ii) of the FNA to allow State agencies and ITOs to qualify for the administrative match waiver if funding their share of the costs would be a substantial burden for the State agency/ITO.

The Department interprets substantial burden to mean the State agency/ITO would be substantially negatively impacted if it is required to provide the full or partial share of administrative funds. For example, an ITO may submit an administrative match waiver request demonstrating substantial burden by detailing how providing its share of the administrative match requirement would deplete the Tribe's reserves to a level that would have a substantial negative impact on the Tribe.

The Department has also determined that the submission of a waiver request and corresponding documents for review cannot, in and of itself, constitute a substantial burden for purposes of qualifying for the administrative match waiver. For example, if an ITO submits an administrative match waiver request based solely on the difficulty of collecting compelling justification as a reason to qualify for the waiver under the substantial burden standard, then the Department would deny the administrative match waiver request.

The Department has determined that, in order to approve an administrative match waiver request based on substantial burden, the State agency must submit compelling justification to the FNS Regional Office for review and approval, similar to the current process as outlined at 7 CFR 253.11(c)(2). To apply for a waiver of the administrative

match based on substantial burden, the State agency/ITO must submit a signed letter from the leadership of a State agency or, in the case of an Indian Tribal Organization, a signed letter from the Tribal Council, describing why providing the match would be a substantial burden for the State agency/ITO along with supporting documentation, as needed.

This rulemaking revises the existing regulatory requirements at 7 CFR 253.11(c)(2) introductory text and (c)(2)(i) and (ii) to allow for an administrative match waiver request to be submitted under financial burden or substantial burden.

Under the revised 7 CFR 253.11(c)(2), this rule adds language on how a State agency/ITO can qualify for the administrative match waiver based on compelling justification submitted for either of the two standards, the existing financial burden standard and the new substantial burden standard. Under the revised 7 CFR 253.11(c)(2)(i), this rule keeps the existing regulatory requirement in 7 CFR 253.11(c)(2) that a State agency/ITO must submit a summary statement and recent financial documents showing that the State agency/ITO is unable to meet the matching requirement and that additional administrative funds are necessary for the effective operation of the program. Under the revised 7 CFR 253.11(c)(2)(ii), this rule adds new language to allow a State agency/ITO to submit a signed letter from the leadership of a State agency or, in the case of an Indian Tribal Organization, a signed letter from the Tribal Council, describing the State agency/ITO's substantial burden along with supporting documentation, as needed, to qualify for the administrative match waiver based on substantial burden. This option is in lieu of the summary statement and financial documentation currently required under 7 CFR 253.11(c)(2) for waiver requests based on financial inability to meet the match requirement.

The Department requests comments on this section of the rulemaking.

C. Limitation on Reducing Benefits or Services to State Agencies/ITOs Granted an Administrative Match Waiver

Current FDPIR regulations at 7 CFR 253.11(c)(2) provide the FNS Regional Office with discretion on whether to provide additional Federal administrative funds above the required Federal share when a State agency/ITO is granted a match waiver. For example, if the FNS Regional Office waives a State agency/ITO's current 25 percent match requirement, the FNS Regional Office may provide the State agency/ITO with only 75 percent of its requested funding level or make up the difference by supplementing this amount with additional Federal funds, up to the State agency/ITO's total requested funding level, or 100 percent. The FNS Regional Office decision regarding additional Federal funds is often dependent on funding availability and currently may not account for whether any funding gap would lead to a reduction of FDPIR benefits or services at the State agency/ITO level.

Section 4003 of the 2018 Farm Bill adds a new provision at Section 4(b)(4)(C) of the FNA (7 U.S.C. 2013(b)(4)(C)), prohibiting the Secretary from reducing FDPIR benefits or services to State agencies and ITOs that are granted an administrative match waiver. The Department interprets this limitation to mean that the same level of program benefits or services must be maintained.

This rulemaking adds a new 7 CFR 253.11(c)(3) to require the FNS Regional Office to not reduce any benefits or services to State agencies/ITOs in receipt of an administrative match waiver.

The Department requests comments on this section of the rulemaking.

D. Use of Other Federal Funds To Meet the State Agency/ITO Administrative Match

Current FDPIR regulations at 7 CFR 253.11(c)(1) allow for the State agency/ITO administrative match requirement to be met with cash or non-cash contributions, including in-kind contributions. Furthermore, 7 CFR 253.11(c)(1)(v) provides that such contributions may not be paid for by the Federal Government under another assistance agreement unless authorized under the other agreement and its subject laws and regulations. Section 4003 of the 2018 Farm Bill adds a new provision at Section 4(b)(4)(D) of the FNA (7 U.S.C. 2013(b)(4)(D)) to allow for other Federal funds to be used towards meeting the State agency/ITO administrative match requirement, if that use is otherwise consistent with the purpose of the other Federal funds.

In addition, the Department has determined that existing regulations at 7 CFR 253.11(c)(1)(i), (iii), (iv), and (vi) apply to the use of other Federal funds because matching funds must be verifiable; not be contributed for another Federally-assisted program unless authorized by Federal legislation; be necessary and reasonable to accomplish program objectives; be allowable costs under 7 CFR part 277; and be included in the approved budget.

The Department has also determined that a State agency/ITO seeking to use other Federal funds towards its FDPIR administrative match must demonstrate that such use is not prohibited by law for those funds to be used to meet a Federal match of another program. For example, an ITO has AmeriCorps VISTA volunteers, who are paid from another Federal source, working at the food distribution center in support of FDPIR operations. The ITO could submit the salary of the AmeriCorps VISTA volunteers as an in-kind contribution towards their administrative match requirement. By contrast, the salary of AmeriCorps VISTA volunteers working for an ITO on a project unrelated to FDPIR could not be used as an in-kind contribution towards their administrative match requirement.

This rulemaking, therefore, requires State agencies and ITOs seeking to use other Federal funds to meet their State agency/ITO administrative match requirement to submit documentary evidence for review and approval by the FNS Regional Office that details the source, value, and purpose of those other Federal funds. This rule revises 7 CFR 253.11(c)(1) to allow for the use of other Federal funds, requires documentary evidence to be submitted on the source, value, and purpose of those other Federal funds, and requires approval by the FNS Regional Office for those funds to be used towards the State agency/ITO administrative match. The rule also removes 7 CFR 253.11(c)(1)(ii) as the provision is already captured under part 277, removes existing regulation at § 253.11(c)(1)(v) which prohibits the use of Federal funds, redesignates § 253.11(c)(1)(iii), (iv), and (vi) to § 253.11(c)(1)(ii), (iii), and (iv), and revises newly redesignated § 253.11(c)(1)(iii) (formerly § 253.11(c)(1)(iv)) to add an ''and''.

The Department requests comments on this section of the rulemaking.

Procedural Matters

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12866 and 13563

Executive Orders 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule with request for comments has been determined to be not significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget; therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. While there may be some burden/impact on State agencies and ITOs that administer FDPIR, the impact is not significant due to this rule providing a reduction in the State agency/ITO administrative match requirement. This rulemaking also provides flexibilities in meeting this requirement.

Executive Order 13771

Executive Order 13771 directs agencies to reduce regulation and control regulatory costs and provides that the cost of planned regulations be prudently managed and controlled through a budgeting process.

This rule is not an E.O. 13771 regulatory action because it is not significant under E.O. 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, or tribal governments, in the aggregate, or the private sector, of $146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at *https://apps.bea.gov/iTable/iTable.cfm*) in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule with request for comments does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The program addressed in this section is listed in the Catalog of Federal Domestic Assistance under No. 10.567 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has determined that this rule does not have federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988, Civil Justice Reform

This final rule with request for comments has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule with request for comments, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this final rule with request for comments in accordance with USDA Regulation 4300–004, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After a careful review of the rule's intent and provisions, FNS has determined that this rule is not expected to affect the participation of protected individuals in FDPIR.

Executive Order 13175

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. In 2019, the Department engaged in a series of consultative and coordinated sessions with elected Tribal leaders and Tribal representatives from the FDPIR community to discuss these provisions. Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA is unaware of any current Tribal laws that could be in conflict with this rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule contains information collection requirements that have been approved by OMB under OMB# 0584–0594 Food Programs Reporting System (FPRS). This rule, however, does not impact these information collection requirements and therefore they are not subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002 (Pub. L. 107–347) to promote the use of the internet and other information technologies to provide increased opportunities for citizen

access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Indians, Social programs, Surplus agricultural commodities.

Accordingly, 7 CFR part 253 is amended as follows:

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

■ 1. The authority citation for 7 CFR part 253 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2036).

■ 2. In § 253.11:
■ a. Revise paragraphs (b) and (c)(1) introductory text;
■ b. Remove paragraphs (c)(1)(ii) and (v);
■ c. Redesignate paragraphs (c)(1)(iii), (iv), and (vi) as paragraphs (c)(1)(ii), (iii), and (iv);
■ d. Revise newly redesignated paragraph (c)(1)(iii) and paragraph (c)(2); and
■ e. Add paragraph (c)(3).

The revisions and addition read as follows:

§ 253.11 Administrative funds.

* * * * *

(b) *Allocation of administrative funds to State agencies.* Prior to receiving administrative funds, State agencies must submit a proposed budget reflecting planned administrative costs to the appropriate FNS Regional Office for approval. Planned administrative costs must be allowable under part 277 of this chapter. To the extent that funding levels permit, the FNS Regional Office allocates to each State agency administrative funds necessary to cover no less than 80 percent of approved administrative costs.

(c) * * *

(1) Unless Federal administrative funding is approved at a rate higher than 80 percent of approved administrative costs, in accordance with paragraph (c)(3) of this section, each State agency must contribute 20 percent of its total approved administrative costs. Cash or non-cash contributions, including third party in-kind contributions, and the value of services rendered by volunteers, may be used to meet the State agency matching requirement. Funds provided from another Federal source may be used to meet the State agency matching requirement, provided that such use is consistent with the purpose of those funds and complies with this subsection. To use funds from another Federal source, the State agency must submit documentation for approval to the FNS Regional Office which shows the source, value, and purpose of those funds. In accordance with part 277 of this chapter, such contributions must:

* * * * *

(iii) Be allowable under part 277 of this chapter; and

* * * * *

(2) Upon request from a State agency, an FNS Regional Office may approve a waiver reducing a State agency's matching requirement below 20 percent. To request a waiver, the State agency must submit compelling justification for the waiver to the appropriate FNS Regional Office. Compelling justification is based on either financial inability to meet the match requirement or the match requirement imposing a substantial burden. The request for the match waiver must be submitted with the following and in accordance with other FNS instructions:

(i) For a waiver based on financial inability, a summary statement and recent financial documents showing that the State agency is unable to meet the 20 percent matching requirement and that additional administrative funds are necessary for the effective operation of the program; or

(ii) For a waiver based on substantial burden, a signed letter from the leadership of the State agency or, in the case of an Indian Tribal Organization, from the Tribal Council, describing why meeting the 20 percent matching requirement would impose a substantial burden on the State agency, and why additional administrative funds are necessary for the effective operation of the program, along with supporting documentation, as needed.

(3) The FNS Regional Office may not reduce any benefits or services to State agencies that are granted a waiver.

* * * * *

Dated: August 26, 2019.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2019–18815 Filed 8–30–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 718

Commodity Credit Corporation

7 CFR Part 1412

RIN 0560–AI24

[Docket ID FSA–2019–0008]

Agriculture Risk Coverage and Price Loss Coverage Programs

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule implements the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs authorized by the Agricultural Act of 2014 (the 2014 Farm Bill), as amended. The Agriculture Improvement Act of 2018 (2018 Farm Bill) amended 2014 Farm Bill provisions regarding ARC and PLC, and authorized the ARC and PLC Programs for the 2019 through 2023 program years. The ARC and PLC Programs are continuing, with some changes. This rule also includes conforming changes to Farm Service Agency (FSA) general regulations that apply to multiple programs. The ARC and PLC Programs provide producers a choice between a counter-cyclical payment support type program (PLC) and an income support program (ARC). In a defined election and enrollment period, producers can elect different programs for different covered commodities on a farm, for example, choosing PLC for corn and ARC for soybeans on the same farm. There is also an option to elect ARC individual coverage (ARC–IC); however, if that option is elected, all the farm's covered commodities are elected with that option. This rule specifies the eligibility requirements, enrollment procedures, and payment calculations for the ARC and PLC Programs.

DATES: Effective September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Brent Orr; telephone: (202) 720–7641, email address: *brent.orr@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice only).

SUPPLEMENTARY INFORMATION:

Background

The 2018 Farm Bill (Pub. L. 115–334) amended the 2014 Farm Bill (Pub. L. 113–79) and authorized the continuation of the ARC and PLC

Programs for the 2019 through 2023 crop years. This rule discusses the how the ARC and PLC Programs will be conducted, which is similar to how they were conducted in 2014 through 2018, with the changes made by the 2018 Farm Bill. ARC continues to have two options: A county option (ARC–CO) or an individual farm coverage option (ARC–IC). ARC and PLC are Commodity Credit Corporation (CCC) programs administered by FSA.

Consistent with the 2018 Farm Bill changes, this rule makes discretionary changes to the ARC and PLC Programs including the treatment of base acres on farms that had all cropland planted to grass or pasture, including cropland that was idle land or fallow, from January 1, 2009, through December 31, 2017; the requirement that producers on the farm in 2019 make an irrevocable program election of ARC or PLC in order for the enrolled farm's producers to be potentially eligible for 2019 benefits; a default program election based on the election that was applicable to the farm under the 2014 Farm Bill; and the opportunity for farm owners to update a covered commodity's PLC yield on the farm in 2020.

This rule discusses the basis for all payments to farms and producers under the ARC and PLC Programs; the program election that is required from all producers on a farm in the 2019 crop year; the opportunity for producers to enroll farms on a covered commodity-by-covered commodity basis in each crop year 2019 through 2023; the opportunity for producers to annually change the program election between ARC and PLC on a covered commodity basis beginning in 2021, and the one-time opportunity for owners to update yields in 2020.

Mandatory changes being made by this rule to implement the 2018 Farm Bill provisions include:

- Permit revised program elections of ARC or PLC in each of the 2021, 2022, and 2023 crop years;
- Establish separate irrigated and non-irrigated ARC–CO county yields;
- Calculate ARC–CO payments based on the physical location of base acres on the farm;
- Increase the percentage of a county's transitional yield (T-yield) that will be used in determining the benchmark yield;
- Provide for trend adjustment ARC–CO yields similar to how yield adjustment is done for crop insurance;
- Specify that Risk Management Agency (RMA) yields will have priority in determining ARC–CO yields;
- Provide for the division of as many as 25 counties each into two administrative units when county size and base acre limitations are reached and where FSA determines it appropriate to have administrative units;
- Provide producers with the option of entering into multiple-year ARC and PLC contracts;
- Specify that for 2019 through 2023, PLC payments will issue when an effective reference price, a new term defined in the 2018 Farm Bill and this rule, is greater than the applicable effective price;
- Specify that if fruits and vegetables are planted on a covered commodity's base acres that are on payment acres there will be a corresponding payment reduction for those, but that those payment reduced covered commodity base acres will be considered planted to the covered commodity that was the subject of the reduction;
- Amend the more than 10-base acres on a farm provision to continue the prohibition of payment eligibility of producers on that farm unless the sum of the base acres on the farm, when combined with the base acres of other farms in which the producer has an interest, is more than 10 acres; and
- Expand those producers not subject to the more than 10-base acre provision to include beginning farmers or ranchers, veteran farmers or ranchers, or limited resource farmers or ranchers.

The rule details the requirements necessary to carry out administration of ARC and PLC. As amended, the rule clarifies and reaffirms which farms are eligible, which producers are eligible, actions that owners and producers can and must perform, election periods, enrollment periods, and, more specifically, the things that owners and producers have to perform in order to ensure producer and farm payment eligibility.

Because of the timing of enactment of the 2018 Farm Bill and when this rule will be published, 2019 farmers will have planted and harvested their 2019 crops before: (1) Producers make election; and (2) producers make annual enrollment decisions. Producers will know their 2019 production and yields before they have to decide whether to elect and subsequently enroll in ARC or PLC. The 2019 producers on a farm must all unanimously elect ARC or PLC on each covered commodity having base acres and may enroll each or all of those covered commodities for 2019. For each of the 2020 and subsequent crop years, the producers on the farm in each crop year are eligible for crop year enrollment. Because the opportunities and actions that owners and producers have or are required to take are specific to the producers or owners that are on a farm in a contract period, the terms ''owners'' and ''producers'' under this rule are defined as the person or legal entity for the applicable contract period for which that person or legal entity is signing forms or performing actions under this rule. Many of the actions required under the ARC and PLC Programs (program election, enrollment, yield update, and subsequent opportunity to perform program election) can only be performed by the farm's owners and producers in that contract or program year. For 2019, as is discussed in greater detail below, and as required by the 2014 Farm Bill, as amended, the farm's 2019 producers must unanimously irrevocably elect ARC or PLC during a prescribed election period. FSA will announce the election period.

Continuation of ARC and PLC Programs

This rule includes a choice between two types of programs for commodity programs.

The ARC Program is an income support program that provides payments when actual crop revenue declines below a specified guarantee level. The PLC Program provides payments when the price for a covered crop declines below its ''effective reference price.'' Similar to the 2014 through 2018 crop years, eligible producers are required to make a decision to participate in either ARC–CO or PLC, but not both for a single covered commodity on the farm, for the 2019 through 2023 crop years. An election of ARC–IC will apply to all covered commodities on the farm. Beginning in 2021 and in each subsequent contract year, the farm's producers can unanimously choose a different program election for each of their covered commodities.

Under the 2014 Farm Bill, expected yield, revenue, and price were based on the most recent 5 crop years. Because the most recent yield and price data for the immediately preceding 5 crop years is not available in the current crop year, this rule uses the term ''most recent 5 crop years available'' which is defined as the 5 years preceding the most immediately preceding crop year. This means that for the 2019 crop year, the most recent 5 years available are 2013 through 2017.

The regulation in 7 CFR part 1412, as implemented in 2014 for the ARC and PLC Programs, specified covered commodities authorized by the 2014 Farm Bill (7 U.S.C. 9011–9019). The Bipartisan Budget Act of 2018 (Pub. L. 115–123) amended the 2014 Farm Bill by adding seed cotton as a ''covered

commodity'' beginning with the 2018 crop year. Accordingly, there are now 22 covered commodities: wheat, oats, and barley (including wheat, oats, and barley used for haying and grazing), corn, grain sorghum, long grain rice, medium grain rice, seed cotton, pulse crops, soybeans, other oilseeds, and peanuts.

Under the 2018 Farm Bill amendments, effective reference prices will be used. An effective reference price is the lesser of 115 percent of the reference price for a covered commodity or an amount equal to the greater of the reference price for the covered commodity or 85 percent of the average of the market year average (MYA) price of the covered commodity for the most recent 5 crop years available, excluding each of the crop years with the highest and lowest MYA price.

Under the 2018 Farm Bill amendments, all of a farm's 2019 producers must make a unanimous program election between the ARC and PLC Programs. That election will be effective for the 2019 through 2023 crop years, unless the farm's 2021 and subsequent crop year producers in each of the 2021 and subsequent crop years choose to change the election. Under the 2014 Farm Bill, once the farm's producers elected ARC or PLC, the decision was irrevocable from the year of election through the 2018 crop year. Under the 2018 Farm Bill, all 2019 producers of covered commodities on the farm are required to affirmatively and unanimously elect PLC or ARC and, if an election is not made, the farm's covered commodity will be ineligible for payments in the 2019 crop year and the producers on the farm will default to the same ARC or PLC for each covered commodity on the farm for the 2020 through 2023 crop years as was applicable for the 2015 through 2018 crop years. This provision is specified in the 2018 Farm Bill and neither FSA nor CCC has any discretion to deviate from the ineligibility of producers for payments on farms that do not have a valid election made during the election period. Farms with 2019 producers who do not make a valid election in the 2019 election period will not be eligible for 2019 crop year payments.

The 2014 Farm Bill, as amended, specifies that a producer on a farm is not eligible to receive ARC and PLC payments if the sum of the base acres on the farm is 10 acres or less unless the sum of the base acres on the farm, when combined with the base acres of other farms in which the producer has an enrolled producer share interest greater than zero, is more than 10 acres. The 10-acre limitation will not apply to a socially disadvantaged farmer or rancher, a beginning farmer or rancher, a veteran farmer or rancher, or a limited resource farmer or rancher as defined in 7 CFR part 718.

The 2018 Farm Bill amended the 2014 Farm Bill to specify that a farm on which all of the cropland was planted to grass or pasture, including cropland that was idle or fallow from January 1, 2009, through December 31, 2017, will have base acres and yields maintained for the covered commodities on the farm, except that no payment will be made with respect to those base acres under this part for the 2019 through 2023 crop years. Additionally, the producers on a farm for which all of the base acres are maintained under this provision are ineligible to change the election applicable to the producers on the farm. The producers are also not permitted to reconstitute the farm to void or change this treatment of base acres.

Base Acres

Base acres are central to the payment formulas for ARC and PLC. Section 1111 of the 2014 Farm Bill provides that the base acres in effect under sections 1001 and 1301 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246; 7 U.S.C. 8702, 8751) (2008 Farm Bill), as adjusted, that were in effect September 30, 2013, constitute the base acres for the ARC and PLC Programs, subject to any reallocation, adjustment, or reduction under section 1112 of the 2014 Farm Bill, as amended. The adjustments to base acres for various reasons including, but not limited to, land no longer being devoted to agricultural uses are required. The term base acres includes unassigned base acres. However, as specified in this rule, payment acres for a covered commodity are a specified percentage of either the farm's specific covered commodity base acres or all the farm's covered commodity base acres (for ARC–IC) and in neither case do covered commodity base acres include unassigned base acres.

ACR–CO 2018 Farm Bill Changes

Income support under ARC will be provided for producers satisfying all requirements who have a share of eligible base acres of the enrolled covered commodity. The sum of the base acres on a farm are based on the farm's constitution according to 7 CFR part 718. FSA farm records and PLC yields are based on the administrative county of the farm. Based on 2018 Farm Bill amendments, ARC–CO assistance will based on the physical location of base acres on a farm; FSA will:

- Calculate actual crop revenue and ARC guarantee for irrigated and non-irrigated covered commodities;
- Determine a historical irrigated percentage for use in determining actual crop revenue and benchmark revenue for ARC–CO;
- Increase the transitional yield plug to 80 percent;
- Prioritize RMA data in the calculation of the ARC–CO guarantee and actual yields; and
- Implement a trend adjustment yield factor similar to that which is performed under the Federal Crop Insurance endorsement.

For ARC–CO election and enrollment on a covered commodity on a farm, the covered commodity will have its actual crop revenue and ARC guarantee, including an irrigated and non-irrigated covered commodity, weighted and summarized to the farm level in order to determine a per acre payment rate, if applicable, for the covered commodity.

In addition to revising the ARC regulation to accommodate these 2018 Farm Bill amendments with regard to physical location of the farm, FSA is making conforming changes to 7 CFR part 718, which are discussed below.

Additionally, FSA will, for no more than 25 counties nationwide, divide a county into not more than two administrative units. Eligible counties for consideration of administrative units are those that are larger than 1,400 square miles and contain more than 190,000 base acres.

Reducing Administrative Burdens on Producers and Practicability of Multiyear Contracts

Section 1706 of the 2018 Farm Bill specified that, to the maximum extent practicable, FSA would offer an option to sign a multiyear contract for ARC and PLC. This option will be made available to the producers on the farm and such enrollment, if chosen by the farm's producers, will be considered valid for the year of enrollment and each subsequent year unless there is a change to any of the following:

- The farm's constitution;
- The farm's base acres or PLC yield of any covered commodity;
- Any of the producers or producer shares of covered commodities on the farm;
- Either election or enrollment of any covered commodity on the farm; or
- Any other change, including a withdrawal of any enrolled producer, that would require the producers on the farm to have to reaffirm enrollment.

Unanimous Election of ARC or PLC Programs

During the election period that will be announced by FSA, all of the producers on a farm must make a unanimous election of either of the two following options:

- ARC–CO or PLC on a covered commodity-by-covered commodity basis (the election can be for ARC–CO, PLC, or a combination of ARC–CO and PLC); or
- ARC–IC for all covered commodities on a farm.

The election, if valid as described in this rule, will apply to the farm for the 2019 through 2023 crop years, unless changed by the 2021, 2022, or 2023 producers on the farm.

Payment Yields

The 2018 Farm Bill amended the 2014 Farm Bill to permit owners of farms an opportunity to update in 2020, for each covered commodity, the payment yield that will be used to calculate PLC payments. An owner's decision to update yields is independent of subsequent decisions of producers to elect or enroll. In other words, an owner can update yields for PLC in 2020 even though the producers on that farm may later elect and enroll in ARC.

If the Secretary at any time designates an oilseed or pulse crop as a covered commodity for PLC, this rule specifies how an equivalent average yield will be established for that commodity for the purpose of PLC.

FSA will use a press release to announce specific periods for the yield update and it is only during this period that owners of a farm can update yields.

Owners Make Yield Update Decisions, and Producers Elect and Producers Enroll

As previously discussed, owners are allowed to update records incidental to yield updates for a farm. The 2019 producers of covered commodities on a farm must unanimously elect ARC or PLC. If during the established period in 2020 for yield update, owners exercise the option to update yields, that yield update will apply to the farm unless the yield update is either withdrawn, rescinded, or modified by an owner on the farm during the established yield update period. CCC is under no obligation to notify owners on a farm if a yield update has been filed, rescinded, modified, or withdrawn during the yield update period. If a person or legal entity acquires ownership of a farm that has already had an election of ARC or PLC made by 2019 producers or by 2021, 2022, or 2023 producers, FSA will provide the election status to that person or legal entity on request, but CCC is under no obligation to notify new owners or new producers whether an election has previously been made on that particular farm.

All 2019 producers on a farm must unanimously elect ARC, PLC, or a combination of ARC and PLC for each covered commodity and farm. If producers cannot agree, the farm's covered commodity will default to the same coverage for each covered commodity on the farm for the 2020 through 2023 crop years as was applicable for the 2015 through 2018 crop years and the farm's covered commodity will not be eligible for 2019 payments. Election is not enrollment.

In order to be eligible for payments, producers must annually enroll their respective share interest of base acres or interest of covered commodities. Only producers that annually enroll, or who are subject to a valid multiyear enrollment, may receive payments. In each crop year or program year, the producers on the farm in that crop year or program year may choose to enroll the farm in ARC and PLC on a covered commodity-by-covered commodity basis.

The role of owners versus the roles for producers is specified in the 2014 Farm Bill. FSA does not have the discretion to set different requirements.

ARC and PLC Payments

As is discussed in significant detail with examples, ARC has two options—a county option (ARC–CO) and an individual farm coverage option (ARC–IC). For ARC–CO, the benchmark revenue is based on average revenues at the county level for covered commodities; for ARC–IC, the benchmark revenue target is based on the average revenue for that specific farm. For ARC–CO, 85 percent of the specific covered commodity base acres for a commodity will be ''payment acres'' that are used to calculate payments; for ARC–IC, 65 percent of all covered commodity base acres on the farm will be ''payment acres.'' On a covered commodity-by-covered commodity basis, the farm's 2019 producers can elect either ARC–CO and PLC for a farm. In other words, they can elect ARC–CO for some covered commodities and PLC for others. However, if the farm's current producers elect ARC–IC, the election applies to all the covered commodities and the whole farm.

The regulation specifies the calculations that will be used for payments to producers, the one-time opportunity owners will have to update yields and planting history, the program election that is required from all producers on a farm in the 2019 crop year, and the opportunity for producers to annually enroll on a covered commodity-by-covered commodity basis on each farm (for ARC–CO and PLC program elections) for each year.

There are several factors that affect payments and therefore, the decision making relative to participation in ARC or PLC. ARC and PLC are intended to supplement, not replace, regular crop insurance. ARC payments are limited to 10 percent of the benchmark revenue per acre. The PLC calculation does not include current yields, so if market year prices were above the effective reference price, but current yields were low, there would be no PLC payment.

Both ARC and PLC Programs are subject to a $125,000 per year per person or legal entity payment limitation for all commodities except peanuts, with a separate $125,000 limit for payments for peanuts. Loan Deficiency Payments (LDP), and gains on Market Assistance Loans (MAL) are no longer included in the ARC and PLC per year per person or legal entity payment limitation.

PLC Payment Calculations

As noted above, PLC is a counter-cyclical price program that makes a payment when the effective price for a covered crop falls below its effective reference price specified in the 2014 Farm Bill, as amended. The effective price is the higher of the national average market price for the 12 month MYA price, or the national average loan rate (the MAL rate) for that crop year. Usually, the market price will be the effective price. The reference prices are set through 2023.

As was the case under the 2014 Farm Bill and in 7 CFR part 1412, temperate japonica rice will have separate reference prices set by USDA for high altitude or high latitude areas versus other areas of the United States where rice is grown. It was determined that the applicable high altitude or high latitude areas of the United States for which this applies is California. Therefore, this rule specifies a separate reference price for temperate japonica rice in § 1412.52.

Since neither the effective price nor the reference price is based on the price the individual producer receives, the producer does not need to provide FSA any price or yield data to qualify for PLC payment.

Payments for a given crop year will be made after October 1 of the following year. For example, 2019 crop year payments will be made after October 1,

2020, and 2020 crop year payments will be made after October 1, 2021.

An example of a PLC payment calculation using the corn reference price is as follows:

PLC EXAMPLE

[Corn—100 base acres]

Effective reference price	$3.70/bu.
MYA price	$3.55/bu.
Payment rate (reference price—MYA price)	$0.15/bu.
Payment yield	150 bu./acre.
Base acres (including any corn planted and attributed to generic base acres).	100.
Payment (payment rate × payment yield × 85% of base acres)	$0.15 × 150 bu. × (85% of 100 base acres) = $1,913.

bu.—bushel.

As noted above, the payment is based on effective reference prices and the farm's PLC yields. In the example above, the producer would receive a payment of $1,913 for 100 base acres using the farm's PLC yield. Corn base acres are always included for payment in this example, even if no corn was planted on the farm in the year of the payment because the payment is made on the base acres.

ARC Payment Calculations

As discussed above, ARC is an income support program that is designed to cover a portion of a farmer's out-of-pocket cost when crop revenues fall below guarantee revenue levels, with the benchmark revenue based on either county level historic revenue (ARC–CO) or the individual farm's historic revenue (ARC–IC). Farmers may elect ARC–CO as an alternative to PLC on a covered commodity-by-covered commodity basis, or ARC–IC for all the covered commodities and the whole farm. For both ARC–CO and PLC, the payment calculation is based on covered commodity base acres.

Under ARC–CO, payments are issued when actual county crop revenue of a covered commodity is less than the ARC–CO guarantee for the covered commodity. Since payment is not based on the revenue or yield of the individual farm, the producer does not need to provide FSA any additional price or yield data to qualify for ARC–CO payment. The data used in the calculation is county data for yields and national prices, not individual farm data.

The ARC–CO guarantee is 86 percent of the crop's benchmark revenue in the county. Benchmark revenue is calculated using the most recent available previous 5-year MYA price, excluding years with the highest and lowest prices (the ARC–CO benchmark price), multiplied by the most recent 5-year average county yield available, excluding the years with the highest and lowest yields (the ARC–CO benchmark yield). The payment is equal to 85 percent of a farm's base acres of the covered commodity multiplied by the difference between the county guarantee and the actual county revenue for the covered commodity.

The ARC–CO payment cannot exceed 10 percent of the county benchmark revenue (the ARC–CO average historical benchmark price times the ARC–CO average historical benchmark yield). That is because ARC is intended to supplement crop insurance, so the producer also has crop insurance that would pay for greater losses. An example of an ARC–CO payment calculation using estimated 2019 soybean prices and yields as follows:

ARC–CO PAYMENT CALCULATION EXAMPLE

[Soybeans—100 base acres]

2019 MYA price (estimate only)	$9.65/bu.
2019 Actual average county yield	56.
Benchmark revenue (2013 through 2017 prices x yields for the county)	$670.
Base acres	100.
2019 Actual crop revenue (MYA × actual county yield)	$540.
ARC CO guarantee (86% × benchmark revenue)	$576.20.
Maximum payment (the ARC–CO average historical benchmark price × the ARC–CO average historical benchmark yield × 10%)	$67.
Payment rate (ARC–CO guarantee of $576 − actual crop revenue of $540, not to exceed maximum payment of $67)	$36.20.
Payment (payment rate of $36.20 × 85% of 100 base acres)	$3077.

ARC–IC provides payments when the actual individual's revenues, averaged across all covered commodities planted on the ARC–IC farm, are less than ARC–IC guarantees, averaged across those covered commodities on the farm. As specified in the 2014 Farm Bill, as amended, the farm for ARC–IC purposes is the sum of the producer's interest in all enrolled ARC–IC farms in the State, meaning that if a producer has an interest in multiple farms that have elected and enrolled in ARC–IC, the ARC–IC benchmark revenue for that producer will be a weighted average of the benchmark revenue from each of those farms. The farm's ARC–IC guarantee equals 86 percent of the farm's individual benchmark guarantee (5-year average of the annual benchmark revenues), excluding the years with the highest and lowest annual benchmark revenues, then averaging across all crops on the farm. The actual revenue is similarly calculated, with both the guarantee and actual revenue calculated using planted acreage on the farm. The ARC–IC payment is equal to 65 percent of the sum of the base acres of all covered commodities on the farm multiplied by the difference between the individual guarantee revenue and the actual individual crop revenue across all covered commodities planted on the farm. Payments may not exceed 10 percent of the individual benchmark revenue. Since the payment is based on yields for that individual farm, the producers enrolled on ARC–IC elected

farms must report acreage and yield data to qualify for payment.

An example of an ARC–IC payment calculation is shown in the following table:

ARC–IC PAYMENT CALCULATION EXAMPLE

[Corn and Soybeans—100 base acres]

[60 acres planted with corn and 40 acres planted with soybeans]

Benchmark revenue corn	$826
Benchmark revenue soybean	687
Benchmark revenue total for the farm ((0.6 × $826) + (0.4 × $687))	770.40
Guarantee (86% of total benchmark revenue)	662.54
Actual revenue (2019 MYA price of each commodity × each commodity's actual yield times ratio of planted of covered commodity to farm's base acres 0.6 corn and 0.4 soybeans—in this case (0.6 × $702) + (0.4 × $540))	637.20
Maximum payment (10% of benchmark revenue of $770)	77.04
Payment rate (ARC–IC Guarantee minus Actual Crop Revenue; adjusted, if needed to not exceed maximum payment)	25.34
Payment (payment rate × 65% of 100 base acres)	1647

Election of ARC and PLC

Election of ARC and PLC will occur in a defined period that will be announced by FSA in a press release. Producers are those that perform the election. Each election will be based on the farm structure for the 2019 crop year or, as may be applicable, the 2021, 2022, or 2023 crop year. In this context, the term ''farm structure'' means the farm as last constituted in the crop year. Reconstitutions of farms initiated after August 1, 2019, will not be considered by FSA until after the 2019 election period has ended. Unless changed under provisions of this rule in the 2021, 2022, or 2023 years, the election of ARC and PLC for a farm will apply to that farm in all years 2019 through 2023 and, in the case of that farm being reconstituted, the farms resulting from that reconstitution. Neither the requesting of a farm reconstitution nor the reconstitution of any farm will change either the requirement that all producers of a covered commodity on a farm agree to the unanimous election during the election period or the valid election that was made by those producers.

If no election is made in 2019 for a covered commodity's base acres, the farm will default to the same coverage for the covered commodity on the farm for the 2020 through 2023 crop years as was applicable for the 2015 through 2018 crop years and the producers on that farm will not be eligible for 2019 crop year payments (even if the farm is enrolled in 2019 ARC or PLC). During the 2019 election period, all producers of a covered commodity on a farm must unanimously make the election as discussed in this rule in order to preserve the payment eligibility of all producers of the covered commodity on the farm for 2019. If a valid election is submitted by all producers of a covered commodity's base acres on a farm during the election period, that election will be recognized as valid for the farm in the 2019 through 2023 crop years unless that election is either rescinded or terminated by any 2019 producer on the farm during the election period, or unless the valid 2019 election is modified and replaced by another valid election by 2019 producers during the election period. At any time during the election period, a producer of a covered commodity's base acres can rescind an election or terminate an election by withdrawing from the election or by providing written notice to FSA requesting to have the election rescinded.

If a new producer acquires an interest in a farm on or after the filing of a valid election in an election period by all of a farm's producers, that new producer will be subject to any previously submitted valid election made in an election period unless that new producer changes the election during the remaining time in the election period. While FSA will respond to inquiries submitted by such new producers, neither FSA nor CCC has any obligation to notify new owners or new producers of whether or not a valid election exists or is in place or whether a producer has rescinded or terminated an election. Additionally, neither FSA nor CCC have any role or responsibility of advising any producers or current producers on a farm of who all the farm's current producers are in the election period. It is the responsibility of the current producers on a farm to ensure that a valid election occurs in the prescribed election period.

The election and the requirement that the election reflects the unanimous agreement of all the producers on a farm are specified in the 2014 Farm Bill, as amended, and neither FSA nor CCC has discretion to waive these requirements. Additionally, election is not enrollment. Producers on farms that have completed an election (and those that have not completed an election and who might want to participate in ARC or PLC for the 2020 and subsequent crop years) must still annually enroll in order to be eligible for ARC and PLC payments on farms in those crop years, as applicable.

Eligibility for Crop Insurance

Election and enrollment can impact eligibility for some forms of crop insurance. Producers who elect and enroll in PLC also have the option of purchasing Supplemental Coverage Option (SCO) through RMA. Producers of covered commodities on farms that have elected under ARC are ineligible for SCO. Producers of upland cotton who choose to enroll upland cotton are ineligible for stacked income protection plan under section 508B of the Federal Crop Insurance Act (7 U.S.C. 1508b). Specifically, section 11003 of the 2014 Farm Bill authorizes SCO under the Federal Crop Insurance Act (7 U.S.C. 1501–1524). SCO covers a portion of the deductible for regular crop insurance on either a yield or revenue basis. As with other forms of crop insurance offered through RMA, SCO premiums are subsidized, and no payment limit or AGI limit applies. Additional details regarding SCO and benefits available under SCO can be obtained from RMA. Only PLC participants are eligible for SCO. Producers of covered commodities with a valid ARC election and enrollment, as well as acres that are enrolled in the stacked income protection plan under section 508B of the Federal Crop Insurance Act (7 U.S.C. 1508b), are not eligible for SCO.

Sharing ARC and PLC Payments on Enrolled Farms Between Producers on a Farm

When a farm's base acres are leased on a share basis, neither the landlord nor the tenant will receive 100 percent of payments for the farm. FSA will

approve an ARC and PLC contract and approve the division of payment when all the following, as applicable, occur or have been determined to have occurred:

- Landlords, tenants, and sharecroppers sign the application and agree to the payment shares;
- FSA determines that the interests of tenants and sharecroppers are being protected; and
- FSA determines that the payment shares do not circumvent either the provisions of this rule or the payment limitation provisions of 7 CFR part 1400.

CCC and FSA will determine eligibility for payments similarly to how CCC and FSA made those determinations for the 2014 through 2018 crop years for ARC and PLC. Each eligible producer on a farm will be given the opportunity to enroll and receive payments determined to be fair and equitable as agreed to by all the producers on the farm; the contract will be approved by the FSA county committee. At FSA's discretion, each producer leasing a farm will be required to provide a copy of their written lease to the county committee and, in the absence of a written lease, must provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease.

At the discretion of FSA, an owner's or landlord's signature, as applicable, affirming a zero share on a contract may be accepted as evidence of a cash lease between the owner or landlord and tenant, as applicable. This would allow the producer with the cash lease to claim 100 percent of the payments. Such signature or signatures, if entered on the contract to satisfy the requirement of furnishing a written lease, must be entered on the contract by the end of the enrollment period for the contract year, as announced by FSA.

Deadlines for ARC and PLC Actions

Annual enrollment for each covered commodity and crop year or multiyear contract enrollment will be as announced by FSA.

The contract year is based on the fiscal year, October 1 to September 30 of the next calendar year, with the enrollment occurring in the contract year. For 2019, the 2019 producers will enroll by a deadline announced by FSA for the 2019 crop year, the deadline will be in the 2020 contract year for a retroactive contract period that ended September 30, 2019. For each subsequent year, the enrollment deadline will be for a contract that began on the previous October 1. For example, the producer will enroll by June 1, 2020, for a 2020 contract that runs from October 1, 2019, to September 30, 2020.

The enrollment deadline announced by FSA will be consistent with the deadline for similar FSA and CCC programs and take into consideration the reporting of cropland and crop acreage on the farm. The date is also in advance of compliance activities that are required to occur for the crop year (acreage and production reporting), and the final date for seeking reconstitution of farms.

The general order of activities associated with participation in ARC and PLC is:

- 2019 producers unanimously make ARC and PLC election;
- 2020 owner updates PLC yield;
- 2020 subsequent crop year producers enroll the farm during the crop year's enrollment period announced by FSA; and
- 2021, 2022, and 2023 producers on a farm can unanimously make a new ARC and PLC election and subsequently enroll.

The following is a summary of deadlines for ARC and PLC.

Activity	Deadline
2019 acreage reports by 2019 operator or producers on farm	Not later than July 15, 2019, for covered commodities. For all other cropland on the farm, the acreage reporting date for the crop or crops in the State. (NOTE: This deadline is unchanged by this rule.)
2020 PLC yield update	As announced in a press release issued by FSA.
Election of ARC and PLC by 2019 producers on farms in election period.	As announced in a press release issued by FSA.
2019 contract year enrollment by 2019 producers on farms	As announced in a press release issued by FSA.
2020 contract enrollment by 2020 producers on farms	As announced in a press release issued by FSA.
2019 production report of covered commodities by ARC–IC producers	July 15, 2020.
2020 and subsequent crop year acreage reports by 2020 and subsequent operator or producers on farm.	Not later than July 15 for covered commodities. For all other cropland on the farm, the acreage reporting date for the crop or crops in the State.
2021 and subsequent years contract enrollment by 2021 and subsequent year producers.	As announced in a press release issued by FSA.
2020 and subsequent year production report of covered commodities by ARC–IC producers.	July 15 of the year following the program year (for example, the 2020 production report is due July 15, 2021).

General Provisions That Apply to ARC and PLC

The regulations in 7 CFR part 1412 specify certain requirements to which the participant must agree to be eligible for payments. One such requirement is to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices.

As was the case under the 2014 Farm Bill, ARC and PLC continue to have provisions for planting flexibility and reductions of payment acreage for plantings of fruits, vegetables, and wild rice on base acres. These reductions are specified in 7 CFR part 1412. The 2018 Farm Bill amendments with regard to this, however, specified that for each crop year for which this reduction in payment acres is made, those acres will be considered to be planted and considered planted (P&CP) to a covered commodity for the purpose of any adjustment or reduction of base acres for the farm. This change is reflected in § 1412.46. FSA is also updating the list of counties in § 1412.46(f) that have been determined to be regions having a history of double-cropping covered commodities or peanuts with fruits, vegetables, or wild rice.

Common provisions in 718 that apply to all FSA and CCC programs, including those for base acres and farm reconstitutions, apply to ARC and PLC. As specified in the 2014 Farm Bill and in 7 CFR part 1400, payment limits and average adjusted gross income (AGI) limits apply to ARC and PLC. A person or legal entity is ineligible for payments if the person's or legal entity's AGI for the applicable ARC and PLC contract or AGI compliance program year is in excess of $900,000. These provisions have not been changed; however, as will

be discussed in greater detail in other rulemaking, beginning with the 2019 crop year, the per crop year annual payment limitation for ARC and PLC will no longer take into consideration loan deficiency payments or marketing assistance loan gains.

As was the case under the 2014 Farm Bill, producers eligible for ARC and PLC are required to be a person or legal entity who is actively engaged in farming and otherwise eligible for payment, as specified in 7 CFR part 1400, and who complies with other general program eligibility requirements including, but not limited to, those pertaining to highly erodible land and wetland conservation provisions specified in 7 CFR part 12.

Appeal regulations specified in 7 CFR parts 11 and 780 apply. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

Crop insurance is not required as a condition of eligibility for ARC and PLC, but ARC and PLC elections and enrollment may impact eligibility for crop insurance. Those impacts are covered under separate regulations for crop insurance.

Amendments to 7 CFR Part 718

As previously discussed, the 2018 Farm Bill amendments to ARC and PLC provisions require amendments to the provisions applicable to multiple programs in 7 CFR part 718. This rule revises the definitions of ''common land unit'' and ''tract'' to clarify these farm record terms in light of a new term ''physical location,'' and its definition. Changes are being made to explain when FSA will update records and how FSA will go about updating records. Changes also clarify or specify when an owner may request changes to farm records based on physical location and when those changes are effective. FSA is revising § 718.8 to distinguish requests for changes to a servicing FSA county office and when those changes impact a farm's administrative county. This is not so much a change, but rather a clarification. An operator or owner may request a different servicing FSA county office. Generally administrative counties are designated by FSA and an operator or owner does not request an administrative county. This rule also adds the definition for ''veteran farmer or rancher,'' consistent with how that term is defined in 7 U.S.C. 2279 by the 2018 Farm Bill, and specifies how the definition of ''limited resource farmer or rancher'' applies to legal entities. This rule specifies in § 718.4 that program participants requesting program benefits as a beginning, limited resource, socially disadvantaged, or veteran farmer or rancher must provide a certification of their status as a member of one of those groups as required by the applicable program provisions. This rule also updates the controlled substance provisions to remove ''Direct and Counter-cyclical Program'' from the paragraph referring to part 1412 and clarify what benefits are covered by the provisions; updates provisions regarding measurement services in § 718.101 and late-file acreage reports in § 718.104; clarifies that participants may be ineligible for benefits under a program that requires accurate crop acreage reports if their crop acreage report is outside of the tolerance for that crop; makes a minor technical correction to § 718.103(i); and amends provisions in § 718.204 to clarify that FSA will establish procedures regarding when reconstitutions requested after August 1 will become effective. The amendments and clarifications will help to ensure that ARC and PLC are implemented effectively.

Effective Date, Notice and Comment, and Paperwork Reduction Act

As specified in 7 U.S.C. 9091, the regulations to implement the provisions of Title I and the administration of Title I of the 2018 Farm Bill are exempt from

- The notice and comment provisions of 5 U.S.C. 553, and
- The Paperwork Reduction Act (44 U.S.C. chapter 35).

The APA provides that the 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to benefits. This rule governs the program for ARC and PLC payments and thus falls within that exemption.

In addition, 7 U.S.C. 9091(c)(3) directs the Secretary to use the authority provided in 5 U.S.C. 808, which provides that when an agency finds for good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, that the rule may take effect at such time as the agency determines. Due to the nature of the rule, the mandatory requirements of the 2018 Farm Bill, and the need to implement the regulations expeditiously to provide assistance to producers, FSA and CCC find that notice and public procedure are contrary to the public interest.

The Office of Management and Budget (OMB) designated this rule as not major under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review.

Accordingly, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13573 for the analysis of costs and benefits to loans apply to rules that are determined to be significant. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a federal policy to alleviate unnecessary regulatory burdens on the American people.

OMB designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has not reviewed this rule and an analysis of costs and benefits to loans is not required under either Executives Orders 12866 or 13563.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from notice and comment rulemaking requirements of the APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). The rule implements primarily mandatory changes required by the 2018 Farm Bill; the discretionary aspects are limited to eligibility requirements, enrollment procedures, and payment calculations. ARC and PLC provide revenue support to eligible producers. The discretionary provisions would not alter any environmental impacts resulting from implementing the mandatory changes to ARC and PLC. Accordingly, these discretionary aspects are covered by the following Categorical Exclusion, found at 7 CFR 799.31(b)(6)(vi) Safety net programs administered by FSA, and no Extraordinary Circumstances (§ 799.33) exist. Therefore, as this rule presents only discretionary clarifications of mandatory requirements that will not have an impact to the human environment, individually or cumulatively, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action; this rule serves as documentation of the programmatic environmental compliance decision for this federal action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials 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 within 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. The rule has retroactive effect in that the contracts will include a retroactive period. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

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

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

USDA has assessed the impact of this rule on Indian Tribes and determined that this rule has Trial implications that required Tribal consultation under Executive Order 13175. Tribal consultation for this rule was included in the 2018 Farm Bill consultation held on May 1, 2019, at the National Museum of American Indian, in Washington, DC. The portion of the Tribal Consultation relative to this rule was conducted by Bill Northey, USDA Under Secretary for the Farm Production and Conservation mission area, as part of Title I session. There were no specific comments from Tribes on this rule during Tribal consultation. If a Tribe requests additional comments, FSA will work with OTR ensure meaningful consultation is provided with changes, additions, and modifications identified in this rule are expressly mandated by legislation.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, or the private sector. Agencies generally need to prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.113—Agriculture Risk Coverage
10.112—Price Loss Coverage

E-Government Act Compliance

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

List of Subjects

7 CFR Part 718

Acreage allotments, Drug traffic control, Loan programs—agriculture, Marketing quotas, Price support programs, Reporting and recordkeeping requirements.

7 CFR Part 1412

Cotton, Feed grains, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

For the reasons discussed above, CCC and FSA amend 7 CFR parts 718 and 1412 as follows:

PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

■ 1. Revise the authority citation for part 718 to read as follows:

Authority: 7 U.S.C. 1501–1531, 1921–2008v, 7201–7334, and 15 U.S.C. 714b.

Subpart A—General Provisions

■ 2. Amend § 718.2 as follows:
■ a. For the definition of ''Common land unit'', add ''located in one physical location (county), as defined in this part,'' immediately after ''border'';
■ b. For the definition of ''Limited resource farmer or rancher'', add paragraph (3);
■ c. Add the definition of ''Physical location'' in alphabetical order;
■ d. In the definition of ''Tract'', add ''located in one physical location (county), as defined in this part'' immediately after ''ownership''; and
■ e. Add definition of ''Veteran farmer and rancher'' in alphabetical order.

The additions read as follows:

§ 718.2 Definitions.

* * * * *

Limited resource farmer or rancher

* * *

(3) For legal entities, the sum of gross sales and household income must be considered for all members.

* * * * *

Physical location means the political county and State determined by FSA for identifying a tract or common land unit, as applicable, under this part. FSA will consider all the DCP cropland within an original tract to be in one single physical location county and State based upon 95 percent or more of the tract's DCP cropland. For DCP cropland that FSA determines lies outside the physical location (county) of the original tract that is 10 acres or more and more than 5 percent of the original tract, FSA will divide that land from the original tract and establish a new tract for that area.

* * * * *

Veteran farmer or rancher means a farmer or rancher who has served in the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components and who:

(1) Has not operated a farm or ranch;

(2) Has operated a farm or ranch for not more than 10 years; or

(3) Is a veteran (as defined as a person who served in the active duty or either active duty for training or inactive duty during which the individual was disabled, and who was discharged or released therefrom under conditions other than dishonorable) who has first obtained status as a veteran during the most recent 10-year period.

* * * * *

■ 3. Add § 718.4(d) to read as follows.

§ 718.4 Authority for farm entry and providing information.

* * * * *

(d) Program participants requesting program benefits as a beginning farmer or rancher, limited resource farmer or rancher, socially disadvantaged farmer or rancher, or veteran farmer or rancher must provide a certification of their status as a member of one of those groups as required by the applicable program provisions.

§ 718.6 [Amended]

■ 4. Amend § 718.6 as follows:
■ a. In paragraph (b)(1)(i), remove ''the Direct and Counter Cyclical Program (DCP) in accordance with'';
■ b. In paragraph (b)(1)(ii), remove ''trees, crops,'' and add ''crops'' in its place; and
■ c. In paragraph (b)(1)(iv), remove ''or payment''.

■ 5. Revise § 718.8 to read as follows.

§ 718.8 Administrative county and servicing FSA county office.

(a) FSA farm records are maintained in an administrative county determined by FSA. Generally, a farm's administrative county is based on the physical location county of the farm. If all land on the farm is physically located in one physical location county, the farm's records will be administratively located in that physical location county.

(b) In cases where there is no FSA office in the county in which the farm is physically located or where a servicing FSA county office is responsible for more than one administrative county, the farm records will be administratively located as specified in paragraph (a) of this section and with a servicing FSA county office that FSA as designated as responsible for that administrative county.

(c) Farm operators and owners can conduct their farm's business in any FSA county office. FSA's designation of a farm's administrative county is based on where land of the farm is located as specified in paragraph (a) of this section or as might be required under paragraph (b) of this section.

(d) Farm operators and owners can request a change to their servicing FSA county office and that request may necessitate a change to the farm's administrative county as specified in paragraph (a) or (b) of this section. If the requested servicing FSA county office is not responsible for and does not have an administrative county for the physical location of the farm according to paragraphs (a) or (b) of this section and FSA approves the request for change of servicing FSA county office, FSA will designate the administrative county for the farm from those available in the requested servicing FSA county office.

(e) If a county contiguous to the county in which the farm is physically located in the same State does not have a servicing FSA county office, the farm will be administratively located by FSA in a contiguous county in another contiguous State that is convenient to the farm operator and owner. Requests for changes to a farm's servicing FSA county office, which may or may not result in a change to a farm's administrative county under this section, must be submitted to FSA by August 1 of each year for the change to take effect that calendar year.

(f) When land on the farm is physically located in more than one county, the farm will be administered by a servicing FSA county office determined by FSA to be the administrative county responsibility for administration of programs for one or more of the physical counties involved in the farm's constitution. Paragraph (b), (c), or (d) of this section applies if changes occur to the servicing FSA county office and administrative county.

(g) Farm operators and owners cannot request a change to a farm's administrative county. The operator and owner of a farm serviced by an FSA county office responsible for a farm's administrative county can request a change of servicing FSA county office to another FSA servicing county office in the same State by August 1 for the change to take effect that calendar year. Review and approval of any change to the servicing FSA county office is solely at the discretion of FSA. Requests for change in servicing FSA county office, which may or may not result in a change to a farm's administrative county, will be reviewed and approved by county committee if all the following can be determined to apply:

(1) The requested change does not impact the constitution of a farm;

(2) The requested change will not result in increased program eligibility or additional benefits for the farm's

producers that would not be earned absent the change in servicing FSA county office and, if applicable, administrative county being made; and

(3) The change is not to circumvent any of the provisions of other program regulations to which this part applies.

(h) The State committee will submit all requests for exceptions from regulations specified in this section to the Deputy Administrator.

Subpart B—Determination of Acreage and Compliance

■ 6. Revise § 718.101 to read as follows.

§ 718.101 Measurements.

(a) Measurement services include, but are not limited to, measuring land and crop areas, measuring quantities of farm-stored commodities, and appraising the yields of crops in the field when required for program administration purposes. The county committee will provide measurement service if the producer requests such service and pays the cost, except that measurement service is not available and will not be provided to determine total acreage or production of a crop when the request is made:

(1) For acreage, after the established final reporting date for the applicable crop, unless a late filed report is accepted as provided in § 718.104; or

(2) After the farm operator has furnished production evidence when required for program administration purposes except as provided in this subpart.

(b) Except for measurements and determinations performed by FSA in accordance with late-filed acreage reports filed in accordance with § 718.104, when a producer requests, pays for, and receives written notice that measurement services have been furnished, the measured acreage is guaranteed to be correct and used for all program purposes for the current year even though an error is later discovered in the measurement.

§ 718.103 [Amended]

■ 7. Amend § 718.103(i) by removing ''may will'' and adding the word ''will'' in its place.

■ 8. Amend § 718.104 as follows:

■ a. In paragraph (a) introductory text, add ''through the crop's immediately subsequent crop year's final reporting date'' after the word ''date'';

■ b. In paragraph (a)(2), remove ''amount of acreage'' and add ''crop acreage and common land unit for which the reported crop acreage report is being filed'' in its place;

■ c. Redesignated paragraphs (b) through (d) as paragraphs (c), (e), and (f), respectively;

■ d. Add new paragraph (b);

■ e. Revise newly redesignated paragraph (c);

■ f. Add new paragraph (d);

■ g. In newly redesignated paragraph (e) introductory text, remove ''with respect to 2005 and subsequent years''; and

■ h. In newly redesignated paragraph (f) introductory text, remove ''shall'' and add ''will'' in its place.

The additions and revision read as follows.

§ 718.104 Late-filed and revised acreage reports.

* * * * *

(b) Acreage reports submitted later than the date specified in paragraph (a) of this section will not be processed by FSA and will not be used for program purposes.

(c) The person or legal entity filing a report late must pay the cost of a farm inspection and measurement unless FSA determines that failure to report in a timely manner was beyond the producer's control. The cost of the inspection and measurement is equal to the amount FSA would charge for measurement service; however, FSA's determination of acreage as a result of the inspection and measurement is not considered a paid for measurement service under § 718.101. The acreage measured will be entered as determined acres.

(d) When an acceptable late-filed acreage report is filed in accordance with this section, the reported crop acreage will be entered for the amount that was actually reported to FSA before FSA determined acres, and the determined crop acreage will be entered as it was determined and established by FSA.

* * * * *

■ 9. Amend § 718.105 as follows:

■ a. Revise the section heading;

■ b. Remove paragraphs (d) and (e);

■ c. Redesignate paragraph (f) as paragraph (d);

■ d. In newly redesignated paragraph (d)(1), remove '', and'';

■ e. In newly redesignated paragraph (d)(2), remove the period and add ''; and'' in its place; and

■ f. Add new paragraph (d)(3).

The revision and addition read as follows.

§ 718.105 Tolerances and adjustments.

* * * * *

(d) * * *

(3) Participants may be ineligible for all or a portion of payments or benefits under a program that requires accurate crop acreage reports under rules governing the program.

Subpart C—Reconstitution of Farms, Allotments, Quotas, and Base Acres

■ 10. Amend § 718.201 as follows:

■ a. Redesignate paragraph (d) as paragraph (e); and

■ b. Add new paragraph (d).

The addition reads as follows.

§ 718.201 Farm constitution.

* * * * *

(d) An owner can file a written request to have FSA reconstitute from original tracts areas that are less than 10 DCP cropland acres and less than 5 percent of the original tract, if such request is accompanied by sufficient data from which FSA can determine the political county and State of land in both the original tract and the proposed tract. Any owner-initiated requests for tract divisions for physical location will be performed and effective prospectively from date of request and approval by FSA.

* * * * *

§ 718.204 [Amended]

■ 11. Amend § 718.204(c) by adding ''and when those reconstitutions will become effective'' at the end of the last sentence.

PART 1412—AGRICULTURE RISK COVERAGE, PRICE LOSS COVERAGE, AND COTTON TRANSITION ASSISTANCE PROGRAMS

■ 12. The authority citation for part 1412 continues to read as follows:

Authority: 7 U.S.C. 1508b, 7911–7912, 7916, 8702, 8711–8712, 8751–8752, and 15 U.S.C. 714b and 714c.

Subpart A—General Provisions

■ 13. Amend § 1412.1 as follows:

■ a. In paragraph (a), remove ''may make a one-time election'' and add ''make an election and enroll'' in its place;

■ b. Remove paragraph (b);

■ c. Redesignate paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively;

■ d. In newly redesignated paragraph (b), remove ''or application made'' and remove ''CCC'' and add ''FSA'' in its place;

■ e. In newly redesignated paragraph (c), remove ''CCC'' and add ''FSA'' in its place;

■ f. Revise newly redesignated paragraph (d).

The revision reads as follows:

§ 1412.1 Applicability, changes in law, interest, application, and contract provisions.

* * * * *

(d) For ARC and PLC, assistance under this part will be provided for producers satisfying all requirements of this part who have a share of eligible base acres of the covered commodity. The sum of the base acres on a farm are based on the farm's constitution according to part 718 of this title. FSA farm records and PLC yields are based on the administrative county of the farm. ARC–CO assistance under this part will be determined by FSA for the enrolled covered commodity base acres based on the physical location of covered commodity base acres on a farm weighted and summarized to the farm.

■ 14. Amend § 1412.3 as follows:

■ a. In the definition of ''2014 Farm Bill'', add '', as amended'' at the end of the definition;

■ b. Revise the definition of ''Actual average county yield'';

■ c. In the definition for ''Actual crop revenue'':

■ i. In paragraph (1), add a sentence at the end of the paragraph; and

■ ii. In paragraph (2)(i), add ''enrolled'' immediately before the word ''farms'';

■ d. Add the definition of ''Administrative units'' in alphabetical order;

■ e. In the definition of ''ARC guarantee'', remove ''86 percent of the benchmark revenue for'';

■ f. Revise the definitions of ''Average historical county yield'' and ''Benchmark revenue for ARC–CO'';

■ g. In the definition for ''Benchmark revenue for ARC–IC'':

■ i. In the introductory text of paragraph (1), add ''planted'' immediately before the word ''covered'' and remove ''years'' and add ''years available'' in its place;

■ ii. In paragraph (1)(i), remove ''70'' everywhere it appears and add ''80'' in its place;

■ iii. In paragraph (1)(ii), add ''effective'' immediately before the word ''reference'' both times it appears;

■ iv. In paragraph (2), add ''available'' immediately after the words ''5 crop years''; and

■ v. In paragraph (3), remove ''2014'' and ''2018'' and add ''2019'' and ''2023'' in their places, respectively;

■ h. Remove the definition of ''Contract or application'';

■ i. Add the definition of ''Contract'' in alphabetical order;

■ j. In the definitions of ''Contract period'' and ''Contract year or program year'', remove ''2014'' and add ''2019'' in its place each time it appears and remove ''2013'' and add ''2018'' in its place each time it appears;

■ k. In the definition of ''Counter-cyclical payment yield'', remove ''upland cotton'' and add ''covered commodity'' in its place;

■ l. Add the definition of ''Covered commodity base acres'' in alphabetical order;

■ m. In the definition of ''Crop year'', remove ''2014'' and add ''2019'' in its place both times it appears and remove ''2013'' and add ''2018'' in its place;

■ n. Remove the definitions of ''Current owner'' and ''Current producer'';

■ o. In the definition of ''Double-cropping'', remove ''CCC'' and add ''FSA'' in its place both times it appears;

■ p. Add the definitions of ''Effective reference price'' and ''Fallow'' in alphabetical order;

■ q. In the definition of ''Fiscal year'', remove ''2014'' and add ''2019'' in its place both times it appears, and remove ''2013'' and add ''2018'' in its place;

■ r. In the definition of ''Generic base acres'', remove ''For 2018, generic'' and add the word ''Generic'' in their place;

■ s. Add the definitions of ''Grass or pasture'', ''Historical irrigated percentage'', ''Idle'', ''Most recent 5 crop years available'', ''NASS'', and ''Owner'' in alphabetical order;

■ t. Revise the definition of ''Payment acres'';

■ u. Add the definitions of ''Producer'' and ''RMA'' in alphabetical order,

■ v. Remove the definition of ''STAX'';

■ w. In the definitions of ''Supportive and necessary contractual documents'' and ''Temperate japonica rice'', remove ''CCC'' and add ''FSA'' in its place both times it appears; and

■ x. Add the definition of ''Trend-adjusted yield'' in alphabetical order.

The additions and revisions read as follows:

§ 1412.3 Definitions.

* * * * *

Actual average county yield means the yield, which is calculated as the crop year production of a covered commodity in the county divided by the commodity's total planted acres for a crop year in the county.

(1) For wheat, corn, grain sorghum, barley and oats, planted acres are the harvested acres plus unharvested acres.

(2) In determining the yield for a county, FSA uses data in order from the following data sources: RMA and yields determined by State committee.

(3) Separate irrigated and non-irrigated yields will be established in a county having farms with P&CP acreage history of a covered commodity in 2013 through 2017. These separate yields will be established where FSA determines the covered commodity's P&CP acreage was both irrigated and non-irrigated in 2013 through 2017.

(4) At FSA's discretion, FSA will calculate and use a trend-adjusted yield factor to adjust the yield taking into consideration, but not exceeding, the trend-adjusted yield factor that is used to increase yield history under the crop insurance endorsement under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Actual crop revenue * * *

(1) * * * If a county has separate irrigated and non-irrigated yields established for a covered commodity, the actual crop revenue calculated for a farm with that covered commodity will be weighted by FSA based on the farm's historical irrigated percentage.

* * * * *

Administrative units means, for the purposes of ARC–CO, the division of specific counties into two areas for counties that are each larger than 1,400 square miles and have more than 190,000 base acres where appropriate based on the differences in weather patterns, soil types, and other factors.

* * * * *

Average historical county yield means the 5-year Olympic determined by FSA as the average of actual average county yields for the most recent 5 years for which data is available, substituting 80 percent of the county transitional yield as defined in this part in each year in which the actual average county yield is less than 80 percent of the county transitional yield. Separate irrigated and non-irrigated yields will be established in a county having a sufficient number of farms with P&CP acreage history of a covered commodity in 2013 through 2017. These separate yields will be established for counties where a covered commodity's P&CP acreage was both irrigated and non-irrigated in 2013 through 2017. If needed, a trend-adjusted yield factor will be used to adjust the yield taking into consideration, but not exceeding, the trend-adjusted yield factor that is used to increase yield history under the crop insurance endorsement under the Federal Crop Insurance Act (7 U.S.C. 1501–1520).

* * * * *

Benchmark revenue for ARC–CO is calculated as the product obtained by multiplying the average historical county yield times the average MYA price for the most recent 5 crop years available, excluding each of the crop years with the highest and lowest prices and substituting the effective reference price in each year where the MYA price is less than the effective reference price. If a county has separate irrigated and non-irrigated yields established for a covered commodity, the benchmark

revenue calculated by FSA for that farm and covered commodity will be weighted based on the farm's historical irrigated percentage.

* * * * *

Contract means the CCC-approved forms and appendixes that constitute the agreement for participation of producers and covered commodities in ARC or PLC Program, as applicable.

* * * * *

Covered commodity base acres means base acres of any covered commodity. The term does not include unassigned base acres on the farm.

* * * * *

Effective reference price means the lesser of the following:

(1) An amount equal to 115 percent of the reference price for a covered commodity; or

(2) An amount equal to the greater of:

(i) The reference price for a covered commodity; or

(ii) 85 percent of the average of the MYA price of the covered commodity for the most recent 5 crop years available, excluding each of the crop years with the highest and lowest MYA price.

* * * * *

Fallow means any cropland or DCP cropland that is not devoted to any crop or trees.

* * * * *

Grass or pasture means any cropland or DCP cropland devoted to grass, native grass, mixed forage two or more interseeded grass mix, and mixed forage native grass interseeded.

* * * * *

Historical irrigated percentage means the percentage of the covered commodity on a farm that was irrigated (P&CP, including subsequently planted crop acreage) divided by the total acreage of the covered commodity (P&CP, including subsequently planted crop acreage) between the years 2013 through 2017, or, at FSA's discretion, such other similar 5 year-period (such as 2015 through 2019).

Idle means any cropland or DCP cropland that is not devoted to any crop or trees.

* * * * *

Most recent 5 crop years available means the 5 years preceding the most immediately preceding crop year. For example, for the 2019 crop year, the most recent 5 years available are 2013 through 2017.

NASS means the National Agricultural Statistics Service.

* * * * *

Owner means the person or legal entity meeting the definition of owner in part 718 of this title for the applicable contract period for which that person or legal entity is signing any form or performing any action required under this part. For example, if a signature of an ''owner'' is required under this part, the person or legal entity must be an owner for the applicable contract period for which the person or legal entity is signing the form or performing the action required under this part.

Payment acres means:

(1) For the purpose of ARC–CO and PLC, subject to planting flexibility provisions as specified § 1412.46, the payment acres for each covered commodity on a farm will be equal to 85 percent of the covered commodity's base acres on the farm.

(2) For the purpose of ARC–IC, subject to planting flexibility provisions as specified in § 1412.46, the payment acres for a farm will be equal to 65 percent of all the covered commodity base acres on the farm.

* * * * *

Producer means the person or legal entity meeting the definition of producer in 7 CFR part 718 for the applicable contract period for which that person or legal entity is signing any form or performing any action required under this part. For example, if a signature of a ''producer'' is required under this part, the person or legal entity must be a producer during the applicable contract period for which that person or legal entity is signing the form or performing the action required under this part.

* * * * *

RMA means the Risk Management Agency.

* * * * *

Trend-adjusted yield means the yield computed by multiplying the benchmark yield by a factor determined by taking into consideration, but not exceeding, the trend-adjusted yield factor that is used to increase yield history under crop insurance endorsement under the Federal Crop Insurance Act (7 U.S.C. 1501–1524) for that crop and county.

* * * * *

Subpart B—Establishment of Base Acres for a Farm for Covered Commodities

§ 1412.23 [Amended]

■ 15. Amend § 1412.23(a) by removing ''CCC'' and adding ''FSA'' in its place.

§ 1412.24 [Amended]

■ 16. Amend § 1412.24(b) and (c) by removing ''CCC'' and adding ''FSA'' in its place each time it appears.

■ 17. Amend § 1412.25 by revising paragraphs (a) introductory text, (b) through (d), and (f) through (h) to read as follows.

§ 1412.25 Allocation of generic base acres on a farm and updating of records.

(a) Any or all of the owner(s) of a farm with generic base acres adjusted as of February 9, 2018, will have a one-time opportunity in an allocation period as announced by FSA, if a covered commodity including upland cotton was planted or prevented from being planted during the 2009 through 2016 crop years, to:

* * * * *

(b) Under no circumstances will the allocation of generic base acres on a farm as specified in paragraph (a) of this section result in any increase in total base acres on a farm. Additionally, if any owner submits a written statement that conflicts with the allocation request or expresses written disagreement with the allocation filed according to paragraph (a) of this section, no allocation will be approved for the farm unless all the owners of the farm provide FSA with written evidence of the dispute resolution during the allocation period.

(c) FSA will provide the farm operator and owners of record with a summary of all covered commodities P&CP acres and subsequently planted crop acreage for the 2008 through 2012 crop years (as reported to FSA on acreage reports filed with FSA in each of those years). Acreage not reported to FSA by producers will not be included in the summary. The summary of records specified in paragraph (c) of this section is intended to assist owners of farms with the one-time opportunity for generic base acre allocation as provided in this section. Any owner of a farm may also at any time visit the FSA county office and request to obtain a copy of the summary referenced in this paragraph (c).

(d) Owners will be provided a one-time opportunity to update the records identified in paragraph (c) of this section during the allocation period, provided that there are crop insurance records (or other verifiable documentation available to support those requested updates). In the event that an update to a farm's P&CP acres of a covered commodity for 2009 through 2012 causes any payment under another FSA or CCC program to become unearned, the overpayment must be refunded to FSA or CCC in accordance with the rules for that program and the FSA or CCC regulations governing

overpayment (part 718 of this title and part 1403 of this chapter).

* * * * *

(f) Owners can allocate generic base acres at any time during the allocation period without receiving or requesting the summary records, and, therefore, failure to receive a summary record from FSA is not grounds for appeal or extension of the allocation period.

(g) The option to allocate generic base acres is an ''all or nothing'' decision for the farm. Generic base acres will not be retained, partially or in whole. A decision by any owner to allocate generic base acres on a farm in accordance with this section is final and binding if made according to this section during the allocation period unless that allocation is withdrawn in writing by that owner or another owner. If another owner subsequently files a different allocation request in whatever time remains in the stated allocation period or if there are conflicting allocation requests of owners in the allocation period, FSA will not make the allocation unless the conflict is resolved via written agreement between the owners who filed the conflicting requests. In the event that a resolution is not presented, the provisions of paragraph (h) of this section will take effect. In the case of submitting evidence of resolution, the written agreement must be filed with FSA during the allocation period. Any and all updates and allocation requests mentioned in this section are subject to review and approval or disapproval by FSA for CCC.

(h) In the event that an owner fails to make an allocation according to this part and the farm has met the planting requirement in paragraph (a) of this section, the farm will receive an allocation of seed cotton base acres in accordance with paragraph (a)(1)(i) of this section.

■ 18. Add § 1412.26 to read as follows:

§ 1412.26 Treatment of base acres on farms entirely in pasture, grass, idle, or fallow.

(a) A farm on which all of the cropland was planted to grass or pasture, including cropland that was idle or fallow from January 1, 2009, through December 31, 2017, will have base acres and yields maintained for the covered commodities on the farm, except that no payment will be made with respect to those base acres under this part for the 2019 through 2023 crop years.

(b) The producers on a farm for which all of the base acres are maintained under paragraph (a) of this section are:

(1) Ineligible to change the election applicable to the producers on the farm under subpart G of this part; and

(2) Not permitted to reconstitute the farm to void or change the treatment of base acres under paragraph (a) of this section.

Subpart C—Establishment of Price Loss Coverage Yields and Submitting Production

■ 19. Amend § 1412.32 as follows:

■ a. Revise paragraph (a);

■ b. In paragraphs (b) and (d), remove the words ''current owner'' and add ''owner'' in their place each time it appears; and

■ c. In paragraph (f), remove the words ''current owner's'' and add ''owner's'' in their place.

The revision reads as follows:

§ 1412.32 Updating PLC yield for all covered commodities except seed cotton.

(a) For any covered commodity on the farm that has base acres as adjusted, in excess of zero acres, an owner of the farm has a one-time opportunity in a specified period, as announced by FSA, to update PLC yields on a covered commodity-by-covered commodity basis equal to 90 percent of each covered commodity's 2013 through 2017 average yield per planted acre, excluding from the average any year when no acreage was planted to the covered commodity. If the yield per planted acre in any of the years 2013 through 2017 is less than 75 percent of the average of the county yield, then 75 percent of the average of the 2013 through 2017 county yield will be substituted for that year, excluding from the average any year when no acreage was planted to the covered commodity, multiplied by the ratio obtained by dividing:

(1) The average of the 2008 through 2012 national average yield per planted acre for the covered commodity; by

(2) The average of the 2013 through 2017 national average yield per planted acre for the covered commodity.

* * * * *

■ 20. Amend § 1412.33 as follows:

■ a. Revise paragraph (a);

■ b. In paragraphs (b) and (d), remove ''current owner'' and add ''owner'' in its place; and

■ c. In paragraph (f), remove ''current owner's'' and add ''owner's'' in its place.

The revision reads as follows:

§ 1412.33 Updating PLC yield for seed cotton.

(a) For a farm that has seed cotton base acres as adjusted, in excess of zero acres, an owner of the farm has a one-time opportunity in a specified period, as announced by FSA, to update the PLC yield equal to 90 percent of the seed cotton's 2013 through 2017 average yield per planted acre, excluding from the average any year that no acreage was planted to upland cotton, times 2.4. If the yield per planted acre in any of the years 2013 through 2017 is less than 75 percent of the average of the county yield, then 75 percent of the average of the 2013 through 2017 county yields will be substituted for that year, excluding from the average any year when no acreage was planted to the covered commodity, multiplied by the ratio obtained by dividing:

(1) The average of the 2008 through 2012 national average yield per planted acre for the covered commodity; by

(2) The average of the 2013 through 2017 national average yield per planted acre for the covered commodity.

* * * * *

Subpart D—ARC and PLC Contract Terms and Enrollment Provisions for Covered Commodities

■ 21. Revise § 1412.41 to read as follows:

§ 1412.41 ARC or PLC program contract.

(a) The following provisions apply to ARC and PLC Program contracts:

(1) Eligible producers (as specified in § 1412.42) of covered commodities with base acres may enroll in ARC and PLC contracts during the enrollment period announced by FSA.

(i) The 2019 contract period ends September 30, 2019. Accordingly, the enrollment for 2019 is the only program year a retroactive contract can be approved. (ii) Except as stated in this section, enrollment is not allowed after September 30 of the fiscal year in which the ARC or PLC payments are requested. FSA will not process offers of enrollment for a contract period after the contract period has ended. This is not a compliance provision but a rule of general applicability and will apply to every offer to contract in each contract year.

(iii) If a 2019 farm did not have a valid election made by producers in accordance with subpart G of this part, no producer on that farm is eligible for any 2019 ARC or PLC payment for that farm. This is not an adverse decision for any enrolled producer on that farm; rather, the farm's producers are simply not eligible for payments on the enrolled farm because the farm's producers failed to make a valid election in 2019.

(2) Except as specified in this section for ARC–CO and PLC enrollments,

contracts will not be approved unless all producers sharing in contract acreage with more than a zero share have submitted all applicable signatures on the contract and documentation necessary for FSA to approve the contract.

(i) For ARC–IC contracts there are no exceptions to this provision for signatures and documentation.

(ii) A contract not having all requisite signatures of producers having more than a zero share of contract acreage on or before the enrollment deadline is incomplete and will not be considered by FSA or CCC for any purpose and will not be acted on or approved.

(iii) Contracts enrolled by a producer by the date specified in paragraph (a)(1) of this section that were not signed by other producers as required by this section will be withdrawn and will not be approved.

(iv) An exception to this signature and documentation provision applies to ARC–CO and PLC offers of enrollment. In those instances in which, at the discretion of the Deputy Administrator and where no dispute of shares or other disagreement between producers is evident or suspected, ARC–CO and PLC offers of enrollment can be approved for the covered commodity to permit payment to only those eligible producers who did enroll and without regard to shares that do not have signatures. In this exception, the covered commodity on the farm will be considered enrolled. This exception will be made only if, in the sole judgment and discretion of FSA, FSA is satisfied that those producers who did sign in accordance with this section ensure compliance with all contract provisions and requirements of this part.

(v) Producers have no right to payment on any farm that is not enrolled in ARC or PLC and they are not entitled to a decision to authorize the exception in paragraph (a)(2)(iv) for ARC–CO and PLC enrollments, as that is discretionary. CCC and FSA are not responsible for ensuring that producers annually enroll in ARC or PLC.

(3) An eligible producer's valid share of enrolled base acres on a farm is always limited to the producer's share of reported crop acreage on the farm. For example, if a producer enrolled with a 75 percent share of a farm's 1,000 base acres, the producer's enrollment would only be valid if the producer had 100 percent share interest in 750 or more reported crop acres on that farm. Valid claimed shares of base acres must always be supported by reported crop acres on the farm.

(4) Except for enrollments of ARC–IC, eligible producers who choose to enter into a contract with FSA do so on a covered commodity-by-covered commodity basis. If the decision is made to enroll a covered commodity on a farm, producers having not less than 100 percent of the interest in those covered commodity base acres must enroll all covered commodity base acres of the covered commodity on the farm. Enrollment of fewer than all base acres of the covered commodity by all the producers having a share interest in that covered commodity on the farm is not allowed and such covered commodity will not be considered enrolled unless all producers who share in the base acres complete enrollment by the end of the enrollment period. Producers on a farm are solely responsible for ensuring that enrollment occurs.

(5) Producers who have enrolled according to this section must submit all required documents necessary to determine payment eligibility as specified in §§ 1412.51 and 1412.67.

(b) Any eligible producer of an enrolled covered commodity or ARC–IC contract may withdraw from a contract at any time by the end of the contract period. The withdrawal must be filed in writing and submitted to CCC and FSA by the end of the contract period. If any producer of a covered commodity or ARC–IC contract submits a written request to withdraw, FSA will consider the enrollment of that covered commodity or ARC–IC contract withdrawn.

(c) If the multiyear annual contract option is selected by all of a farm's producers of covered commodity base acres on the farm, the enrollment of any covered commodity on the farm in a year will be presumed by CCC and FSA to be the enrollment for following subsequent crop years unless any of the following, occur:

(1) A change to the farm's constitution;

(2) A change to any of the farm's base acres or PLC yield of any covered commodity;

(3) A change to any of the producers or producer shares of covered commodities on the farm;

(4) A change in either election or enrollment of any covered commodity on the farm; or

(5) Any change, including a withdrawal of any enrolled producer, that FSA determines to require producers on the farm to reaffirm enrollment.

(d) All contracts expire on September 30 of the fiscal year of the contract unless:

(1) Withdrawn in accordance with paragraph (b) of this section;

(2) Terminated in accordance with paragraph (e) or (f) of this section; or

(3) Terminated at an earlier date by mutual consent of all parties, including CCC.

(e) A transfer or change in the interest of an owner or producer in the farm or in acreage on the farm subject to a contract will result in the termination of the contract. The contract termination will be effective on the date of the transfer or change. Successors to the interest in the farm or crops on the farm subject to the contract may enroll the covered commodities on the farm in a new contract for the current year and assume all obligations under the contract.

(f) In the event a 2019 or subsequent crop year farm reconstitution is completed on a properly enrolled farm or farms in accordance with part 718 of this title, FSA will issue notices to the farm operator and owners of record on a farm that all producers with an interest in the base acres on the farm must sign a new ARC or PLC program contract within the later of 30 days of the notice or September 30 of the fiscal year program payments are requested, after receiving written notification by the county committee indicating the reconstitution is completed. It is the responsibility of the operator and owners on a farm that producers with an interest in base acres are notified of the reconstitution and requirement for a new contract.

■ 22. Amend § 1412.46 as follows:

■ a. In paragraph (c), remove ''paragraph (d)'' and add ''paragraph (e)'' in its place and remove ''CCC'' and add ''FSA'' in its place;

■ b. Redesignate paragraphs (d) through (h) as paragraphs (e) through (i), respectively;

■ c. Add new paragraph (d); and

■ d. In newly redesignated paragraph (e), remove ''paragraph (e)'' and add ''paragraph (f)'' in its place;

■ e. Revise newly redesignated paragraph (f);

■ f. In newly redesignated paragraph (h) introductory text, remove ''paragraph (h)'' and add ''paragraph (i)'' in its place;

■ g. In newly redesignated paragraph (h)(1), remove '', or'' and add ''; or'' in its place; and

■ h. In newly redesignated paragraphs (h)(1) and (2), remove ''CCC'' and add ''FSA'' in its place both times it appears.

The addition and revision read as follows:

§ 1412.46 Planting flexibility.

* * * * *

(d) For each crop year for which a reduction in payment acres is made

according to paragraph (c) of this section, those acres will be considered to be P&CP to a covered commodity for the purpose of any adjustment or reduction of base acres for the farm.

* * * * *

(f) Double-cropping for purposes of this section means planting for harvest non-perennial fruits, vegetables, or wild rice on the same acres in cycle with a planted covered commodity harvested for grain in a 12-month period under normal growing conditions for the region and being able to repeat the same cycle in the following 12-month period. For purposes of this part, the following counties have been determined to be regions having a history of double-cropping covered commodities or peanuts with fruits, vegetables, or wild rice. State committees have established the following counties as regions within their respective States:

(1) *Alabama.* Baldwin, Barbour, Butler, Chambers, Chilton, Clarke, Covington, Cullman, Geneva, Greene, Houston, Jackson, Jefferson, Lee, Madison, Mobile, Montgomery, Randolph, Sumter, Talladega, Walker, and Washington.

(2) *Alaska.* None.

(3) *Arizona.* Cochise, Graham, Greenlee, LaPaz, Maricopa, Mohave, Pima, Pinal, and Yuma.

(4) *Arkansas.* Ashley, Benton, Clay, Craighead, Crawford, Crittenden, Cross, Faulkner, Franklin, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Logan, Lonoke, Mississippi, Monroe, Phillips, Pulaski, St. Francis, Sebastian, Washington, Woodruff, and Yell.

(5) *California.* Alameda, Amador, Butte, Colusa, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Madera, Merced, Riverside, Sacramento, San Benito, San Joaquin, Santa Clara, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba.

(6) *Caribbean Office.* None.

(7) *Colorado.* Otero.

(8) *Connecticut.* None.

(9) *Delaware.* All counties.

(10) *Florida.* All counties except Monroe.

(11) *Georgia.* All counties.

(12) *Hawaii.* None.

(13) *Idaho.* None.

(14) *Illinois.* Adams, Bureau, Calhoun, Cass, Clark, Crawford, DeKalb, Edgar, Edwards, Effingham, Franklin, Gallatin, Hamilton, Iroquois, Jefferson, Jersey, Johnson, Kankakee, Lawrence, LaSalle, Lee, Madison, Marion, Mason, Monroe, Peoria, Randolph, Sangamon, St. Clair, Tazewell, Union, Vermilion, Wabash, Washington, Wayne, White, Woodford, and Whiteside.

(15) *Indiana.* Allen, Bartholemew, Daviess, Gibson, Jackson, Johnson, Knox, LaGrange, LaPorte, Madison, Marion, Martin, Miami, Pike, Posey, Ripley, Shelby, Sullivan, Vandenberg, and Warrick.

(16) *Iowa.* Kossuth, Mitchell, Palo Alto, and Winnebago.

(17) *Kansas.* None.

(18) *Kentucky.* All counties.

(19) *Louisiana.* Avoyelles, Franklin, Grant, Morehouse, Rapides, Richland, and West Carroll.

(20) *Maine.* None.

(21) *Maryland.* Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Harford, Kent, Prince George's, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester.

(22) *Massachusetts.* None.

(23) *Michigan.* St. Joseph and Kalamazoo.

(24) *Minnesota.* Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Kandiyohi, Le Sueur, Martin, McLeod, Meeker, Mower, Nicollet, Olmsted, Pope, Redwood, Renville, Rice, Scott, Sibley, Stearns, Steele, Swift, Waseca, Wabasha, Watonwan, and Winona.

(25) *Mississippi.* All counties.

(26) *Missouri.* Barton, Butler, Cape Girardeau, Dade, Dunklin, Jasper, Lawrence, Mississippi, New Madrid, Newton, Pemiscot, Perry, Ripley, Scott, and Stoddard.

(27) *Montana.* None.

(28) *Nebraska.* None.

(29) *Nevada.* None.

(30) *New Hampshire.* None.

(31) *New Jersey.* Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem, Somerset, Sussex, and Warren.

(32) *New Mexico.* Chaves, Curry, Dona Ana, Eddy, Hidalgo, Lea, Luna, Quay, Roosevelt, San Juan, and Sierra.

(33) *New York.* Cayuga, Columbia, Dutchess, Erie, Genesee, Greene, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Putnam, Rensselaer, Saratoga, Schoharie, Seneca, Steuben, Suffolk, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates.

(34) *North Carolina.* Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Edgecombe, Franklin, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Martin, McDowell, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Stanly, Stokes, Tyrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilkes, Wilson, and Yadkin.

(35) *North Dakota.* None.

(36) *Ohio.* Carroll, Champaign, Clermont, Fulton, Henry, Jackson, Lucas, Miami, Morgan, Muskingum, Scioto, Stark, Tuscarawas, Wood, and Vinton.

(37) *Oklahoma.* Adair, Alfalfa, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Cleveland, Cotton, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Haskell, Hughes, Jackson, Jefferson, Kay, Kingfisher, Kiowa, LeFlore, Logan, Love, McClain, McIntosh, Major, Marshall, Mayes, Muskogee, Noble, Nowata, Okmulgee, Osage, Pawnee, Payne, Pittsburg, Pottawatomie, Roger Mills, Rogers, Sequoyah, Stephens, Tillman, Tulsa, Wagoner, Washita, Woods, and Woodward.

(38) *Oregon.* Clackamas, Marion, Morrow, Multnomah, Polk, Umatilla, and Yamhill.

(39) *Pennsylvania.* Adams, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Delaware, Erie, Franklin, Indiana, Lancaster, Lehigh, Montgomery, Monroe, Montour, Northampton, Northumberland, Schuylkill, Snyder, Union, and York.

(40) *Puerto Rico.* None.

(41) *Rhode Island.* None.

(42) *South Carolina.* All counties.

(43) *South Dakota.* None.

(44) *Tennessee.* Benton, Bledsoe, Cannon, Chester, Cocke, Coffee, Crockett, Dickson, Dyer, Fayette, Gibson, Giles, Greene, Grundy, Hardeman, Haywood, Henry, Jefferson, Knox, Lake, Lauderdale, Lawrence, Lincoln, Madison, Marion, Maury, McNairy, Obion, Overton, Pickett, Putnam, Rhea, Robertson, Rutherford, Sequatchie, Shelby, Sumner, Tipton, Unicoi, VanBuren, Warren, Washington, Wayne, White, Williamson, and Wilson.

(45) *Texas.* Anderson, Andrews, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bexar, Borden, Bosque, Bowie, Brazos, Brazoria, Briscoe, Brooks, Brown, Burleson, Caldwell, Callahan, Cass, Cameron, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Collin, Collingsworth, Comanche, Cooke, Coryell, Cottle, Crosby, Culberson, Dallam, Dawson,

Deaf Smith, Delta, Denton, Dickens, Dimmit, Donley, Duval, Eastland, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fischer, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Gillespie, Glasscock, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hansford, Hardeman, Hardin, Harris, Hartley, Haskell, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones Karnes, Kent, Kinney, Kleberg, Knox, Lamar, Lamb, LaSalle, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Rains, Randall, Red River, Refugio, Reeves, Robertson, Runnels, San Saba, San Patricio, Scurry, Sherman, Smith, Somervell, Starr, Stonewall, Swisher, Tarrant, Taylor, Terry, Tom Green, Upton, Uvalde, Van Zandt, Victoria, Walker, Washington, Webb, Wharton, Wheeler, Wilbarger, Willacy, Williamson, Wise, Wilson, Wood, Wise, Wood, Yoakum, Young, Zapata, and Zavala.

(46) *Utah.* None.

(47) *Vermont.* None.

(48) *Virginia.* Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesapeake, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Suffolk, Surry, Sussex, Tazewell, Virginia Beach, Warren, Washington, Westmoreland, Wise, Wythe, and York.

(49) *Washington.* Yakima.

(50) *West Virginia.* Monroe.

(51) *Wisconsin.* Adams, Calumet, Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Iowa, Kenosha, Milwaukee, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Trempealeau, Walworth, Washington, Waukesha, Waushara, and Winnebago.

(52) *Wyoming.* None.

* * * * *

§ 1412.49 [Amended]

■ 23. Amend § 1412.49(a) by removing ''in this part and CCC's'' and adding ''in this part and FSA and CCC's'' in its place.

Subpart E—Financial Considerations Including Sharing Payments

■ 24. Amend § 1412.51 as follows:

■ a. In paragraph (b), remove ''together with any marketing loan gains or loan deficiency payments'' and remove ''other than peanuts under subtitle B of title I of the 2014 Farm Bill'';

■ b. In paragraph (c), remove ''together with any marketing loan gains or loan deficiency payments under subtitle B of title I of the 2014 Farm Bill for peanuts'';

■ c. Revise paragraph (d); and

■ d. Add paragraph (e).

The revision and addition read as follows:

§ 1412.51 Limitation of payments.

* * * * *

(d) Notwithstanding any other provision of this part, a producer on a farm is not eligible to receive ARC and PLC payments if the sum of the base acres on the farm is 10 acres or less unless the sum of the base acres on the farm, when combined with the base acres of other farms in which the producer has an enrolled producer share interest greater than zero, is more than 10 acres. The 10-acre limitation of this section will not apply to a socially disadvantaged farmer or rancher, a beginning farmer or rancher, a veteran farmer or rancher, or a limited resource farmer or rancher.

(e) Any person or legal entity interested in obtaining a payment under this part for a crop year, in addition to satisfying all eligibility requirements of this part, must submit any and all documents from which payment eligibility can be determined to FSA by March 1 of the second year after the end of the annual contract period for which payments are being made. For example, to obtain a payment for a 2019 contract, which ends in calendar year 2020, all documents must be submitted to FSA by March 1, 2021. This includes any payment eligibility document required under part 12 or part 1400 of this title. For example, for the 2019 contract year, the final date for submission of documents from which payment eligibility will be determined and apply is March 1, 2021. Payments will not issue to any person or legal entity who fails to submit required forms and documents by this date. Further these payments will not be considered denied, as the person or legal entity is presumed to have forfeited their interest in the payment.

§ 1412.52 [Amended]

■ 25. Amend § 1412.52 as follows:

■ a. In paragraph (a) introductory text, remove ''the 2018 contract years'' and add ''a contract year'' in place;

■ b. In paragraphs (a)(1) and (c), add ''effective'' immediately before ''reference price'' both times they appear; and

■ c. In the paragraph (e) introductory text, add ''has forfeited interest in the payment as specified under § 1412.51,'' immediately before ''or is''.

■ 26. Revise § 1412.53 as follows:

§ 1412.53 ARC payment provisions.

(a) Effective with the 2019 and subsequent crop years, ARC–CO actual crop revenue and guarantee will be based on the physical location of base acres of the farm.

(1) FSA will divide up to 25 counties into administrative units. Each of the resulting administrative unit will be viewed as a county for ARC–CO payment purposes.

(2) If a farm has base acres physically located in more than one physical location county, the ARC–CO actual revenue and ARC–CO guarantee will be weighted and summarized to the farm level.

(3) If determined applicable by FSA, a historical irrigated percentage and trend-adjusted yield factor will be used to determine guarantee and revenue, which will also be weighted and summarized to the farm level.

(b) Provided all provisions of this part, including but not limited to ARC–CO election and enrollment, have been satisfied for the contract year, CCC will issue, as applicable and consistent with the election and enrollment:

(1) An ARC–CO payment beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity to the producers on a farm for a covered commodity in each crop year if the farm and covered commodity were enrolled in ARC–CO and the farm's weighted and summarized ARC–CO actual crop revenue was less than the farm's weighted and summarized ARC–CO guarantee.

(2) Payment is equal to the result of multiplying the payment acres for the covered commodity times the difference

between the farm's weighted and summarized actual crop revenue and the ARC–CO guarantee, not to exceed 10 percent of the farm's weighted and summarized ARC–CO benchmark revenue.

(c) In a county having farms with P&CP acreage history of a covered commodity in 2013 through 2017, where a covered commodity's P&CP acreage was both irrigated and non-irrigated in 2013 through 2017, a separate irrigated and non-irrigated benchmark revenue, guarantee, and actual revenue will be maintained by FSA for the affected county. For farms in those counties with covered commodities enrolled in ARC–CO, the average 2013 through 2017 reported acreage of each covered commodity on the farm with irrigated and non-irrigated status will be used by FSA to calculate a percentage of each applicable covered commodity that will be applied against the irrigated and non-irrigated benchmark revenue, guarantee, and actual revenue.

(d) FSA has determined the irrigated and non-irrigated counties and crops for the 2019 program year.

(e) Provided all provisions of this part, including but not limited to ARC–IC election and enrollment, have been satisfied for the contract year, CCC will issue, as applicable and consistent with the election and enrollment:

(1) An ARC–IC payment beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the farm if the farm was enrolled in ARC–IC and the ARC–IC actual crop revenue for that farm is less than the ARC–IC guarantee.

(2) Payment is equal to the result of multiplying the payment acres for the covered commodities times the difference between actual crop revenue and the ARC–IC guarantee, not to exceed 10 percent of benchmark revenue for ARC–IC.

(f) If a producer has an interest in multiple farms that have enrolled in ARC–IC, the ARC–IC benchmark revenue for that producer used in the payment calculation will be a weighted average of the benchmark revenue for those multiple farms.

(g) The effective price and guarantee for temperate japonica rice will be based on the price that all medium and short grain (including glutinous) rice receives in California. The effective price and guarantee for medium grain rice outside California will be based on the price that all medium and short grain rice receives outside California.

■ 27. Amend § 1412.54 as follows:
■ a. Revise paragraph (b);
■ b. In paragraph (d)(4):
■ i. Add ''FSA or'' immediately before ''CCC is known'';
■ ii. Add ''either FSA or'' immediately before ''CCC believes'';
■ iii. Remove ''on CCC's behalf''; and
■ iv. Remove ''and CCC are'' and add the word ''is'' in its place; and
■ c. In paragraph (h):
■ i. Remove ''CCC's'' and add ''FSA's'' in its place;
■ ii. Add ''on behalf of CCC'' immediately after ''shares under this part''; and
■ iii. In the third sentence, remove ''CCC'' and add ''On CCC's behalf, FSA'' in its place.

The revision reads as follows:

§ 1412.54 Sharing of payments.

* * * * *

(b) When required by FSA, each person or legal entity leasing a farm who enrolls in ARC or PLC must provide a copy of their written lease to the county committee and, in the absence of a written lease, must provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease.

(1) If a farm is cash leased (that is, the landowner receives a zero share of covered commodities planted on the farm or a zero share of any base acres) and the producers on the farm cash leased the farm in the immediately preceding year, then the tenant(s) who enters a producer signature and has a share greater than zero on the contract, if the same was true for the immediately preceding year, is considered to have satisfied ARC and PLC Program requirements of landowner(s) signing to a zero share on the contract The evidence must have been submitted for the immediately preceding contract year or was referred to in that contract year to an immediately preceding contract year.

(2) When required by FSA, an owner's or landlord's signature affirming a zero share on either an application for assistance or contract under this part, as applicable, may be accepted as evidence of a cash lease between the owner or landlord and tenant.

(3) For the purposes of obtaining payments under this part, the signature or signatures, if entered on the contract to satisfy the requirement of furnishing a written lease, are required to be provided by the enrollment deadline established by CCC for the assistance or payment.

* * * * *

Subpart G—ARC and PLC Election

■ 28. Amend § 1412.71 as follows:
■ a. Revise paragraph (a) introductory text;
■ b. In paragraph (a)(2), add ''through 2020'' immediately after ''Irrevocable'';
■ c. In paragraphs (b) introductory text and (c), remove the word ''current'' each time it appears;
■ d. Remove paragraph (d);
■ e. Redesignate paragraphs (e) and (f) as paragraphs (d) and (e), respectively;
■ f. In newly redesignated paragraph (d), remove ''current'' each time it appears;
■ Revise newly redesignated paragraph (e); and
■ h. Add paragraph (f).

The revisions and addition read as follows:

§ 1412.71 Election of ARC or PLC.

(a) For the 2019 though 2023 crop years, subject to paragraph (f) of this section, all of the producers on a farm must make a one-time election in the 2019 enrollment and election period that is both:

* * * * *

(e) Even if completed during the same period of time, election is separate from enrollment; producers on farms that have validly completed an election in the prescribed election period must enroll as specified in subpart D of this part for ARC and PLC payments, as applicable.

(f) Except for those farms specified under § 1412.26, for the 2021 and each subsequent crop year, all the producers on a farm may change the election under paragraph (a) of this section.

■ 29. Amend § 1412.72 as follows:
■ a. Revise paragraph (a);
■ b. In paragraph (b), remove ''in all 2014 through 2018 crop years'' and remove ''current'' each time it appears;
■ c. In the first sentence of paragraph (c), remove ''the'' and add ''an'' in its place the first time it appears and remove ''current'';
■ d. Revise paragraphs (d) and (e);
■ e. In paragraph (f), remove ''current'' and add '', as amended'' immediately after ''Farm Bill'' both times it appears.

The revisions read as follows:

§ 1412.72 Election period.

(a) Election will be conducted in a defined period as announced by FSA. During the election period, all producers on a farm must unanimously make the irrevocable election as described in § 1412.71 to preserve the payment eligibility for 2019 and determine whether the default election under § 1412.74 will apply to the farm.

* * * * *

(d) FSA is under no obligation to notify producers or owners on a farm that an election has been submitted,

filed, rescinded, or terminated. Producers of a farm are solely responsible for filing a valid election during an election period or in whatever time remains in an election period following the rescission or termination of an election.

(e) FSA is under no obligation to notify producers or owners of whether or not a valid election exists or is in place or whether any producer has rescinded or terminated an election. FSA will respond to inquiries regarding the status of election of a farm by any producer or owner on a farm including a producer or owner who gains a producer or owner interest on the farm during the election period.

* * * * *

§ 1412.73 [Amended]

■ 30. Amend § 1412.73(b) by removing ''2014'' and adding ''2019'' in its place.

■ 31. Amend § 1412.74 as follows:

■ a. In paragraph (a), remove ''current'' and remove ''2014'' and add ''2019'' in its place;

■ b. Revise paragraph (b); and

■ c. Remove paragraph (c).

The revision reads as follows:

§ 1412.74 Failure to make election.

* * * * *

(b) If a valid election is not made for a farm in the 2019 crop year, FSA will not make any payments with respect to the farm for the 2019 crop year and the producers on the farm will, subject to § 1412.71(f), default to the same coverage for each covered commodity on the farm for the 2020 through 2023 crop years as was applicable for the 2015 through 2018 crop years.

Robert Stephenson,

Executive Vice President, Commodity Credit Corporation.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2019–18853 Filed 8–30–19; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1012; Product Identifier 2018–NM–132–AD; Amendment 39–19708; AD 2019–16–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 777 airplanes. This AD was prompted by reports of uncommanded fore/aft movements of the Captain's and First Officer's seats. This AD requires an identification of the part number, and if applicable the serial number, of the Captain's and First Officer's seats, and applicable on-condition actions for affected seats. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 8, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 8, 2019.

ADDRESSES: For service information identified in this final rule, 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 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–2018–1012.

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–2018–1012; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The 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: Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3569; email: *Brandon.Lucero@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 777 airplanes. The NPRM published in the **Federal Register** on December 26, 2018 (83 FR 66178). The NPRM was prompted by reports of uncommanded fore/aft movements of the Captain's and First Officer's seats. The NPRM proposed to require an identification of the part number, and if applicable the serial number, of the Captain's and First Officer's seats, and applicable on-condition actions for affected seats.

The FAA is issuing this AD to address uncommanded fore/aft movement of the Captain's and First Officer's seats. An uncommanded fore/aft seat movement during a critical part of a flight, such as takeoff or landing, could cause a flight control obstruction or unintended flight control input, which could result in the loss of the ability to control the airplane.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

Air Line Pilots Association, International (ALPA), supported the intent of the NPRM. FedEx had no objection to the NPRM. United Airlines agreed with the NPRM.

Request for Clarification of Service Information

United Airlines asked for clarification regarding what is considered a finding for the determination of Condition 3 (no findings) in Boeing Special Attention Service Bulletin 777–25–0619, Revision 1, dated August 8, 2018 (''BSASB 777–25–0619, Revision 1''). The commenter wanted to know that if the horizontal actuator is found to have part number (P/N) AD8650502 or AD8650503 at Amendment A or Amendment B, is that considered a finding for the determination of Condition 3 (no findings).

The FAA agrees to provide clarification regarding Condition 3 in BSASB 777–25–0619, Revision 1. According to BSASB 777–25–0619, Revision 1, following the procedures in Part 3 of the Accomplishment Instructions can result in Condition 3 (no findings) or Condition 4 (any findings). If the horizontal actuator is found to have P/N AD8650502 or AD8650503 at Amendment A or Amendment B it is considered a finding

and meets Condition 4 of BSASB 777–25–0619, Revision 1. If the horizontal actuator is found to have a part number other than P/N AD8650502 or AD8650503 at Amendment A or Amendment B, it is consider a no finding and meets Condition 3 of BSASB 777–25–0619, Revision 1. The FAA has not revised this AD in regard to this issue.

Request for Clarification Regarding Removal of the Nameplate

Air New Zealand asked if the work instructions in Part 3.B. of Ipeco Service Bulletin 258–25–14, Issue 4, dated January 29, 2018 (''Ipeco SB 258–25–14, Issue 4'') are compliant with the regulations because the instructions are to remove the original nameplate, which would appear to also be the data plate. Air New Zealand stated that because the data plate should only be created and installed by the original equipment manufacturer these instructions appear to create a bogus part.

The FAA infers the commenter is referring to 14 CFR 21.616, which requires the holder of a technical standard order (TSO) to mark each TSO article in accordance with 14 CFR part 45. FAA Advisory Circular AC 21–25B, Section 8.2.4, provides an acceptable means of compliance for marking modified seating systems.

Seat modifications accomplished under [14 CFR] part 43 or under the applicable airworthiness regulations must mark the modified article with sufficient data to identify that it has been modified. This may be accomplished by providing a reference to a design approval (*e.g.,* STC number), the modifier's name and address, or reference to other documentation describing the modification. If the modifier cannot substantiate that the article continues to meet the applicable TSO(s), the modifier must permanently obliterate the TSO marking while retaining all other identifying data.

In this case, since the modifier has no access to the substantiation information, he or she cannot substantiate that the article continues to meet the requirements of the applicable TSO. However, the seat has been modified with a design approval (*i.e.,* Ipeco SB 258–25–14, Issue 4) mandated by this AD. Therefore, the instructions provided by the Ipeco SB 258–25–14, Issue 4, are appropriate and do not conflict with FAA regulations or guidance. The FAA has not revised this AD in regard to this issue.

Request To Revise Estimated Costs

Martha Viner requested that the estimated costs in the NPRM be revised to include statistical evidence from the harms of the defective parts. The commenter stated that the NPRM does not address the psychological costs of the unsafe condition including, but not limited to, injuries sustained from the defective parts and how many individuals have been harmed as a result. The commenter did not provide justification for her request. The FAA does not agree with the commenter's request. Because the scope of FAA ADs are limited and technical in nature, the FAA can only provide the actual known costs (labor and materials) for compliance with the requirements of the AD. The FAA has not revised this AD in regard to this issue.

Request To Revise Estimated Part Costs

Boeing requested that the parts cost for the replacement of the horizontal actuator be changed from $205 to $7,936.79. The commenter stated that the part manufacturer, Ipeco, provided the parts cost via email.

The FAA agrees with the commenter's request because Boeing has confirmed the part cost with Ipeco, the part supplier. The FAA has revised the Costs of Compliance section of this final rule accordingly.

Request To Revise ''Uncommanded Movement'' Wording

Boeing requested that in all places where ''uncommanded movement'' is used in the NPRM that the wording be changed to ''uncommanded horizontal movement.'' The commenter stated that the Captain's and First Officer's seats have both horizontal and vertical powered movement and the service information specified in the proposed AD addresses only the horizontal movement.

The FAA agrees with the commenter's observation that Captain's and First Officer's seats have both horizontal and vertical powered movement. The FAA does not agree with the commenter's request to change the wording to ''uncommanded horizontal movement'' because ''horizontal movement'' could also mean movement anywhere in the horizontal plane of the airplane on which the seat is installed. The FAA has revised this final rule to replace all instance of the term ''uncommanded movement'' with ''uncommanded fore/aft movement.''

Request To Revise Applicability

Gary Chan asked if the FAA is planning to revise the applicability of the proposed AD to include Model 747 airplanes. The commenter noted that Ipeco seat part number 3A258 is rotable between Model 747 and Model 777 airplanes. The commenter also pointed out that Boeing has released service information for Model 747 airplanes to address flight deck seat issues.

The FAA does not agree with the commenter's request to revise the applicability of this AD. The FAA has already issued an NPRM (84 FR 13840, April 8, 2019) to address the identified unsafe condition and parts rotability concern for Boeing Company Model 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747–8F, and 747–8 series airplanes. The FAA has not revised this AD in regard to this issue.

Request To Extend Compliance Time

Air New Zealand expressed concern that replacement parts for the horizontal actuator would not be available in time for operators to comply with the 36-month compliance time specified in the proposed AD. The commenter noted that replacing the horizontal actuator with Artus P/N AD8650503 at Amendment C or later was terminating action for the repetitive checks of the horizontal movement system. The commenter stated it contacted Ipeco regarding pricing and parts availability and was advised that there is a 7-month lead time for the parts. The commenter related that Ipeco may not be able to meet the demand for parts when the AD is released.

The FAA infers that the commenter is requesting the compliance time be extended due to a perceived parts availability issue. The FAA does not agree with the commenter's request. The 36-month compliance time for the required actions was determined taking into consideration the urgency associated with the subject unsafe condition as well as the availability of required parts. The FAA notes that the commenter is considering parts availability for an optional terminating action, which can be done at any time, and does not have to be done within 36 months after the effective date of this AD. However, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The operator can submit a request for an alternative means of compliance (AMOC) using the provisions in paragraph (k) of this AD. The FAA has not revised this AD in regard to this issue.

Request To Includes Records Review

Delta Air Lines requested that paragraph (g) of the proposed AD include a provision to allow operators to do a records review to determine which airplanes have the affected seat part numbers installed. The commenter also

requested that paragraph (h) of the proposed AD be revised to include the statements ''. . . do an inspection to determine the part number, and serial number as applicable, of the Captain's and First Officer's seats . . .'' and ''A review of the airplane maintenance records may be used for the seat inspection if the part number can be conclusively determined from that review.''

The commenter stated that the requested changes are in agreement with the language found in BSASB 777–25–0619, Revision 1, which allows maintenance records to be used to determine the part number of the actuator; and the NOTE following step 3.B.2. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–25–0607, Revision 1, dated July 17, 2018 (''BSASB 777–25–0607, Revision 1''). The commenter stated these added statements would provide an equivalent level of safety for operators that do have affected components installed on airplanes affected by this AD but listed outside of the effectivity specified in the Boeing service information.

The FAA agrees with the commenters' statement that a records review will provide an acceptable means for operators to identify the part numbers of the Captain's and First Officer's seats installed on an airplane. As noted by the commenter, the service information already allows a record review. For clarity, in paragraph (g) of this AD where we specify to do an inspection, the FAA has included the following statement: ''A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the Captain's and First Officer's seats can be conclusively determined from that review.''

However, paragraph (h) of this AD has not been revised. While paragraph (g) of this AD requires an inspection to determine the part number and serial number, as applicable, of the Captain's and First Officer's seats, paragraph (h) of this AD specifies accomplishing applicable actions in accordance with the service information, which includes both inspection and records review language. The records review provided in the service information referenced in pargraph (h) of this AD is applicable to all airplanes identified in the applicability of this AD. Therefore, a statement clarifying that a records review is acceptable in lieu of an inspection is not necessary for paragraph (h) of this AD.

Request To Clarify Procedures in Certain Service Information

Lufthansa stated that it is not possible for its mechanics to do the maintenance log review that is included in Part A, paragraph 1.c., of the Accomplishment Instructions of Ipeco SB 258–25–14, Issue 4.

The FAA infers that the commenter is requesting that we clarify the procedures in Ipeco SB 258–25–14, Issue 4. Operators only need to do a review of the maintenance logs if the maintenance logs are available. If maintenance logs are not available then operators do the actions in Part A, paragraph 1.b., of Ipeco SB 258–25–14, Issue 4. Also, Part A, paragraph 1.b. and paragraph 1.c. of the Accomplishment Instructions of Ipeco SB 258–25–14, Issue 4, direct maintenance personnel to do the actions in Part E of the Accomplishment Instructions if the horizontal actuator has P/N AD8650503 at Amendment A or Amendment B. The FAA has not revised this AD in regard to this issue.

Request To Require Alternative Actions

Lufthansa remarked that Boeing Special Attention Service Bulletin 777–25–0619, Revision 1, does not include procedures that provide a permanent and acceptable level of safety. The commenter stated that it would have expected a redesign of the horizontal shaft actuator (including the shaft), which would be required to withstand and limit the maximum loads to the horizontal output shaft, and would prevent shafts from failure at any phase of seat operation. The commenter stated that the repetitive inspections would not be effective because shaft failures could occur at any time between inspections.

The commenter recommended that a more effective solution would be a crew procedure (*e.g.,* a pre-flight inspection of the seat tracks). Furthermore the commenter stated that it would have expected a termination action for modified/compliant airplanes, for example required maintenance documentation amendments. The commenter asked if any maintenance planning document item is being prepared that would require repetitive checks for the part number of the horizontal actuator.

The FAA infers that the commenter is requesting that we require alternative actions to address the unsafe condition than what is proposed in the NPRM. The FAA does not agree with the commenter's request. The FAA has identified the unsafe condition in this final rule as uncommanded fore/aft movement of the Captain's and First Officer's seats. The FAA has determined that the actions required by this AD adequately address the identified unsafe condition, and that the creation of a maintenance planning document item or other service information is not needed. In addition, the FAA notes that a terminating action is detailed in paragraph (j) of this AD. Paragraph (j) of this AD states ''Installation of a serviceable Captain's or First Officer's seat as specified in, and in accordance with, the Accomplishment Instructions of BSASB 777–25–0619, Revision 1, terminates the repetitive checks required by paragraph (h) of this AD for that seat only.''

A serviceable Captain's or First Officer's seat is defined in Paragraph 3.A of BSASB 777–25–0619, Revision 1. The horizontal actuator with Artus P/N AD8650503 at Amendment C or later is the redesigned horizontal actuator that is designed to withstand the required limit loads. Additionally, according to the BSASB 777–25–0619, Revision 1, in the case that the horizontal actuator part number is not AD8650503 at Amendment C or later, upon inspection and before further flight, the operator has the option to install a power deactivated seat in lieu of the terminating action or until such a time that the horizontal actuator can be serviced in accordance with the appropriate service information. The FAA has not revised this AD in regard to this issue. However, under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of alternative actions if sufficient data are submitted to substantiate that alternative actions provide an acceptable level of safety.

Regarding the commenter's statement that shaft failures could occur at any time, the FAA infers that the commenter is referring to the 36-month compliance time and the chance that a shaft failure might occur during this time. The FAA notes that in developing an appropriate compliance time, the FAA considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required actions within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In consideration of all of these factors, the FAA has determined that the compliance time, as proposed, represents an appropriate interval. The FAA further notes that the repetitive checks required by this AD adequately address the unsafe condition, though operators also have the option of installing a serviceable seat to terminate

those repetitive checks, as specified in paragraph (j) of this AD.

Request To Provide Credit for Previous Actions

American Airlines requested that a provision be included in the proposed AD to allow operators to receive credit for actions completed prior to the effective date using the procedures in Boeing Special Attention Service Bulletin 777–25–0607, dated January 9, 2014.

The FAA does not agree with the commenter's request. This AD requires operators to use BSASB 777–25–0607, Revision 1, because it includes seat part numbers that were not included in Boeing Special Attention Service Bulletin 777–25–0607, dated January 9, 2014. The Ipeco service information was revised in support of BSASB 777–25–0607, Revision 1, by updating information included in the Accomplishment Instructions. The FAA has not revised this AD in regard to this issue.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Service Bulletin 777–25–0607, Revision 1, dated July 17, 2018 (''BSASB 777–25–0607, Revision 1''). The service information describes procedures for identification of the part number, and if applicable the serial number, of the Captain's and First Officer's seats, and for applicable on-condition actions for affected seats. The on-condition actions include an inspection of each seat's fore/aft and vertical manual control levers for looseness, installation of serviceable seats, and a seat functional test after any cable adjustment.

The FAA also reviewed Boeing Special Attention Service Bulletin 777–25–0619, Revision 1, dated August 8, 2018 (''BSASB 777–25–0619, Revision 1''). The service information describes procedures for a detailed inspection and repetitive checks of the horizontal movement system for the Captain's and First Officer's seats for findings (*e.g.,* evidence of cracks, scores, corrosion, dents, deformation or visible wear; and incorrectly assembled microswitch assemblies, actuators, and limit switches), and applicable on-condition actions. The on-condition actions include clearing the seat tracks of foreign object debris (FOD), overhaul of the horizontal movement system and replacement of the horizontal actuator. The service information also describes procedures for an optional terminating action for the repetitive checks by installing a serviceable Captain's or First Officer's seat.

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.

Costs of Compliance

The FAA estimates that this AD affects 190 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS PER SEAT

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Identification, seat	1 work-hour × $85 per hour = $85.	$0	$85	$16,150.
Detailed inspection, horizontal movement system.	1 work-hour × $85 per hour = $85.	0	$85	$16,150.
Checks, horizontal movement system.	2 work-hour × $85 per hour = $170 per check cycle.	0	$170 per check cycle	$32,300 per check cycle.

The FAA estimates the following costs to do any necessary on-condition actions that would be required. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS PER SEAT *

Action	Labor cost	Parts cost	Cost per product
Adjustment, control lever cable	1 work-hour × $85 per hour = $85	$0	$85.
Overhaul, horizontal movement system	11 work-hours × $85 per hour = $935	Up to $5,824	Up to $6,759.
Inspection of each seat's fore/aft and vertical manual control levers.	1 work-hour × $85 per hour = $85	$0	$85.
Installation of serviceable seats	1 work-hour × $85 per hour = $85	$0	$85.
Clearing FOD	1 work-hour × $85 per hour = $85	$0	$85.
Replacement of the horizontal actuator	1 work-hour × $85 per hour = $85, per actuator.	$7,937 per actuator	$8,022 per actuator.
Functional test, adjusted control lever cable.	1 work-hour × $85 per hour = $85	$0	$85.

* The estimated cost for tooling to align an affected seat for adjustment of the control lever cable is up to $46,064.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the optional terminating action for the repetitive checks specified in this 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 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

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):

2019–16–05 The Boeing Company: Amendment 39–19708; Docket No. FAA–2018–1012; Product Identifier 2018–NM–132–AD.

(a) Effective Date

This AD is effective October 8, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by reports of uncommanded fore/aft movement of the Captain's and First Officer's seats. The FAA is issuing this AD to address uncommanded fore/aft movement of the Captain's and First Officer's seats. An uncommanded fore/aft seat movement during a critical part of a flight, such as takeoff or landing, could cause a flight control obstruction or unintended flight control input, which could result in the loss of the ability to control the airplane.

(f) Compliance

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

(g) Seat Part Number Identification and On-Condition Actions

Within 36 months after the effective date of this AD, do an inspection to determine the part number, and serial number as applicable, of the Captain's and First Officer's seats, and do all applicable on-condition actions, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–25–0607, Revision 1, dated July 17, 2018. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the Captain's and First Officer's seats can be conclusively determined from that review.

(h) Detailed Inspection and Repetitive Checks of Horizontal Movement System and On-Condition Actions

Except as specified in paragraph (i) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 777–25–0619, Revision 1, dated August 8, 2018 (''BSASB 777–25–0619, Revision 1''), do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of BSASB 777–25–0619, Revision 1.

(i) Exception to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where BSASB 777–25–0619, Revision 1, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(j) Optional Terminating Action for Repetitive Checks

Installation of a serviceable Captain's or First Officer's seat as specified in, and in accordance with, the Accomplishment Instructions of BSASB 777–25–0619, Revision 1, terminates the repetitive checks required by paragraph (h) of this AD for that seat only.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 (l) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-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, Seattle 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.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can

still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

For more information about this AD, contact Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3569; email: *Brandon.Lucero@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 777–25–0607, Revision 1, dated July 17, 2018.

(ii) Boeing Special Attention Service Bulletin 777–25–0619, Revision 1, dated August 8, 2018.

(3) 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.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 9, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–18832 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 401

[Docket No. SSA–2018–0004]

RIN 0960–AH97

Security and Suitability Files

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are issuing a final rule to exempt a system of records entitled Security and Suitability Files. This final rule also removes two systems of records listed in our exemptions, but which do not exist, and will replace them with a new exemption for this specified system of records from specific provisions of the Privacy Act.[1]

DATES: This rule is October 3, 2019.

FOR FURTHER INFORMATION CONTACT: Jasson Seiden, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 597–4307, email: *Jasson.Seiden@ssa.gov.* For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

On November 15, 2018, we published in the **Federal Register** a System of Records Notice [2] to provide public notice of our intent to establish a new system of records, Security and Suitability Files (60–0377). On the same day, we also published a Notice of Proposed Rulemaking (NPRM) [3] proposing to add Security and Suitability Files to our existing list of systems of records exempt from specific Privacy Act provisions.

Public Comments and Discussion

In the NPRM, we provided a 30-day comment period, which ended on December 17, 2018. We received no comments.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

We also determined that this proposed rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

We analyzed this rule in accordance with the principles and criteria established by Executive Order 13132, and we determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this rule.

Regulatory Flexibility Act

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

E.O. 13771

This rule is not subject to the requirements of Executive Order 13771 because it is administrative in nature and results in no more than de minimis costs.

Paperwork Reduction Act

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

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

List of Subjects in 20 CFR Part 401

Privacy and disclosure of official records and information.

Andrew Saul,

Commissioner of Social Security.

For the reasons stated in the preamble, we amend subpart B of part 401 of title 20 of the Code of Federal Regulations as set forth below:

PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Subpart B—[Amended].

■ 1. The authority citation for subpart B of part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b–11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

[1] 5 U.S.C. 552a(k)(5).

[2] 83 FR 57520.

[3] 83 FR 57366.

■ 2. In § 401.85, revise paragraph (b)(2)(iii)(A) and remove and reserve paragraph (b)(2)(iii)(B).

The revision reads as follows:

§ 401.85 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) Security and Suitability Files.

* * * * *

[FR Doc. 2019–18892 Filed 8–30–19; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0329]

RIN 1625–AA08

Special Local Regulation; Ohio River, Portsmouth, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for all navigable waters on the Ohio River in the vicinity of Portsmouth, OH. This special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards created by a marine regatta. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 9 a.m. on August 31, 2019 through 4 p.m. on September 2, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0329 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 MST3 Wesley Cornelius, MSU Huntington, U.S. Coast Guard; 304–733–0198, *Wesley.p.cornelius@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 to publish an NPRM because we must establish this zone by August 31, 2019 and lack sufficient time to request comments and respond to those comments before the zone must be established.

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 the public interest because immediate action is needed to respond to the potential safety hazards associated with a marine regatta at Portsmouth, OH.

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 the Portsmouth Boat Race starting August 31, 2019, will be a safety concern for anyone from mile marker (MM) 355.5 to MM 356.8 on the Ohio River. The special local regulation will be enforced on a small area of the Ohio River from 9 a.m. through 6 p.m. on August 31, 2019, from 7 a.m. through 5:30 p.m. on September 1, 2019, and from 7 a.m. through 4 p.m. on September 2, 2019. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the special local regulation for the duration of the Portsmouth Boat Race.

IV. Discussion of the Rule

This rule establishes a special local regulation from 9 a.m. on August 31, 2019 through 4 p.m. on September 2, 2019. This regulation will cover all navigable waters of the Ohio River from MM 355.5 to MM 356.8. The duration of the special local regulation is intended to protect personnel, vessels, and the marine environment in these navigable waters during the Portsmouth Boat Race. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

Persons and vessels permitted to enter the safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of the enforcement period for the safety zone, as well as any changes in the dates and times of enforcement.

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 size, location, and duration of the special local regulation. The special local regulation will be enforced from mile marker (MM) 355.5 to MM 356.8 on the Ohio River from 9 a.m. through 6 p.m. on August 31, 2019, from 7 a.m. through 5:30 p.m. on September 1, 2019, and from 7 a.m. through 4 p.m. on September 2, 2019. Breaks have been scheduled so that the event does not significantly impede commercial traffic. Moreover, the Coast Guard would 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 or transit the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the 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 call or email 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 call or email 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 special local regulation lasting from August 31, to September 2, 2019 that would periodically restrict entry into the race course from MM 355.5 to MM 356.8. It is categorically excluded from further review under paragraph L61 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. 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 call or email 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 § 100.35T08–0329 to read as follows:

§ 100.35T08–0329 Special Local Regulation; Ohio River, Portsmouth, OH.

(a) *Location.* All navigable waters of the Ohio River from MM 355.5 to MM 356.8 Portsmouth, OH.

(b) *Effective period.* This section is effective from August 31, 2019 through September 2, 2019.

(c) *Enforcement period.* The section will be enforced from 9 a.m. through 6 p.m. on August 31, 2019, from 7 a.m. through 5:30 p.m. on September 1, and from 7 a.m. through 4 p.m. on September 2, 2019.

(d) *Special local regulations.* (1) In accordance with the general regulations in § 100.35, entry into this area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Vessels are permitted to transit the regulated area during scheduled breaks for commercial traffic. There shall be no anchoring or loitering in the navigation channel. Vessels transiting into and away from this area are restricted to the slowest safe speed creating minimum wake.

(3) The COTP may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) All persons or vessels desiring entry into or passage through the area must request permission from the COTP or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

Dated: August 23, 2019.

M.A. Wike,

Commander, U.S. Coast Guard, Acting Captain of the Port Ohio Valley.

[FR Doc. 2019–18868 Filed 8–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0729]

RIN 1625–AA00

Safety Zone; Illinois River, Mile Marker 162 to 166, Peoria, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Illinois River in two different work zones located between Mile Marker (MM) 162 and MM 166. The safety zone is needed to protect persons, vessels, and the marine environment from potential hazards created by the installation of electrical lines across the river. Entry of persons or vessels into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective from September 26, 2019, through October 3, 2019, and will be enforced through October 3, 2019, or until the electrical line work is completed, whichever occurs first.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0729 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
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. We must establish this temporary safety zone by September 26, 2019, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The NPRM process would delay establishment of the safety zone until after the date of the electrical line work and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is necessary to respond to the potential safety hazards associated with electrical line installation over the Illinois 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 Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line installation over the Illinois River will be a safety concern for anyone in the two work zones between MM 162 through MM 166. This rule is needed to protect persons, vessels, and the marine environment on the navigable waters within the safety zone while electrical lines are pulled across the river.

IV. Discussion of the Rule

This rule establishes a temporary safety zone for a seven-day period from September 26, 2019 through October 3, 2019, or until the electrical line work is completed, whichever occurs first. The safety zone will be enforced at two work zones on the Illinois River at Peoria Lake between (MM) 162 through 166.

Zone A is between two lines perpendicular to the banks drawn through a mid-channel point at 40°43′28″ N, 89°32′55″ W and the second at 40°43′30″ N, 89°32′40″ W extending the entire width of the river.

Zone B is between two lines perpendicular to the banks drawn through a mid-channel point at 40°40′48″ N, 89°34′24″ W and the second at 40°40′45″ N, 89°34′16″ W.

Transit into and through this safety zone is prohibited during periods of enforcement unless given permission by the COTP or a designated representative. This zone will be enforced for up to eight hours each day between 8 a.m. through 4 p.m. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) at least 12 hours in advance of each enforcement period, and a safety vessel will coordinate all vessel traffic during the enforcement periods. In addition, the COTP or a designated representative will release regular BNMs while the zone is in effect and will also announce the suspension of the zone via VHF–FM marine channel 16.

The duration of this temporary safety zone is intended to protect persons, vessels, and the marine environment on these navigable waters while the electrical lines are being pulled across the river. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek entry into the safety zone, contact the COTP or the COTP's designated representative by telephone at 314–269–2332 or on VHF–FM channel 16. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

The COTP or a designated representative will inform the public of the enforcement dates and times for this safety zone, as well as any emergent safety concerns that may delay the suspension of the zone each day, through BNMs, Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking.

Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts less than a one-mile stretch of the Illinois River for up to eight hours on seven days. Additionally this rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the temporary safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator because the rule will allow persons and vessels to seek permission to enter the zone and coordinated entry may be arranged on a case by case basis. Additionally, coordination with several waterways users has taken place to mitigate as much impact as possible.

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 call or email 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 call or email 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 eight hours each day for seven days that will prohibit entry through an electrical wire work zone. It is categorically excluded from further review under paragraph L60 (a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. 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 call or email 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.T08–0729 to read as follows:

§ 165.T08–0729 Safety Zone; Illinois River, mile marker 162 to 166, Peoria, IL.

(a) *Location.* The following area is a safety zone: Two work zones on the Illinois River between (MM) 162 through 166.

(1) Zone A is between two lines perpendicular to the banks drawn through a mid-channel point at 40°43′28″ N, 89°32′55″ W and the second at 40°43′30″ N, 89°32′40″ W extending the entire width of the river.

(2) Zone B is between two lines perpendicular to the banks drawn through a mid-channel point at 40°40′48″ N, 89°34′24″ W and the second at 40°40′45″ N, 89°34′16″ W. Transit into and through this safety zone is prohibited during periods of enforcement unless given permission by the Captain of the Port or a designated representative.

(b) *Effective period.* This section is effective from September 26, 2019 through October 3, 2019.

(c) *Enforcement periods.* This section will be enforced each day that electrical line work is to be performed for up to eight hours per day from approximately 8 a.m. through 4 p.m.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (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 Upper Mississippi River.

(2) Vessels requiring entry into this 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 314–269–2332 or on VHF–FM channel 16.

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

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement dates and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone each day, through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: August 28, 2019.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2019–18913 Filed 8–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0730]

RIN 1625–AA00

Safety Zone; 2019 Monte Labor Day Fireworks Display, Carnelian Bay, Carnelian Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones on the navigable waters of Carnelian Bay near Carnelian West Beach in support of the 2019 Monte Labor Day Fireworks Display on September 1, 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 San Francisco or a designated representative.

DATES: This rule is effective from 7 a.m. on August 31, 2019 to 9:20 p.m. on September 1, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0730 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 MST1 David Robey, Waterways Management, U.S. Coast Guard; telephone (415) 399–7440, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port San Francisco
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 with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until August 16, 2019. The Coast Guard must establish these safety zones by August 31, 2019 and therefore lacks sufficient time to effectuate the full notice and comment process before issuing the rule 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 impracticable 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 has determined that potential hazards associated with the 2019 Monte Labor Day Fireworks Display on September 1, 2019, will be a safety concern for anyone within a 100-foot radius of the fireworks barges during loading and staging and anyone within a 420-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, these 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 a safety zone around each of two separate fireworks barges simultaneously from 7 a.m. on August 31, 2019 until 9:20 p.m. on September 1, 2019, during the loading, staging, and transit of the two fireworks barges in Carnelian Bay, during the fireworks display, and lasting until 30

minutes after completion of the fireworks display. From 7 a.m. on August 31, 2019 to 8 p.m. on September 1, 2019, during the loading, staging, and transit of the fireworks barges until 30 minutes prior to the start of the fireworks display, scheduled for approximately 8:30 p.m., the safety zones will encompass the navigable waters around and under the fireworks barges, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barges. Loading the pyrotechnics onto the fireworks barges is scheduled from 7 a.m. to 9 a.m. on August 31, 2019, at the Lake Forest boat ramp in Tahoe City, CA.

The fireworks barges will remain at the Lake Forest boat ramp until the start of their transit to the display locations. Towing of the barges from the Lake Forest boat ramp to the display locations is scheduled to take place from 9 a.m. to 10 a.m. on August 31, 2019, where they will remain until the conclusion of the fireworks display.

At 8 p.m. on August 31, 2019, 30 minutes prior to the commencement of the 20-minute 2019 Monte Labor Day 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 a circle formed by connecting all points 420 feet from the circle centers at approximate positions 39°13′17.76″ N, 120°4′47.64″ W (NAD 83) and 39°13′20.22″ N, 120°4′43.44″ W (NAD 83). The safety zones will terminate at 9:20 p.m. on September 1, 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. The safety zones impact two 420-foot radius areas of Carnelian Bay for a 38-hour-and-20-minute duration. The vessels desiring to transit through the safety zones may do so upon express permission from the COTP or the COTP's designated representative.

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 U.S. Coast Guard Environmental Planning Policy, 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 two safety zones lasting 38 hours and 20 minutes that prevent entry to two 420-foot radius areas. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of Department of Homeland Security Directive 023–01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 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.T11–994 to read as follows:

§ 165.T11–994 Safety Zone; 2019 Monte Labor Day Fireworks Display, Carnelian Bay, Carnelian Bay, CA.

(a) *Location.* The following areas are safety zones around two separate fireworks barges: From 7 a.m. on August 31, 2019, to 8 p.m. on September 1, 2019, all navigable waters of Carnelian Bay, from surface to bottom, within two circles formed by connecting all points 100 feet out from each of the two fireworks barges during their loading and staging at the Lake Forest boat ramp in Tahoe City, as well as during transit and arrival to the display location in Carnelian Bay, CA. Between 8 p.m. on September 1, 2019 and 9:20 p.m. on September 1, 2019, both of the safety zones will expand to all navigable waters, from surface to bottom, within two circles formed by connecting all points 420 feet out from each fireworks barge in approximate positions 39°13′17.76″ N, 120°4′47.64″ W (NAD 83) and 39°13′20.22″ N, 120°4′43.44″ 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 zones regulations in § 165.23, 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) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which these zones will be enforced in accordance with § 165.7.

Dated: August 23, 2019.

Howard H. Wright,

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

[FR Doc. 2019–18944 Filed 8–30–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO–P–2019–0020]

RIN 0651–AD39

Increase of the Annual Limit on Accepted Requests for Track I Prioritized Examination

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Interim rule.

SUMMARY: The Leahy-Smith America Invents Act (America Invents Act) includes provisions for prioritized examination of patent applications, which have been implemented by the United States Patent and Trademark Office (USPTO or Office) in previous rulemakings. The America Invents Act provides that the Office may not accept more than 10,000 requests for prioritization in any fiscal year (October 1 to September 30) until regulations are prescribed setting another limit. This interim rule expands the availability of prioritized examination by increasing the limit on the number of prioritized examination requests that may be accepted in a fiscal year from 10,000 to 12,000.

DATES: *Effective Date:* September 3, 2019.

Applicability Date: The limit of 12,000 granted requests for prioritized examination per year becomes effective for fiscal year 2019.

Comment Deadline Date: Written comments must be received on or before November 4, 2019.

ADDRESSES: Comments should be sent by email addressed to: *AD39.comments@uspto.gov.* Comments also may be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration.

Comments further may be sent via the Federal eRulemaking Portal. Visit the Federal eRulemaking Portal website (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by email. Emailed comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable

document format or MICROSOFT WORD® format. Comments not submitted by email or via the Federal eRulemaking Portal should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for viewing via the Office's internet website (*https://www.uspto.gov/patent/laws-and-regulations/comments-public-response-specific-requests-uspto*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272–7757, or Parikha Mehta, Legal Advisor, Office of Patent Legal Administration, at (571) 272–3248.

SUPPLEMENTARY INFORMATION:

Executive Summary: Purpose: This interim rule expands prioritized examination (''Track I'') practice to increase the number of applications that may be accorded prioritized examination in a fiscal year.

Summary of Major Provisions: The prioritized examination provisions (37 CFR 1.102(e)) currently provide that a request for prioritized examination may be filed with an original utility or plant nonprovisional application under 35 U.S.C. 111(a). The America Invents Act provides that the Office may not accept more than 10,000 requests for prioritization in any fiscal year until regulations are prescribed setting another limit. This interim rule increases the limit on the number of prioritized examination requests that may be accepted in a fiscal year from 10,000 to 12,000.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

Background: Section 11(h) of the America Invents Act provides for prioritized examination of an application. *See* Public Law 112–29, 125 Stat. 284, 324 (2011). Section 11(h)(1)(B)(i) of the America Invents Act also provides that the Office may by regulation prescribe conditions for acceptance of a request for prioritized examination, and section 11(h)(1)(B)(iii) provides that ''[t]he Director may not accept in any fiscal year more than 10,000 requests for prioritization until regulations are prescribed under this subparagraph setting another limit.'' *Id.*

The Office implemented the prioritized examination provision of the America Invents Act for applications on filing (referred to as ''Track I'') in a final rule published on September 23, 2011. *See Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act,* 76 FR 59050 (Sept. 23, 2011) (codified in 37 CFR 1.102(e)). Following its implementation, the Office improved its processes for carrying out prioritized examination and expanded the scope of prioritized examination in view of those improvements. First, the Office implemented prioritized examination for pending applications after the filing of a proper request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114. *See Changes to Implement the Prioritized Examination for Requests for Continued Examination,* 76 FR 78566 (Dec. 19, 2011). Next, the prioritized examination procedures further expanded to permit delayed submission of certain filing requirements while maintaining the Office's ability to timely examine the patent application. *See Changes to Permit Delayed Submission of Certain Requirements for Prioritized Examination,* 79 FR 12386 (Mar. 5, 2014).

The number of requests for prioritized examination has increased steadily over the last few years to the point that the Office will reach the limit of 10,000 requests for prioritized examination that may be accepted (granted) in any fiscal year if the limit is not increased. Through continued monitoring of the implementation of the Track I program, the Office has determined that the program may be further expanded to permit more applications to undergo prioritized examination while maintaining the ability to timely examine all prioritized applications. Quality metrics used by the Office reveal no loss in examination quality for applications given prioritized examination. In addition, the number of applications accepted for prioritized examination will remain a small fraction of the patent examinations completed in a fiscal year (the Office examines approximately 650,000 applications and requests for continued examination in total per fiscal year). Accordingly, the Office is expanding the availability of prioritized examination by increasing the limit on the number of prioritized examination requests that may be accepted in a fiscal year from 10,000 to 12,000, beginning in fiscal year 2019 (October 1, 2018, through September 30, 2019) and continuing every fiscal year thereafter until further notice.

Discussion of Specific Rules

The following is a discussion of the amendments to title 37 of the Code of Federal Regulations, part 1.

Section 1.102: Section 1.102(e) is revised to increase the limit on the total number of requests for prioritized examination that may be accepted (granted) in any fiscal year from 10,000 to 12,000.

Rulemaking Considerations

A. Administrative Procedure Act: This interim rule revises the procedures that apply to applications for which an applicant has requested Track I prioritized examination. The changes in this interim rule do not change the substantive criteria of patentability. Therefore, the changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See JEM Broad. Co.* v. *F.C.C.,* 22 F.3d 320, 326 (D.C. Cir. 1994) (''[T]he 'critical feature' of the procedural exception [in 5 U.S.C. 553(b)(A)] 'is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.' '' (quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980))); *see also Bachow Commc'ns Inc.* v. *F.C.C.,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims). Accordingly, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A)). In addition, the changes in this interim rule may be made immediately effective because this interim rule is not a substantive rule under 35 U.S.C. 553(d).

Moreover, the Office, pursuant to authority at 5 U.S.C. 553(b)(B), finds good cause to adopt the changes in this interim rule without prior notice and an opportunity for public comment, as such procedures would be contrary to the public interest. Delay in the promulgation of this interim rule to provide prior notice and comment

procedures would cause harm to those applicants who desire to file a request for Track I prioritized examination with a new application or request for continued examination. Immediate implementation of the changes in this interim rule is in the public interest because: (1) The public does not need time to conform its conduct as the changes in this interim rule do not add any additional requirement for requesting prioritized examination of an application; and (2) those applicants who would otherwise be ineligible for prioritized examination will benefit from the immediate implementation of the changes in this interim rule. *See Nat'l Customs Brokers & Forwarders Ass'n of Am., Inc.* v. *United States,* 59 F.3d 1219, 1223–24 (Fed. Cir. 1995). In addition, pursuant to authority at 5 U.S.C. 553(d)(1), the changes in this interim rule may be made immediately effective because they relieve restrictions in the requirements for requesting prioritized examination of an application.

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across Government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This rulemaking is not an Executive Order 13771 (Jan. 30, 2017) regulatory action because the rulemaking is not significant under Executive Order 12866 (Sept. 30, 1993).

F. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 13783 (Promoting Energy Independence and Economic Growth): This rulemaking does not potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources under Executive Order 13783 (Mar. 28, 2017).

J. Executive Order 13772 (Core Principles for Regulating the United States Financial System): This rulemaking does not involve regulation of the United States financial system under Executive Order 13772 (Feb. 3, 2017).

K. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

L. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

M. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

N. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808), the United States Patent and Trademark Office will submit a report containing any final rule resulting from this rulemaking and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office.

O. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

P. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

Q. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

R. Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This interim rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549). An applicant who wishes to participate in the prioritized examination program must submit a certification and request to participate in the prioritized examination program, preferably by using Form PTO/AIA/424. OMB has determined that, under 5 CFR 1320.3(h), Form PTO/AIA/424 does not collect ''information'' within the meaning of the Paperwork Reduction Act of 1995. This rulemaking does not impose any

additional collection requirements under the Paperwork Reduction Act which are subject to further review by OMB.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Section 1.102 is amended by revising the introductory text of paragraph (e) to read as follows:

§ 1.102 Advancement of examination.

* * * * *

(e) A request for prioritized examination under this paragraph (e) must comply with the requirements of this paragraph (e) and be accompanied by the prioritized examination fee set forth in § 1.17(c), the processing fee set forth in § 1.17(i), and if not already paid, the publication fee set forth in § 1.18(d). An application for which prioritized examination has been requested may not contain or be amended to contain more than four independent claims, more than thirty total claims, or any multiple dependent claim. Prioritized examination under this paragraph (e) will not be accorded to international applications that have not entered the national stage under 35 U.S.C. 371, design applications, reissue applications, provisional applications, or reexamination proceedings. A request for prioritized examination must also comply with the requirements of paragraph (e)(1) or (2) of this section. No more than 12,000 requests for such prioritized examination will be accepted in any fiscal year.

* * * * *

Dated: August 27, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–18994 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA 2018; FRL–9997–86–Region 4]

Air Plan Approval; Georgia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Georgia state implementation plan (SIP). The regulations affected by this update have been previously submitted by Georgia and approved by EPA. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective September 3, 2019.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303; and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* To view the materials at the Region 4 Office, EPA requests that you email the contact 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:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation or specified changes to the given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on proposed revisions containing new and/or revised state regulations. A submission from a state can revise one or more rules in their entirety or portions of rules, or even change a single word. The state indicates the changes in the submission (such as, by using redline/strikethrough) and EPA then takes action on the requested changes. EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on *www.regulations.gov.*

On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by EPA into each state SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52,

streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain ''SIP Compilations'' that contain the federally-approved regulations and source specific permits submitted by each state agency. These SIP Compilations are updated primarily on an annual basis. Under the revised procedures, EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular state. EPA applied the 1997 revised procedures to Georgia on May 21, 1999 (64 FR 27699).

II. EPA Action

This action represents EPA's publication of the Georgia SIP Compilation update, appearing in 40 CFR part 52: Specifically, the materials of paragraph (c) and (d) at 40 CFR 52.570. In addition, this notice also corrects typographical errors and provides notice of the following corrections to Table (c) of § 52.570, as described below:

Changes Applicable to EPA-Approved Georgia Regulations

1. Under the ''EPA approval date'' column, the period is removed after the **Federal Register** citation.

2. Under Rule 391–3–1–.02(2)(ooo), ''Heavy-Duty Diesel Engine Requirements'' the entry was deleted from the table because EPA previously approved removal of this provision from the SIP. *See* 82 FR 22079 (May 12, 2017).

3. Under Rule 391–3–.20, ''Enhanced Inspection and Maintenance'' the State effective date was revised to read ''6/19/2014'' and EPA approval date was revised to read ''4/10/2017, 82 FR 17128.''

4. Under Rules 391–3–1–.02(2)(a), 391–3–1–.02(7), 391–3–1–.03(2), and 391–3–1–.03(8), the explanation column was revised to clarify the effect of previous EPA actions on Georgia's SIP submittals.

III. Good Cause Exemption

EPA has determined that this action falls under the ''good cause'' exemption under section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs and makes typographical/ministerial revisions to the tables in the CFR. Under section 553(b)(3)(B) of the APA, an agency may find good cause where public participation procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Public comment for this administrative action is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflect existing law and the revisions are ministerial in nature. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated Georgia SIP Compilation and notice of typographical corrections and ministerial changes to the Georgia ''Identification of Plan'' portion of the **Federal Register**. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR ''Identification of plan'' section (which includes table entry corrections).

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA-approved regulations promulgated by Georgia and federally-effective prior to October 1, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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. Accordingly, this notice of administrative change 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).

EPA also believes that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the Georgia SIP compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA believes judicial review of this action under section 307(b)(1) is not available.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 29, 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 for citation for part 52 continues to read as follows:

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

Subpart L—Georgia

■ 2. In § 52.570, paragraphs (b), (c), and (d) are revised to read as follows:

§ 52.570 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to October 1, 2018, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraph (c) and (d) of this section with EPA approval dates after October 1, 2018, for Georgia will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street SW, Atlanta, GA 30303. To obtain the material, please call (404) 562–9022. You may inspect the material with an EPA approval date prior to October 1, 2018, for Georgia at the National Archives and Records Administration. For information on the availability of this material at NARA go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA Approved Georgia Regulations.*

EPA Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	7/20/2017	12/4/2018, 83 FR 62466.	
391–3–1–.02	Provisions			
391–3–1–.02(1)	General Requirements.	3/20/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)	Emission Standards			
391–3–1–.02(2)(a)	General Provisions	8/1/2013	7/28/2017, 82 FR 35106.	Except for paragraph 391–3–1–.02(2)(a)1 (as approved on 3/16/2006).
391–3–1–.02(2)(b)	Visible Emissions ...	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(c) ..	Incinerators	8/9/2012	4/9/2013, 78 FR 21065.	
391–3–1–.02(2)(d)	Fuel-burning Equipment.	7/20/2005	2/9/2009, 75 FR 6309.	
391–3–1–.02(2)(e)	Particulate Emission from Manufacturing Processes.	8/1/2013	7/28/2017, 82 FR 35106.	
391–3–1–.02(2)(f) ..	Normal Superphosphate Manufacturing Facilities.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(g)	Sulfur Dioxide	7/17/2002	7/9/2003, 68 FR 40786.	
391–3–1–.02(2)(h)	Portland Cement Plants.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(i) ...	Nitric Acid Plants ...	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(j) ...	Sulfuric Acid Plants	1/17/1979	9/18/1979, 44 FR 54047.	

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(2)(k) ..	Particulate Emission from Asphaltic Concrete Hot Mix Plants.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(n)	Fugitive Dust	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(p)	Particulate Emissions from Kaolin and Fuller's Earth Processes.	8/1/2013	7/28/2017, 82 FR 35106.	
391–3–1–.02(2)(q)	Particulate Emissions from Cotton Gins.	8/1/2013	7/28/2017, 82 FR 35106.	
391–3–1–.02(2)(r) ..	Particulate Emissions from Granular and Mixed Fertilizer Manufacturing Units.	1/27/1972	5/31/1972, 37 FR 10842.	
391–3–1–.02(2)(t) ..	VOC Emissions from Automobile and Light Duty Truck Manufacturing.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(u)	VOC Emissions from Can Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(v) ..	VOC Emissions from Coil Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(w)	VOC Emissions from Paper Coating.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(x) ..	VOC Emissions from Fabric and Vinyl Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(y) ..	VOC Emissions from Metal Furniture Coating.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(z) ..	VOC Emissions from Large Appliance Surface Coating.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(aa)	VOC Emissions from Wire Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(bb)	Petroleum Liquid Storage.	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(cc)	Bulk Gasoline Terminals.	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(dd)	Cutback Asphalt	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(ee)	Petroleum Refinery	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(ff)	Solvent Metal Cleaning.	5/29/1996	4/26/1999, 64 FR 20186.	
391–3–1–.02(2)(gg)	Kraft Pulp Mills	8/1/2013	7/28/2017, 82 FR 35106.	
391–3–1–.02(2)(hh)	Petroleum Refinery Equipment Leaks.	6/24/1994	2/2/1996, 61 FR 3817.	
391–3–1–.02(2)(ii) ..	VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(jj) ..	VOC Emissions from Surface Coating of Flat Wood Paneling.	3/7/2012	9/28/2012, 77 FR 59554.	

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(2)(kk)	VOC Emissions from Synthesized Pharmaceutical Manufacturing.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(ll) ..	VOC Emissions from the Manufacture of Pneumatic Rubber Tires.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(mm).	VOC Emissions from Graphic Arts Systems.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(nn)	VOC Emissions from External Floating Roof Tanks.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(oo)	Fiberglass Insulation Manufacturing Plants.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(pp)	Bulk Gasoline Plants.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(qq)	VOC Emissions from Large Petroleum Dry Cleaners.	4/3/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(rr)	Gasoline Dispensing Facilities—Stage I.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ss)	Gasoline Transport Systems and Vapor Collection Systems.	8/1/2013	7/28/2017, 82 FR 35106.	
391–3–1–.02(2)(tt)	VOC Emissions from Major Sources.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(uu)	Visibility Protection	10/31/1985	1/28/1986, 51 FR 3466.	
391–3–1–.02(2)(vv)	Volatile Organic Liquid Handling and Storage.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(yy)	Emissions of Nitrogen Oxides from Major Sources.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ccc)..	VOC Emissions from Bulk Mixing Tanks.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ddd).	VOC Emissions from Offset Lithography and Letterpress.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(eee).	VOC Emissions from expanded Polystyrene Products Manufacturing.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(fff)	Particulate Matter Emissions from Yarn Spinning Operations.	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(2)(hhh).	Wood Furniture Finishing and Cleaning Operations.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(jjj)	NO_X Emissions from Electric Utility Steam Generating Units.	3/12/2007	11/27/2009, 74 FR 62249.	
391–3–1–.02(2)(kkk).	VOC Emissions from Aerospace Manufacturing and Rework Facilities.	4/12/2009	9/28/2012, 77 FR 59554.	

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(2)(lll)	NO_X Emissions from Fuel–burning Equipment.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(mmm).	NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity.	5/4/2014	9/1/2015, 80 FR 52627.	
391–3–1–.02(2)(nnn).	NO_X Emissions from Large Stationary Gas Turbines.	2/16/2000	7/10/2001, 66 FR 35906.	
391–3–1–.02(2)(rrr)	NO_X Emissions from Small Fuel–Burning Equipment.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(vvv).	VOC Emissions from Coating Miscellaneous Plastic Parts and Products.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(yyy).	VOC Emissions from the use of Miscellaneous Industrial Adhesives.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(zzz).	VOC Emissions from Fiberglass Boat Manufacturing.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(aaaa).	Industrial Cleaning Solvents.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(3)	Sampling	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(4)	Ambient Air Standards.	7/20/2017	12/4/2018, 83 FR 62466.	
391–3–1–.02(5)	Open Burning	7/13/2006	2/9/2010, 75 FR 6309.	
391–3–1–.02(6)	Source Monitoring ..	8/1/2013	7/28/2017, 82 FR 35108.	
391–3–1–.02(7)	Prevention of Significant Deterioration of Air Quality (PSD).	7/20/2017	12/14/2018, 83 FR 64285.	Except for the automatic rescission clause at 391–3–1–.02(7)(a)(2)(iv), which EPA disapproved on March 4, 2016. Except for portions of Rule 391–3–1–.02(7) incorporating by reference 40 CFR 52.21(b)(1)(i)(a), 40 CFR 52.21(b)(1)(iii)(t), 40 CFR 52.21(b)(2)(v), and 40 CFR 52.21(b)(3)(iii)(*c*), because those CFR provisions were indefinitely stayed by the Fugitive Emissions Rule in the March 30, 2011 rulemaking and have not been approved into the Georgia SIP. Except for portions of Rule 391–3–1–.02(7) incorporating by reference the exemption of ethanol production facilities that produce ethanol by natural fermentation from the requirement to include fugitive emissions in determining major source applicability at 40 CFR 52.21(b)(1)(i)(*a*) and 40 CFR 52.21(b)(1)(iii)(*t*). Those provisions have not been approved into the Georgia SIP.

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
.....	.....	.....	.....	On September 9, 2011 Georgia's PSD Rule 391–3–1–.02(7) incorporates by reference the regulations found at 40 CFR 52.21 as of June 3, 2010, with changes. This EPA action is approving the incorporation by reference with the exception of the following provisions: (1) The provisions amended in the Ethanol Rule which exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*f*); and (2) the administrative regulations amended in the Fugitive Emissions Rule. Additionally, this EPA action is not approving the ''automatic rescission clause'' provision at 391–3–1.02(7)(a)2.(iv). This rule contains NO_X as a precursor to ozone for PSD and NSR.
391–3–1–.02(11)	Compliance Assurance Monitoring.	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(12)	Cross State Air Pollution Rule NO_X Annual Trading Program.	7/20/2017	10/13/2017, 82 FR 47930.	
391–3–1–.02(13)	Cross State Air Pollution Rule SO_2 Annual Trading Program.	7/20/2017	10/13/2017, 82 FR 47930.	
391–3–1–.02(14)	Cross State Air Pollution Rule NO_X Ozone Season Trading Program.	7/20/2017	10/13/2017, 82 FR 47930.	
391–3–1–.03	Permits			
391–3–1–.03(1)	Construction (SIP) Permit.	8/17/1994	8/30/1995, 60 FR 45048.	
391–3–1–.03(2)	Operating (SIP) Permit.	12/26/2001	7/11/2002, 67 FR 45909.	Except subparagraph (e), which is not approved into the SIP.
391–3–1–.03(3)	Revocation, Suspension, Modification or Amendment of Permits.	2/23/1979	9/18/1979, 44 FR 54047.	
391–3–1–.03(4)	Permits not Transferable.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.03(5)	Permits Public Records.	10/28/1992	2/2/1996, 61 FR 3819.	
391–3–1–.03(6)	Exemptions	8/9/2012	4/9/2013, 78 FR 21065.	
391–3–1–.03(7)	Combined Permits and Applications.	2/23/1979	9/18/1979, 44 FR 54047.	
391–3–1–.03(8)	Permit Requirements.	8/1/2013	10/16/2017, 82 FR 47993.	Except subparagraph (g), which was approved into the SIP with a state-effective date of 9/13/2011.
391–3–1–.03(11)	Permit by Rule	7/20/2005	2/9/2010, 75 FR 6309.	
391–3–1–.03(12)	Generic Permit	8/17/1994	8/30/1995, 60 FR 45048.	
391–3–1–.03(13)	Emission Reduction Credits.	9/11/2008	3/14/2019, 84 FR 9240.	Except subparagraph 391–3–1–.03(13)(f), which was approved into the SIP with a state-effective date of 7/18/2001, and subparagraphs (b), (c), (e), (g), and (i), which were approved into the SIP with a state-effective date of 2/16/2000.
391–3–1–.04	Air Pollution Episodes.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.07	Inspections and Investigations.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.08	Confidentiality of information.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.09	Enforcement	11/22/1992	2/2/1996, 61 FR 3819.	
391–3–1–.10	Continuance of Prior Rules.	11/22/1992	2/2/1996, 61 FR 3819.	

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.15	Georgia Transportation Conformity and Consultation Interagency Rule.	10/6/2010	6/15/2012, 77 FR 35866.	
391–3–20	Enhanced Inspection and Maintenance.	6/19/2014	4/10/2017, 82 FR 17128.	

(d) *EPA-Approved State Source Specific Requirements*

EPA APPROVED GEORGIA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Comments
Georgia Power Plant Bowen.	EPD–AQC–180	11/17/1980	8/17/1981, 46 FR 41498.	
Georgia Power Plant Harllee Branch.	4911–117–6716–0	4/23/1980	5/5/1981, 46 FR 25092.	
ITT Rayonier, Inc	2631–151–7686–C	11/4/1980	8/14/1981, 46 FR 41050.	
Georgia Power Plant Bowen.	EPD–AQC–163	5/16/1979	1/3/1980, 45 FR 781.	
Union Camp	2631–025–7379–0	12/18/1981	4/13/1982, 47 FR 15794.	
Blue Bird Body Company.	3713–111–8601	1/27/1984	1/7/1985, 50 FR 765.	
Plant McDonough	4911–033–5037–0 conditions 10 through 22.	12/27/1995	3/18/1999, 64 FR 13348.	
Plant Yates	4911–038–4838–0 conditions 19 through 32.	12/27/1995	3/18/1999, 64 FR 13348.	
Plant Yates	4911–038–4839–0 conditions 16 through 29.	12/27/1995	3/18/1999, 64 FR 13348.	
Plant Yates	4911–038–4840–0 conditions 16 through 29.	12/27/1995	3/18/1999, 64 FR 13348.	
Plant Yates	4911–038–4841–0 conditions 16 through 29.	12/27/1995	3/18/1999, 64 FR 13348.	
Plant Atkinson	4911–033–1321–0 conditions 8 through 13.	11/15/1994	3/18/1999, 64 FR 13348.	
Plant Atkinson	4911–033–1322–0 conditions 8 through 13.	11/15/1994	3/18/1999, 64 FR 13348.	
Plant Atkinson	4911–033–6949 conditions 5 through 10.	11/15/1994	3/18/1999, 64 FR 13348.	
Plant Atkinson	4911–033–1320–0 conditions 8 through 13.	11/15/1994	3/18/1999, 64 FR 13348.	
Plant Atkinson	4911–033–1319–0 conditions 8 through 13.	11/15/1994	3/18/1999, 64 FR 13348.	
Plant McDonough	4911–033–6951 conditions 5 through 10.	11/15/1994	3/18/1999, 64 FR 13348.	
Atlanta Gas Light Company.	4922–028–10902 conditions 20 and 21	11/15/1994	3/18/1999, 64 FR 13348.	
Atlanta Gas Light Company.	4922–031–10912 conditions 27 and 28	11/15/1994	3/18/1999, 64 FR 13348.	
Austell Box Board Corporation.	2631–033–11436 conditions 1 through 5.	11/15/1994	3/18/1999, 64 FR 13348.	
Emory University	8922–044–10094 conditions 19 through 26.	11/15/1994	3/18/1999, 64 FR 13348.	
General Motors Corporation.	3711–044–11453 conditions 1 through 6 and Attachment A.	11/15/1994	3/18/1999, 64 FR 13348.	
Georgia Proteins Company.	2077–058–11226 conditions 16 through 23 and Attachment A.	11/15/1994	3/18/1999, 64 FR 13348.	
Owens-Brockway Glass Container, Inc.	3221–060–10576 conditions 26 through 28 and Attachment A.	11/15/1994	3/18/1999, 64 FR 13348.	

EPA APPROVED GEORGIA SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Comments
Owens-Corning Fiberglass Corporation.	3296–060–10079 conditions 25 through 29.	11/15/1994	3/18/1999, 64 FR 13348.	

* * * * *

[FR Doc. 2019–18590 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0403; FRL–9998–96–Region 10]

Air Plan Approval: ID; Update to CRB Fee Billing Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve state implementation plan (SIP) revisions submitted by the State of Idaho's Department of Environmental Quality on June 5, 2019. The revisions implement changes to the timing of when fees for open burning of crop residue are paid. The changes provide Idaho Department of Environmental Quality a more streamlined administrative process and were based on recommendation from Idaho's Crop Residue Advisory Committee.

DATES: This rule is effective on November 4, 2019, without further notice, unless the EPA receives adverse comment by October 3, 2019. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2019–0403 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Randall Ruddick at (206) 553–1999, or *ruddick.randall@epa.gov,* U.S. Environmental Protection Agency, Region 10, 1200 6th Avenue, Suite 155–15–H13, Seattle, WA 98101–3188.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background
II. Analysis of Rule Updates
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I. Background

In 2013, the EPA approved revisions related to Idaho's open burning and crop residue burning requirements that established a streamlined permitting process for spot burns, baled agricultural residue burns, and propane flaming. The revisions also made minor changes to the existing crop residue burning rules to update cross references and clarify certain administrative information. More information regarding the revisions that the EPA approved in 2013 can be found in the EPA's proposed and final actions on the state's 2011 SIP submittal. See 78 FR 2359 (January 11, 2013) and 78 FR 16790 (March 19, 2013).

II. Analysis of Rule Updates

On June 5, 2019, Idaho submitted a SIP revision request to the EPA. The SIP submittal contains two revisions to the federally-approved crop residue burning (CRB) rules. The two revisions were conducted through Idaho's negotiated rulemaking process involving persons having an interest in the development of the revisions and based on recommendations from the Idaho Crop Residue Advisory Committee. Specifically, the June 5, 2019, SIP submittal contains revisions to IDAPA 58.01.01.620.01, .02, and Idaho Code 39–114.

Fee due dates in IDAPA 58.01.01.620.01 were changed from ''at least seven (7) days prior to the proposed burn date'' to ''within thirty (30) days following the receipt of the annual burn fee invoice.'' This revision does not change the burn fee amounts, rather it only changes when the fee is due. Idaho revised IDAPA 58.01.01.620.02 to clarify that IDEQ will not accept or process registration for a permit by rule to burn for any person having burn fees delinquent, in full or in part. Idaho Code 39–114 (codification of Idaho Senate Bill 1024, Section 4) was revised by removing the requirement that fees be paid for acres ''to be burned'' and the requirement that payment be made ''prior to burning'' to align with revisions to IDAPA 58.01.01.620.01.

These revisions do not change fee structure amounts and do not change the timing of the fee payment for spot and bale burn permits required under IDAPA 58.01.01.624.02.a. All other CRB requirements remain unchanged.

III. Final Action

EPA is approving, and incorporating by reference in Idaho's SIP, revisions to Idaho's CRB fee regulations as requested by Idaho on June 5, 2019 to the following provisions:

- IDAPA 58.01.01.620 (Burn Fee, state effective April 11, 2019); and
- Idaho Code 39–114 (Open Burning of Crop Residue, state effective February 26, 2019).

We have determined that the submitted SIP revisions are consistent with section 110 of the Clean Air Act (CAA).

IV. Incorporation by Reference

In this rule, the EPA is approving regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are incorporating by reference the provisions described above in

Section III. Final Action. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 10 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 the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the 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 the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely 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 this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this 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 action must be filed in the United States Court of Appeals for the appropriate circuit by November 4, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

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

Dated: August 15, 2019.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 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 N—Idaho

■ 2. Amend § 52.670, in the table in paragraph (c), by:

■ a. Revising entry for ''620''; and

■ b. Under the heading ''State Statutes'':

■ i. Removing the entry for ''Section 3 of Senate Bill 1009, codified at Idaho Code Section 39–114''; and

■ ii. Adding an entry for ''Section 4 of Senate Bill 1024, codified at Idaho Code Section 39–114''.

The revision and addition read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IDAHO REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Idaho Administrative Procedures Act (IDAPA) 58.01.01—Rules for the Control of Air Pollution in Idaho				
* * *	* * *	*	* * *	
620	Burn Fee	4/11/2019	9/3/2019, [Insert **Federal Register** citation].	
* * *	* * *	*	* * *	
State Statutes				
Section 4 of Senate Bill 1024, codified at Idaho Code Section 39–114.	Open Burning of Crop Residue	2/26/2019	9/3/2019, [Insert **Federal Register** citation].	

* * * * *

[FR Doc. 2019–18849 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 19–588]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the FM Table of Allotments, of the Commission's rules, by reinstating certain vacant FM allotments. These FM allotments are considered vacant because of the cancellation of the associated authorizations and licenses, or the dismissal of long-form auction applications. Theses vacant FM allotments have previously undergone notice and comment rule making. Reinstatement of the vacant allotments is merely a ministerial action to effectuate licensing procedures. Therefore, we find for good cause that further notice and comment are unnecessary.

DATES: Effective September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* adopted June 24, 2019 and released June 25, 2019. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW, Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will not send a copy of the *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the *Order* is a ministerial action.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.202(b), the table is amended as follows:

■ a. Under Alabama by adding Camden, Channel 230A, Maplesville, Channel 292A, and Thomaston, Channel 280C3, in alphabetical order;

■ b. Under Alaska by adding Kotzebue, Channel 280A, and Yakutat, Channel 280A, in alphabetical order;

■ c. Under Arizona by adding Salome, Channel 231A, in alphabetical order;

■ d. Under California by adding Cartago, Channel 233A, Coalinga, Channel 247B1, Earlimart, Channel 228A, and Ludlow, Channel 261B1, in alphabetical order;

■ e. Under Colorado by adding Dotsero, Channel 261A, in alphabetical order;

■ f. Under Florida by adding Fort Walton Beach, Channel 295A, in alphabetical order;

■ g. Under Georgia by adding Pembroke, Channel 257C1, in alphabetical order;

■ h. Under Iowa by adding Dunkerton, Channel 280A, and Rockford, Channel 225A, in alphabetical order;

■ i. Under Louisiana by adding Oil City, Channel 285A, in alphabetical order;

■ j. Under Michigan by adding Carney, Channel 260A, and Pigeon, Channel 267A, in alphabetical order;

■ k. Under Mississippi by adding McLain, Channel 245A, New Albany, Channel 268A, and New Augusta, Channel 269A, in alphabetical order;

■ l. Under Montana by adding Valier, Channel 289C1, in alphabetical order;

■ m. Under Nevada by adding Tonopah, Channel 224A, in alphabetical order;

■ n. Under New Hampshire by adding Stratford, Channel 254A, in alphabetical order;

■ o. Under New Mexico by adding Chama, Channel 241C3, and Lovington, Channel 269C3, in alphabetical order;

■ p. Under New York by adding Livingston Manor, Channel 296A, in alphabetical order;

■ q. Under North Dakota by adding Gackle, Channel 256C1, in alphabetical order;

■ r. Under Texas by revising the entries for Carrizo Springs and Groom;

■ s. Under Utah by adding Huntington, Channel 287C3, in alphabetical order; and

■ t. Under Wyoming by adding Albin, Channel 282C3, Manville, Channel 255C1, Medicine Bow, Channel 259C3, Rawlins, Channel 298C2, Rozet, Channel 256C3, and Wamsutter, Channel 285A, in alphabetical order, and revising the entry for Wheatland.

The additions and revisions read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

	Channel No.
Alabama	
Camden	230A
Maplesville	292A
Thomaston	280C3
* * * * *	
Alaska	
Kotzebue	280A
Yakutat	280A
Arizona	
* * * * *	
Salome	231A
* * * * *	
California	
* * * * *	
Cartago	233A
* * * * *	
Coalinga	247B1
* * * * *	
Earlimart	228A
* * * * *	
Ludlow	261B1
* * * * *	
Colorado	
* * * * *	
Dotsero	261A
* * * * *	
Florida	
* * * * *	
Fort Walton Beach	295A
* * * * *	
Georgia	
* * * * *	
Pembroke	257C1
* * * * *	
Iowa	
* * * * *	
Dunkerton	280A
* * * * *	
Rockford	225A
* * * * *	
Louisiana	
* * * * *	
Oil City	285A
* * * * *	
Michigan	
Carney	260A
* * * * *	
Pigeon	267A
* * * * *	
Mississippi	
* * * * *	
McLain	245A
* * * * *	
New Albany	268A
New Augusta	269A
* * * * *	
Montana	
* * * * *	
Valier	289C1
* * * * *	
Nevada	
* * * * *	
Tonopah	224A
New Hampshire	
* * * * *	
Stratford	254A
* * * * *	
New Mexico	
* * * * *	
Chama	241C3
* * * * *	
Lovington	269C3
* * * * *	
New York	
* * * * *	
Livingston Manor	296A
* * * * *	
North Dakota	
Gackle	256C1
* * * * *	
Texas	
* * * * *	
Carrizo Springs	228A, 295A
* * * * *	
Groom	223A, 273A
* * * * *	
Utah	
Huntington	287C3
* * * * *	
Wyoming	
Albin	282C3
* * * * *	
Manville	255C1
* * * * *	
Medicine Bow	259C3
* * * * *	
Rawlins	298C2
Rozet	256C3
Wamsutter	285A
Wheatland	286A, 293A
* * * * *	

[FR Doc. 2019–16223 Filed 8–30–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket Number: FWS–HQ–MB–2018–0225; FF09M29000–190–FXMB12320900000]

RIN 1018–BB77

Migratory Bird Permits; Regulations Concerning a Depredation Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We are following up on a 2013 proposal to remove regulations that set forth a means for controlling damage caused by certain depredating

scrub jays and Steller's jays. We had proposed to remove the regulations that set forth a depredation order for these species to protect nut crops in certain counties in Washington and Oregon. Our reason for the proposed removal of these regulations was that we believed they were no longer necessary. However, we now withdraw this proposal based on comments received, as well as reports of activities conducted under this depredation order. Instead of removing the regulations, we hereby make minor updates to them to ensure timely reporting of activities conducted under this depredation order.

DATES: This rule is effective October 3, 2019.

ADDRESSES: The proposed rule, which published under RIN 1018–AX92, and comments received are available at *http://www.regulations.gov* under Docket No. FWS–R9–MB–2011–0100.

FOR FURTHER INFORMATION CONTACT: Eric Kershner, 703–358–2376, *eric_kershner@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

On November 4, 2013, we, the U.S. Fish and Wildlife Service (Service), published a proposed rule (78 FR 65953) to remove certain regulations concerning control activities for depredating migratory birds from part 21 of title 50 of the Code of Federal Regulations. These regulations, at 50 CFR 21.42, 21.45, and 21.46, set forth provisions for depredation orders that allowed control activities to be conducted without a permit issued by the Service. Prior to 2013, we had received no reports of activities undertaken under these regulations and no requests for authorization of a depredation order under these regulations for many years. Because these regulations apparently were unused, we proposed to remove them.

On March 25, 2015, we published a final rule (80 FR 15689) removing the depredation orders at 50 CFR 21.42 and 21.45, as well as references to those two sections that appeared in 50 CFR 21.41 and 21.53, as we had received no comments on our 2013 proposal to remove those regulations. However, we did receive comments on our proposal to remove 50 CFR 21.46. In the preamble to the March 25, 2015, final rule, we stated that we would address our proposal to remove 50 CFR 21.46 and respond to the comments we received concerning that proposal in a separate document to be published later in the **Federal Register**.

Under 50 CFR 21.46, landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit and in accordance with certain conditions, take scrub jays (*Aphelocoma coerulescens*) and Steller's jays (*Cyanocitta stelleri*) when these species are found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons.

Comments on the Proposed Rule

In response to our November 4, 2013, proposed rule (78 FR 65953), we requested that all interested parties submit written comments on the proposal by February 3, 2014. During the public comment period, we received eight comments on our proposal to remove 50 CFR 21.46. We received comments from individuals, organizations, a State agency, and the Pacific Flyway Council, an administrative body that forges cooperation among public wildlife agencies for the purpose of protecting and conserving migratory birds in western North America. All comment letters are available at *http://www.regulations.gov* under Docket No. FWS–R9–MB–2011–0100.

(1) Comment: One commenter was supportive of removing regulations that are no longer used or outdated.

Response: At the time of the proposed rule we had not received a report of activities conducted under 50 CFR 21.46 for 10 years. However, in response to the proposed rule, we received comments stating that this depredation order was being used, but activities had gone unreported due to a lack of knowledge of the reporting requirements. Since publishing the proposed rule, we have received annual permit reports of activities conducted under this depredation order in the period 2014–2017.

(2) Comment: Five commenters were opposed to the proposed removal of 50 CFR 21.46 because it is currently being used by nut farmers in Oregon and Washington; however, the activities have been underreported due to a lack of awareness of reporting requirements.

Response: Since publishing the proposed rule in 2013, we have received reports of activities conducted under 50 CFR 21.46 in 2014–2017. As part of this document, which revises the 2013 proposed rule in regard to 50 CFR 21.46, we have also changed the due date and mailing address for the annual report.

(3) Comment: Two commenters were opposed to lethal take of birds.

Response: Lethal take is authorized under 50 CFR 21.46 as a tool to help reduce damage to nut crops in specific counties of Oregon and Washington caused by scrub jays and Steller's jays. As discussed in the final rule that set forth the provisions of 50 CFR 21.46 (39 FR 31326, August 28, 1974), before allowing the use of lethal take, the Service evaluated other options, such as the use of scaring devices, but such methods of reducing take proved to be ineffective or otherwise unsatisfactory. In addition, § 21.46(a) states that jays may only be taken between 1 August and 1 December in any year, limiting the season when birds can be taken. Take is limited to three counties in Washington and nine counties in Oregon.

This Document

In response to the comments submitted and the annual reports received, we are (1) withdrawing our proposal to remove 50 CFR 21.46 from the Code of Federal Regulations, (2) updating the reporting requirements for activities conducted under the depredation order, and (3) updating the taxonomy of scrub jays as stated in the rule.

We are revising paragraph (f) of § 21.46 by: Updating the report due date to January 31 of the year following activities conducted under the depredation order, and updating the mailing address for the submission of the report forms.

We solicited comments on the revised reporting requirements by publishing a notice of information collection under OMB Control Number 1018–0146 (Dec. 8, 2017, 82 FR 58022). No comments were received, and OMB approved the request on January 29, 2018.

We are also revising the common and scientific names of one of the species covered by the depredation order, which pertains to scrub jays and Steller's jays. The scientific name for scrub jay in the introductory text of § 21.46 is *Aphelocoma coerulescens.* However, that is the currently accepted scientific name for the Florida scrub jay. The currently accepted scientific name for the California scrub jay, which is the species of concern to nut growers in Washington and Oregon, is *Aphelocoma californica,* as listed in the List of Migratory Birds at 50 CFR 10.13. Accordingly, we are amending § 21.46 to change the scientific name and replace all references to ''scrub jays'' with ''California scrub jays.''

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563) Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant

rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act. This action will not have a significant economic impact on any small entity, so a regulatory flexibility analysis is not required. There are no costs associated with the nonsubstantive changes we are making to the regulations regarding the depredation order to protect nut crops in Washington and Oregon. Entities that undergo control activities under the depredation order are already required to report on their activities to the Service.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). It will not have a significant impact on a substantial number of small entities:

a. This rule does not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions.

This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. *Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following.

a. This rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action.''

Takings

This rule does not contain a provision for taking of private property. In accordance with Executive Order 12630, a takings implication assessment is not required.

Federalism

This rule does not have sufficient federalism effects to warrant preparation of a federalism summary impact statement under Executive Order 13132. It will not interfere with the States' abilities to manage themselves or their funds.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with depredation orders and assigned OMB Control Number 1018–0146 (expires January 31, 2021). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and U.S. Department of the Interior regulations at 43 CFR part 46. This rule can be classified as a policy, directive, regulation, and guideline that is of an administrative nature (43 CFR 46.210(i)) and are changes to an already approved action and will have no or minor potential environmental impacts (DM Part 516) and therefore can be categorically excluded from the NEPA process. This action will have no significant effect on the quality of the human environment, nor will it involve unresolved conflicts concerning alternative uses of available resources.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on Federally recognized Indian Tribes from this final rule. The regulatory revisions will not interfere with Tribes' abilities to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule will affect only one depredation order for migratory birds and will not affect energy supplies, distribution, or use. This is not a significant energy action, and no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). Our consultation concluded that the regulations are not likely to jeopardize

the continued existence of any endangered or threatened species, nor result in the destruction or adverse modification of their critical habitat.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons described in the preamble, we hereby amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 21.46 by revising the section heading, introductory text, and paragraphs (a), (b), and (f) to read as follows:

§ 21.46 Depredation order for depredating California scrub jays and Steller's jays in Washington and Oregon.

Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit, take California scrub jays (*Aphelocoma californica*) and Steller's jays (*Cyanocitta stelleri*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons: *Provided:*

(a) That California scrub jays and Steller's jays may only be taken pursuant to this section between August 1 and December 1 in any year, in the Washington counties of Clark, Cowlitz, and Lewis; and the Oregon counties of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill.

(b) That California scrub jays and Steller's jays taken pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided,* That the Director of the State agricultural department, college, or other public institution may requisition such California scrub jays and Steller's jays killed as may be needed for scientific investigations.

* * * * *

(f) That any person authorized by this section to act under this depredation order must provide an annual report of take during the calendar year for each species by January 31st of the following year. The report must include the number of birds taken for each species, method of take, month(s) in which they were taken, county(ies) and State(s) in which they were taken, purpose of take, and disposition. Submit annual reports to the Pacific Region Migratory Bird Permit Office in Portland, Oregon, at the address shown at 50 CFR 2.2.

Dated: July 18, 2019.

Karen Budd-Falen,

Deputy Solicitor for Parks and Wildlife, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–18954 Filed 8–30–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 181009921–8999–02]

RIN 0648–XS011

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2019 Commercial Closure for Atlantic Migratory Group Cobia

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements a closure for Atlantic migratory group cobia (Atlantic cobia) that are sold (commercial) and harvested from Atlantic Federal waters. NMFS projects that commercial landings of Atlantic cobia have reached the commercial quota. Therefore, NMFS closes the commercial sector for Atlantic cobia in Federal waters on September 4, 2019, and it will remain closed until the start of the next fishing year on January 1, 2020. This closure is necessary to protect the Atlantic cobia resource.

DATES: This temporary rule is effective from September 4, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for Atlantic cobia in Federal waters is managed under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) by regulations at 50 CFR part 697.

Separate migratory groups of cobia are managed in the Gulf of Mexico and Atlantic. Atlantic cobia is managed from Georgia through New York. The southern boundary for Atlantic cobia is a line that extends due east of the Florida and Georgia state border at 30°42′45.6″ N lat. The northern boundary for Atlantic cobia is the jurisdictional boundary between the Mid-Atlantic and New England Fishery Management Councils, as specified in 50 CFR 600.105(a).

Amendment 31 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (Amendment 31) and the implementing final rule removed Atlantic cobia from Federal management under the Magnuson-Stevens Fishery Conservation and Management Act, while also implementing comparable regulations in Federal waters under the Atlantic Coastal Act (84 FR 4733, February 19, 2019). Under the authority of the Atlantic Coastal Act, that final rule implemented the same commercial quota, recreational bag and possession limits, and commercial trip limits in Federal waters as had been in place prior to implementation of Amendment 31.

Atlantic cobia are unique among federally managed species in the southeast region, because no commercial permit is required to harvest and sell them, and so the distinction between the commercial and recreational sectors is not as clear as with other federally managed species in the southeast region. However, for purposes of this temporary rule, Atlantic cobia that are sold are considered commercially caught, and those that are not sold are considered recreationally caught.

As specified in 50 CFR 697.28(f)(1), the commercial quota for Atlantic cobia is 50,000 lb (22,680 kg) in round or gutted weight for the 2019 fishing year, which runs from January 1 through December 31.

The regulations for the commercial sector of Atlantic cobia, specified at 50 CFR 697.28(f)(1), requires that NMFS file a notification with the Office of the Federal Register to prohibit the sale and purchase of Atlantic cobia for the remainder of the fishing year if commercial landings reach or are projected to reach the commercial quota specified in 50 CFR 697.28(f)(1). NMFS projects that commercial landings of Atlantic cobia will reach the commercial quota on September 4, 2019. Accordingly, the commercial sector for Atlantic cobia is closed in Federal waters beginning on September 4, 2019, and remains closed until the

start of the next fishing year on January 1, 2020.

During the commercial closure, the sale and purchase of Atlantic cobia is prohibited. The recreational bag and possession limits for Atlantic cobia, specified at 50 CFR 697.28(e), apply while the recreational sector is open. The prohibition on sale and purchase does not apply to Atlantic cobia that were harvested, landed ashore, and sold before September 4, 2019, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic cobia and is consistent with the Atlantic Coastal Act and other applicable laws.

This action is taken under 50 CFR 697.28(f)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action is based on the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial quota for Atlantic cobia have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the 2019 fishing year. Prior notice and opportunity for public comment on this action is contrary to the public interest, because of the need to immediately implement the commercial closure to protect Atlantic cobia, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 5101 *et seq.*

Dated: August 28, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–18926 Filed 8–28–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XY007

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; modification of a closure; request for comments.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2019 total allowable catch of Pacific cod allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2019, through 2400 hours, A.l.t., December 31, 2019. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 18, 2019.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2018–0089, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0089,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record, and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on January 12, 2019 (84 FR 121, January 16, 2019).

NMFS has determined that as of August 27, 2019, approximately 2,650 metric tons of Pacific cod remain in the 2019 Pacific cod apportionment for catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2019 total allowable catch (TAC) of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is

impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 27, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 18, 2019.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 28, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–18948 Filed 8–28–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 170
Tuesday, September 3, 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 AGRICULTURE

Rural Housing Service

7 CFR Part 3565

[Docket No. RHS–19–MFH–0017]

RIN 0575–AD15

Guaranteed Rural Rental Housing Change in Initial Guarantee Fee and Annual Guarantee Fee

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or the Agency) is proposing to amend its regulation to remove the stated amount that the Agency will charge for the initial and annual guarantee fees. The regulation change will allow the Agency the flexibility to establish or make any future changes to the initial and annual guarantee fees without the need for a regulatory change.

DATES: Comments on the proposed rule must be received on or before November 4, 2019.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Housing Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RHS–19–MFH–0017 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Submit written comments to Michele L. Brooks, Director, Innovation Center—Regulations Management Division, Rural Development, U.S. Department of Agriculture, STOP 1522, 1400 Independence Avenue SW, Washington, DC 20250–1522. All written comments will be available for public inspection during regular work hours at 1400 Independence Avenue SW, Mailstop 1522, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Tammy Daniels, Finance and Loan Analyst, Multi-Family Housing Guaranteed Loan Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781–Room# 1263S, 1400 Independence Avenue SW, Washington, DC 20250–0781, Telephone: (202) 720–0021 (this is not a toll-free number); email: *tammy.daniels@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Summary of Changes

RHS administers the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) under the authority of the Housing Act of 1949, as amended (42 U.S.C. 1490p–2). Under the GRRHP, RHS guarantees loans for the development of housing and related facilities in rural areas. Section 538(g) authorizes the Secretary of Agriculture to charge certain fees to lenders for loan guarantees. See 42 U.S.C. 1490p–2(g). The charged fees are required to be used to offset costs associated with loan guarantees. See 42 U.S.C. 1490p–2(u).

The Agency's GRRHP implementing regulation is at 7 CFR part 3565 and currently sets the exact percentage of the initial guarantee fee and the annual guarantee fee charged by the Agency. The Agency is proposing to amend the regulation by removing the language that indicates the specific amount of the initial guarantee fee and the annual guarantee fee currently charged by the Agency. The Agency is making this change to allow for flexibility and to allow the program to create the maximum housing affordability to residents by lowering program costs when practical. In most cases, the annual guarantee fee is passed onto the borrower, where it is most likely included in the interest rate. Thus, any reduction in the fee will result in a lower interest rate and would ultimately create a reduction in rental rates.

The calculation of the initial guarantee fee is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan. The initial guarantee fee will be due at the time the closing package is submitted to the Agency for review and approval. The GRRHP annual fee is a non-refundable amount that the lender must pay the year that the loan closes and going forward each year that the loan guarantee remains in effect. Due to the negative subsidy, combined with the overall health of the Section 538 GRRHP portfolio, the Agency would like to have the flexibility in its regulation to reduce the annual guarantee fee due on the outstanding principal amount of the loan that will be charged each year or portion of a year that the guarantee is in effect. For example, if a guaranteed loan closes on any date between January 1 and December 31, 2018, the effective date for the fee determination will be December 31, 2018. The annual fee will be collected by February 28, 2019, and each calendar year going forward while the guarantee remains in effect.

If changes do occur in the fee amounts, the Agency will release those changes through a notice in the **Federal Register**. When the fee changes are announced in the **Federal Register**, the Agency will provide guidance on how to process the loans which will be impacted by the new fee structure. Interested parties will be able to locate current fees on the Agency's public website.

Executive Order 12866—Classification

This proposed rule has been determined to be non-significant and; therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Authority

The Guaranteed Rural Rental Housing program (GRRHP) is administered subject to appropriations by the U.S. Department of Agriculture (USDA) as authorized under the Housing Act of 1949 as amended, Section 538, Public Law 106–569, 42 U.S.C. 1490 p–2.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an

Environmental Impact Statement is not required.

Regulatory Flexibility Act

The rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 13132—Federalism

The policies contained in this rule do not have any 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. This rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with States is not required.

Executive Order 12988—Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any one-year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This proposed rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other Information Technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under numbers 10.438—Rural Rental Housing Guaranteed Loans (Section 538).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rule, they are encouraged to contact USDA's Office of Tribal Relations or RD's Native American Coordinator at: *AIAN@wdc.usda.gov* to request such a consultation.

Executive Order 12372—Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992, submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

List of Subjects in 7 CFR 3565

Conflict of interest, Credit, Fair housing, Loan programs-housing and community development, Low and moderate-income housing, Manufactured homes, Mortgages, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, 7 CFR part 3565 is proposed to be amended as follows:

PART 3565—GUARANTEED RURAL RENTAL HOUSING PROGRAM

■ 1. The authority citation for part 3565 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989; 42 U.S.C. 1480.

Subpart B—Guarantee Requirements

■ 2. Amend § 3565.53 introductory text by adding a sentence at the end and revising paragraphs (a) and (b) to read as follows:

§ 3565.53 Guarantee fees.

* * * Changes to the initial and annual guarantee fees will be established by the Agency and will be published in a Notice in the **Federal Register**.

(a) Initial guarantee fee. The Agency will establish and charge an initial guarantee fee of up to one percent of the guarantee amount. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(b) Annual guarantee fee. An annual guarantee fee will be charged, as established by the Agency, each year or portion of a year that the guarantee is in effect. This fee will be collected on February 28, of each calendar year.

* * * * *

Bruce W. Lammers,

Administrator, Rural Housing Service.

[FR Doc. 2019–18773 Filed 8–30–19; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Plan for Periodic Review of Regulations

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of plan for periodic review of regulations; request for comments.

SUMMARY: Regulatory Flexibility Act (RFA) section 610 requires that NOAA Office of National Marine Sanctuaries (ONMS) periodically review existing regulations that have a significant economic impact on a substantial number of small entities, such as small businesses, small organizations, and small governmental jurisdictions. The RFA does not require agencies to periodically review existing regulations that were originally certified under RFA section 605 as a rule that will not have a significant economic impact on a substantial number of small entities. However, an agency may exercise its discretion to review certified rules to assess whether changed conditions may mean that the existing rules now have a significant economic impact on a substantial number of small entities. This plan describes how ONMS will exercise its discretion to conduct this assessment for specified rules certified under RFA section 605 and describes the regulations proposed for review in 2020.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: Comments may be submitted by:

• *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2019-0086,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

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 NOAA. 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 personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily submitted by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Meredith Walz, NOAA Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, MD 20910, *Meredith.Walz@noaa.gov,* or 240–355–0686.

SUPPLEMENTARY INFORMATION:

Background

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires that federal agencies take into account how their regulations affect ''small entities,'' which the RFA defines to include small businesses, small governmental jurisdictions and small organizations. 5 U.S.C. 601. For regulations proposed after January 1, 1981, the agency must either prepare a Regulatory Flexibility Analysis or certify the regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Section 610 of the RFA, 5 U.S.C. 610, requires federal agencies to review existing regulations which have or will have a significant economic impact on a substantial number of small entities. It requires that ONMS publish a plan in the **Federal Register** explaining how it will review existing regulations that have a significant economic impact on a substantial number of small entities. Regulations that have a significant economic impact on a substantial number of small entities that became effective after January 1, 1981 must be reviewed within 10 years of the publication date of the final rule. Section 610(c) requires that ONMS publish in the **Federal Register** a list of rules it will review during the succeeding 12 months. The list must describe, explain the need for, and provide the legal basis for the rules, as well as invite public comment on the rules.

In addition, section 605 of the RFA provides that if, when a rule is promulgated, the head of an agency certifies to the Small Business Administration's Chief Counsel for Advocacy that a rule would not have a significant economic impact on a substantial number of small entities, then initial and final regulatory flexibility analyses do not need to be prepared for the rule. Guidance on implementing the requirements of RFA section 610 indicates that agencies may exercise their discretion to determine if previously changed conditions may mean that a certified rule now does have a significant economic impact on a substantial number of small entities and, therefore, should be subject to a full section 610 review. If there is evidence that a previously certified rule is now having a significant economic impact on a substantial number of small entities, then the Small Business Administration recommends that the agency should conduct a section 610 review of the rule.

Criteria for Review of Existing Regulations

The purpose of a section 610 review is to determine whether existing rules should be left unchanged, or whether they should be revised or rescinded in order to minimize significant economic impacts on a substantial number of

small entities, consistent with the objectives of other applicable statutes. In deciding whether change is necessary, RFA section 610(b) establishes five factors that agencies will consider in reviewing existing regulations for which a regulatory flexibility analysis was prepared:

(1) Whether the rule is still needed;

(2) What type of public complaints or comments were received concerning the rule;

(3) How complex is the rule;

(4) How much the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules; and

(5) How long it has been since the rule has been evaluated or how much the technology, economic conditions, or other factors have changed in the area affected by the rule.

For rules that were certified under RFA section 605, ONMS is not required to conduct a review under RFA section 610. However, ONMS may exercise its discretion to prepare an assessment to determine whether changed conditions may mean that the existing rules now do have a significant economic impact on a substantial number of small entities. The assessment of certified rules may further consider whether the existing rules should be left unchanged, or whether they should be revised or rescinded to minimize significant economic impacts on a substantial number of small entities, consistent with the objectives of other applicable statutes.

Plan for Periodic Review of Rules

ONMS will conduct reviews in such a way as to ensure that all rules for which a Final Regulatory Flexibility Analysis was prepared are reviewed within 10 years of the year in which they were originally issued. During this same period, ONMS may exercise its discretion to also review rules certified under RFA section 605 as not having significant impacts. ONMS may evaluate whether changed conditions may mean that the existing rules now do have a significant economic impact on a substantial number of small entities and therefore should be reviewed under RFA section 610. ONMS intends that it will conduct section 610 reviews on applicable regulations on an annual basis. ONMS will make RFA Section 610 review reports available at the following website: *http://sanctuaries.noaa.gov/library/alldocs.html.*

ONMS Regulation Requiring Review for 2020

Two rulemakings finalized in 2010 were certified under RFA section 605 and are being assessed by ONMS to determine whether changed conditions may mean that the existing rules now do have a significant economic impact on a substantial number of small entities and therefore should be reviewed under RFA section 610. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that these rules would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not required, and none were prepared for the following actions:

1. ''Gray's Reef National Marine Sanctuary Spearfishing Regulations''. RIN 0648–AX37 (75 FR 7361; February 19, 2010). This final rule prohibited the use of spearfishing gear in Gray's Reef National Marine Sanctuary (GRNMS or sanctuary). Possession of spearfishing gear is also prohibited except for vessels passing through the sanctuary without interruption. The final rule also facilitated enforcement of an existing prohibition against the use of powerheads within the sanctuary.

2. ''Florida Keys National Marine Sanctuary Discharge Regulations.'' RIN 0648–AX58 (75 FR 72655; November 26, 2010). This rule eliminated the exemption that allowed discharges from within the boundary of the sanctuary of biodegradable effluent incidental to vessel use and generated by marine sanitation devices (MSDs) approved under the Clean Water Act (CWA), and required that MSDs be secured to prevent discharges of treated and untreated sewage.

ONMS invites comments on these rules, and whether any conditions have changed for any of these rules, or for small business conducting activities in these areas that would require ONMS to conduct RFA section 610 review of those regulations. ONMS will evaluate comments on whether those rules now have a significant impact and therefore should be reviewed under RFA section 610. Unless we publish a notice stating otherwise, ONMS will make any reports available at *http://sanctuaries.noaa.gov/library/alldocs.html.*

John Armor,

Director, Office of National Marine Sanctuaries.

[FR Doc. 2019–18486 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–NK–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0403; FRL–9998–95–Region 10]

Air Plan Approval: ID; Update to CRB Fee Billing Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve state implementation plan (SIP) revisions submitted by the State of Idaho's Department of Environmental Quality on June 5, 2019. The changes provide Idaho Department of Environmental Quality a more streamlined administrative process and were based on recommendation from Idaho's Crop Residue Advisory Committee. Specifically, the revisions proposed for approval in this action implement changes to when fees for open burning of crop residue are paid. We note that this action does not address the other revisions contained in Idaho's June 5, 2019 submission. The remaining portions of that submittal will be addressed in separate, future actions.

DATES: Written comments must be received on or before October 3, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2019–0403 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Randall Ruddick, EPA Region X, 1200

Sixth Avenue-Suite 155, Seattle, WA 98101, at *ruddick.randall@epa.gov,* or (206) 553–1999.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. For further information, please see the direct final action, of the same title, which is located in the Rules section of this issue of the **Federal Register**. The EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule.

If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: August 15, 2019.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2019–18848 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0429; FRL–9999–08–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Regulatory Definition of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Delaware. This revision pertains to amendments made to the definition of volatile organic compounds (VOC) in the Delaware Administrative Code to conform with EPA's regulatory definition of VOC. EPA found that certain compounds have a negligible photochemical reactivity and, therefore, has exempted them from the regulatory definition of VOC in several rulemaking actions. This revision to the Delaware SIP requests the exemption of eight compounds from the regulatory definition of VOC to match the actions EPA has taken. In addition, the revision also requests to remove the recordkeeping, reporting, modeling, and inventory requirements for t-butyl acetate (TBAC). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before October 3, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0429 at *https://www.regulations.gov,* or via email to *Spielberger.Susan@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Erin Malone, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2190. Ms. Malone can also be reached via electronic mail at *Malone.Erin@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 25, 2019, the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC), formally submitted a revision to its SIP requesting that the definition of VOC in the Delaware SIP be updated to conform with several EPA rulemakings that exempted multiple compounds from the Federal definition of VOC in 40 CFR 51.100(s). The March 25, 2019 SIP revision requested that the definition of VOC in the Delaware SIP be updated to add the following compounds to the list of compounds excluded from the definition of VOC: trans-1,3,3,3-tetrafluoropropene (HFO-1234ze); HFE-134 (HCF_2OCF_2H); HFE-236cal2 ($HCF_2OCF_2OCF_2H$); HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$); H-Galden 1040X or H-Galden ZT 130 or (150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; and 2-amino-2-methyl-1-propanol. These compounds were excluded from the Federal regulatory definition of VOC in 40 CFR 51.100(s) by EPA in several rulemakings, which are discussed in more detail later in this notice of proposed rulemaking (NPRM). DNREC's March 25, 2019 SIP revision also requested to delete the recordkeeping, reporting, and modeling requirements for TBAC.

I. Background

VOCs are organic compounds of carbon that, in the presence of sunlight, react with sources of oxygen molecules, such as nitrogen oxides (NO_X) and carbon monoxide (CO), in the atmosphere to produce tropospheric ozone, commonly known as smog. Common sources that may emit VOCs include paints, coatings, housekeeping and maintenance products, and building and furnishing materials. Outdoor emissions of VOCs are regulated by EPA primarily to prevent the formation of ozone.

VOCs have different levels of volatility, depending on the compound, and react at different rates to produce varying amounts of ozone. VOCs that are non-reactive or of negligible reactivity to form ozone react slowly and/or form less ozone; therefore, reducing their emissions has limited effects on local or regional ozone pollution. Section 302(s) of the CAA specifies that EPA has the authority to define the meaning of VOC and what compounds shall be treated as VOCs for regulatory purposes.

It is EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory definition of VOC in order to focus control efforts on compounds that significantly affect ozone concentrations. EPA uses the reactivity of ethane as the threshold for

determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and, therefore, suitable for exemption by EPA from the regulatory definition of VOC. The policy of excluding negligibly reactive compounds from the regulatory definition of VOC was first laid out in the ''Recommended Policy on Control of Volatile Organic Compounds'' (42 FR 35314, July 8, 1977) and was supplemented subsequently with the ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans'' (70 FR 54046, September 13, 2005). The regulatory definition of VOC as well as a list of compounds that are designated by EPA as negligibly reactive can be found at 40 CFR 51.100(s).

On June 22, 2012 (77 FR 37610), EPA promulgated a final rule revising the regulatory definition of VOC in 40 CFR 51.100(s) to add *trans*-1,3,3,3-tetrafluoropropene (also known as HFO-1234ze) to the list of compounds excluded from EPA's regulatory definition of VOC. HFO-1234ze is used as a refrigerant, an aerosol propellant, and a blowing agent for insulating foam. On February 12, 2013 (78 FR 9823), EPA promulgated a final rule revising the regulatory definition of VOC in 40 CFR 51.100(s) to add HCF_2OCF_2H (also known as HFE-134), $HCF_2OCF_2OCF_2H$ (also known as HFE-236cal2), $HCF_2OCF_2CF_2OCF_2H$ (also known as HFE-338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (also known as H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)), to the list of compounds excluded from EPA's regulatory definition of VOC. These four compounds can be used in some heat transfer applications (as refrigerants) and as fire suppressants.

On August 28, 2013 (78 FR 53029), October 22, 2013 (78 FR 62451), and March 27, 2014 (79 FR 17037), EPA promulgated final rulemakings revising the regulatory definition of VOC in 40 CFR 51.100(s) to add *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)), 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf), and 2-amino-2-methyl-1-propanol (also known as AMP; CAS number 124–68–5), respectively, to the list of compounds excluded from the EPA's regulatory definition of VOC. Solstice™ 1233zd(E) can be used as a solvent in aerosol and non-aerosol applications, as a blowing agent in insulating foams, and as a refrigerant. HFO-1234yf can be used as a refrigerant for refrigeration and air-conditioning. AMP can be used in a variety of applications including in industries involved in the manufacture or use of pigments in water-based coatings, as an additive in metalworking fluids, in food contact paper, as a neutralizer in personal care products, and as an intermediate in chemical synthesis.

These actions were based on EPA's consideration of the compounds' negligible contribution to tropospheric ozone formation as well as the low likelihood of risk to human health or the environment. EPA's rationale for these actions is explained in more detail in the final rules for these actions.

On September 30, 1999, EPA proposed to revise the regulatory definition of VOC in 40 CFR 51.100(s) to exclude TBAC as a VOC 64 FR 52731. In most cases, when a negligibly reactive VOC is exempted from the definition of VOC, emissions of that compound are no longer recorded, collected, or reported to states or the EPA as part of VOC emissions. However, EPA's final rule excluded TBAC from the definition of VOC for purposes of VOC emissions limitations or VOC content requirements but continued to define TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOCs, 69 FR 69298 (November 29, 2004) (2004 Final Rule).

On February 25, 2016, EPA revised the regulatory definition of VOC under 40 CFR 51.100(s) to remove TBAC's recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements 81 FR 9339 (2016 Final Rule).

II. Summary of SIP Revision and EPA Analysis

In order to conform with EPA's current regulatory definition of VOC in 40 CFR 51.100(s), Delaware amended the definition of VOC in 7 DE Admin. Code 1101—*Definitions and Administrative Principles,* to add trans-1,3,3,3-tetrafluoropropene (HFO-1234ze); HFE-134 (HCF_2OCF_2H); HFE-236cal2 ($HCF_2OCF_2OCF_2H$); HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$); H-Galden 1040X or H-Galden ZT 130 or (150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; and 2-amino-2-methyl-1-propanol to the list of compounds excluded from the regulatory definition of VOC. Delaware also amended the definition of VOC in 7 DE Admin. Code 1101 to remove TBAC's recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements. These revisions were adopted by Delaware on October 12, 2016 and were effective November 11, 2016. DNREC formally submitted these amendments to the regulatory definition of VOC as a SIP revision on March 25, 2019. EPA determined DNREC's submission to be administratively and technically complete in the Agency's May 28, 2019 correspondence to DNREC.[1]

Delaware's amendments to the definition of VOC in 7 DE Admin. Code are in accordance with EPA's regulatory changes to the definition of VOC in 40 CFR 51.100(s) and are therefore approvable for the Delaware SIP in accordance with CAA Section 110. Additionally, EPA has already made the determination that trans-1,3,3,3-tetrafluoropropene (HFO-1234ze); HFE-134 (HCF_2OCF_2H); HFE-236cal2 ($HCF_2OCF_2OCF_2H$); HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$); H-Galden 1040X or H-Galden ZT 130 or (150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; and 2-amino-2-methyl-1-propanol are of negligible reactivity and therefore have low contributions to ozone as well as a low likelihood of risk to human health or the environment, and that removing these chemicals from the definition of VOC in the Delaware SIP will not interfere with attainment of any national ambient air quality standard (NAAQS), reasonable further progress, or any other requirement of the CAA.

The 2016 Final Rule stated that the recordkeeping, reporting, modeling, and inventory requirements that remained for TBAC are of limited utility because they do not provide sufficient information to judge the cumulative impacts of exempted compounds and because the data have not been consistently captured and reported. Thus, the addition of these compounds to the list of compounds excluded from the regulatory definition of VOC as well as the removal of the recordkeeping, reporting, modeling, and inventory requirements for TBAC are in accordance with CAA Section 110(l).

III. Proposed Action

EPA's review of the submitted material indicates the revision updated the regulatory definition of VOC in the

[1] The Agency's May 28, 2019 completeness letter contained a minor discrepancy when referring to the number of compounds being added to the exemption list in the definition of VOC. The letter erroneously stated that five compounds were being added and then listed the eight compounds that were being added. That statement should have read ''DNREC's requested revisions are to add eight additional compounds to the list of exclusions from the VOC definition. . .''

Delaware SIP to add trans-1,3,3,3-tetrafluoropropene (HFO-1234ze); HFE-134 (HCF_2OCF_2H); HFE-236cal2 ($HCF_2OCF_2OCF_2H$); HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$); H-Galden 1040X or H-Galden ZT 130 or (150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; and 2-amino-2-methyl-1-propanol to the list of compounds excluded from the regulatory definition of VOC. The revision also updates the regulatory definition of VOC in the Delaware SIP to remove the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC. EPA is proposing to approve Delaware's SIP revision, which was submitted on March 25, 2019, because the stated revisions to the definition of VOC meet the requirements of CAA section 110. EPA is soliciting public comments on the issues discussed in this rulemaking action. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the updated definition of VOC in 7 DE Admin. Code 1101—*Definitions and Administrative Principles,* which adds trans-1,3,3,3-tetrafluoropropene (HFO-1234ze); HFE-134 (HCF_2OCF_2H); HFE-236cal2 ($HCF_2OCF_2OCF_2H$); HFE-338pcc13 ($HCF_2OCF_2CF_2OCF_2H$); H-Galden 1040X or H-Galden ZT 130 or (150 or 180) ($HCF_2OCF_2OCF_2CF_2OCF_2H$); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; and 2-amino-2-methyl-1-propanol to the excluded compounds list and removes the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC in the regulatory definition of VOC in the Delaware SIP. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, amending the definition of VOC in the Delaware SIP to conform with the regulatory definition of VOC in 40 CFR 51.100(s), does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 20, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2019–18828 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

[Docket ID FEMA–2017–0025]

RIN 1660–AA90

National Flood Insurance Program (NFIP); Revisions to Methodology for Payments To Write Your Own (WYO) Companies; Correction

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects the preamble to an Advance Notice of Proposed Rulemaking (ANPRM) which FEMA published on July 8, 2019, seeking comment regarding possible approaches to incorporating actual flood insurance expense data into the payment methodology that FEMA uses to determine the amount of payments to WYO companies.

DATES: This correction is effective September 3, 2019. The closing of the comment period for the ANPRM published July 8, 2019, at 84 FR 32371, remains September 6, 2019.

ADDRESSES: For information on submitting comments, see the July 8, 2019, ANPRM at 84 FR 32371.

SUPPLEMENTARY INFORMATION: In ANPRM document 2019–14343 appearing on pages 32371 through 32379 in the issue of Monday, July 8, 2019, make the following corrections:

1. On page 32373, in the second column, in the first paragraph, the phrase ''or (3) a combination of previous two methods.'' is corrected to read ''or (3) a combination of the previous two methods.''.

2. On page 32373, in ''Figure 1. Diagram of Current WYO Compensation

Methodology'', ''H. ULAE, 0.9% Written Premium + 1.5% Incurred Loss (Art. III.C.1)'' is corrected to read ''G. ULAE, 0.9% Written Premium + 1.5% Incurred Loss (Art. III.C.1)''.

3. On page 32373, in ''Figure 1. Diagram of Current WYO Compensation Methodology'', ''I. ALAE Fee Schedule (Art. III.C.2)'' is corrected to read ''H. ALAE Fee Schedule (Art. III.C.2)''.

4. On page 32373, in ''Figure 1. Diagram of Current WYO Compensation Methodology'', ''J. SALAE, Reimbursement for Actual Costs (Art. III.C.3)'' is corrected to read ''I. SALAE, Reimbursement for Actual Costs (Art. III.C.3)''.

5. On page 32374, in the second column, in the third full paragraph, the phrase ''From 2009 to 2017,'' is corrected to read ''From 2009 to 2019,''.

6. On page 32374, in the third column, in the last paragraph, the phrase ''ULAE (H in Figure 1)'' is corrected to read ''ULAE (G in Figure 1)''.

7. On page 32375, in the first column, in the first full paragraph, the phrase ''ALAE (I in Figure 1)'' is corrected to read ''ALAE (H in Figure 1)''.

8. On page 32375, in the first column, in the last full paragraph, the sentence ''SALAE include specialized claims handling expenses attributable to a specific claim, such as for legal, surveying, or engineering support.'' is corrected to read ''SALAE (I in Figure 1) include specialized claims handling expenses attributable to a specific claim, such as for legal, surveying, or engineering support.''.

9. On page 32376, in the third column, in the first full paragraph, the phrase ''between 2009 and 2013,'' is corrected to read ''between 2013 and 2017,''.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18982 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–52–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502 and 515

[Docket No. 19–04]

RIN 3072–AC75

Hearing Procedures Governing the Penial, Revocation, or Suspension of an OTI License

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission (Commission) is seeking public comments on proposed modifications to the hearing procedures governing the denial, revocation, or suspension of an ocean transportation intermediary (OTI) license. The revised hearing procedures are intended to align more with other Commission hearing procedures, ensure a more streamlined process and fulfill the need for more detailed procedural requirements.

DATES: Submit comments on or before October 3, 2019.

ADDRESSES: You may submit comments, identified by the Docket No. 19–04, by the following methods:

- *Email: secretary@fmc.gov.* For comments, include in the subject line: ''Docket No. 19–04, Comments on Hearing procedures governing the denial, revocation, or suspension of an OTI license'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments should be submitted by email.
- *Mail:* Rachel E. Dickon, Secretary, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001.

Instructions: For detailed instructions on submitting comments, including requesting confidential treatment of comments, and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to the Commission's website, unless the commenter has requested confidential treatment.

Docket: For access to the docket to read background documents or comments received, go to the Commission's Electronic Reading Room at: *https://www2.fmc.gov/readingroom/proceeding/19-04/,* or to the Docket Activity Library at 800 North Capitol Street NW, Washington, DC 20573, between 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Rachel E. Dickon, Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Maritime Commission has issued this document to obtain public comments on possible modifications to its processes for the denial, suspension, and revocation of OTI licenses. In 2015, the FMC published a final rule significantly amending its regulations governing OTIs.[1] Among the revisions in this final rule were changes to the process for denying or revoking an OTI license. At the time, the Commission was primarily concerned with the time and expense that revocations and denials consumed, and the revisions were intended to streamline the process. The revised process, however, has proved to be imprecise in certain respects and has not led to the reduction in time and expense that was anticipated.

The Commission is now considering revising the denial, suspension, and revocation procedures and is seeking public comment. Specifically, the Commission is considering a new hearing procedure based on the procedure for formal small Shipping Act claims under 46 CFR part 502, subpart T. The new hearing procedure would be overseen by an administrative law judge and would represent the type of expedient, low-burden process sought in the previous rulemaking while fulfilling the need for more detailed procedural requirements. We are seeking comment on the proposed new hearing procedure and how this procedure would affect OTIs.

II. Background

The Shipping Act requires anyone desiring to operate as an OTI to obtain a license from the Commission.[2] The Act provides that ''[t]he Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.''[3] The Commission has delegated the authority to approve or disapprove applications for OTI licenses to the Bureau of Certification and Licensing (BCL).[4]

A. Current Procedure

The current practice for OTI license denials, suspension, and revocations is as follows. Once BCL decides to deny, suspend, or revoke a license, a notice to that effect is sent to the applicant or licensee. This document provides in detail a statement of the facts supporting the action. The applicant or licensee then has 20 days to request a hearing by submitting a statement of reasons why their application should not be denied, or their license should not be suspended or revoked.[5]

[1] Final rule: Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties; 80 FR 68722 (Nov. 5, 2015).

[2] 46 U.S.C. 40901.

[3] *Id.* at section 40901(a).

[4] 46 CFR 501.26(a)(1).

[5] 46 CFR 515.15 and 515.16.

All hearing requests are submitted to the Commission's Secretary. The Secretary then designates a hearing officer to review the decision. After being advised by the hearing officer that a hearing request has been made, BCL sends the hearing officer and applicant or licensee a copy of the notice of intent (which has already been sent to the applicant or licensee) along with materials supporting the notice under § 515.15 or § 515.16.[6]

The hearing officer provides the licensee or applicant with a written notice advising the party of its right to submit its written arguments, affidavits of fact, and documents. The licensee or applicant then has 30 days to submit information and documents in support of a license or in support of continuation of a license. BCL then submits its response within 20 days of the licensee or applicant's submission. These records and submissions constitute the entire record for the hearing officer's decision. The hearing officer's decision must be issued within 40 days of the record being closed.[7] The applicant or licensee, but not BCL, may seek review of the hearing officer's decision by the Commission by filing exceptions in accordance with 46 CFR 502.227, and the Commission may determine to conduct a formal evidentiary hearing under part 502.[8]

B. Concerns With Current Procedure

Since 2015, two hearings have been conducted under § 515.17. Both hearings conducted under § 515.17 have taken over 150 days to complete. A contributing factor to the length of time in each case has been the selection of an appropriate hearing officer, which has taken between 13 and 50 days. These delays resulted from not having a designated office from which to select the hearing officer.

In addition to the delays in selecting a hearing officer, because § 515.17 provides little detail about the hearing procedure other than deadlines for submission of information, Commission staff has had to resolve several procedural issues arising in the first two proceedings. These experiences have demonstrated the need for additional clarification of the procedure and the authority of the hearing officer.

III. Proposed Hearing Procedure

Given the issues identified above, the Commission is proposing to replace the current hearing procedure with a modified version of the formal procedures for the adjudication of small claims in subpart T of the Commission's Rules of Practice and Procedure (46 CFR part 502). These hearings, like those in subpart T, would be conducted by an ALJ, thereby removing the delay in appointing a hearing officer. Using a modified form of the subpart T procedures would still ensure a more streamlined procedure than a typical hearing under part 502, which allows for 150 days of discovery,[9] while giving the presiding officer more flexibility in conducting the hearing than the current § 515.17 procedures. The new proceedings would be included in part 502 as subpart X (the existing subpart X would be redesignated) and cross-referenced in § 515.17.

A. Subpart T Proceedings

Typically, claims filed with less than $50,000 at issue are adjudicated under subpart S, in which a Small Claims Officer is appointed by the Chief ALJ.[10] If, however, the respondent does not consent to having their matter heard by a Small Claims Officer, the matter is instead adjudicated by an ALJ per the rules of subpart T.[11] While most of the Commission's Rules of Practice and Procedure do not apply to subpart T, a few rules on filing requirements, appearance before the Commission, substitution of parties, interest, and attorney fees continue to apply.[12]

In a subpart T proceeding, the respondent has 25 days from the service of the complaint to file an answer.[13] The answer admits or denies each matter set forth in the complaint and anything not denied is deemed admitted. The answer may be accompanied by appropriate affidavits, other documents, and memoranda. The Complainant may then, within 20 days of service of the answer, file a reply memorandum along with appropriate affidavits and supporting documents.[14]

The ALJ may also require the submission of additional documentation if necessary from either the complainant or respondent.[15] In the normal course of the proceeding, an oral hearing will not occur, but the ALJ has the discretion to order an oral hearing. A request for an oral hearing can also be made in either the respondent's answer or in the complainant's reply.[16]

Either party may request a review of the ALJ's decision by the Commission within 22 days of the issuance of the decision.[17] The Commission may, at the request of a single Commissioner, also choose to review any decision or order of dismissal.

B. Modified Subpart T Procedure for License Hearings

The Commission is not proposing to change the process for requesting a hearing as currently described in §§ 515.15(c) and 515.16(a). If an applicant or licensee wishes to request a hearing after receiving a notice of intent to deny, suspend, or revoke their license, they would continue to have 20 days to do so, and, if no hearing is requested, the decision to deny, revoke, or suspend would become final.

Under the proposed procedure, if a hearing request is received, the Secretary would transmit the request to the Office of Administrative Law Judges for assignment. The hearing would then take place under the new subpart X. Section 515.17 would retain its first sentence, indicating that ''hearing requests under §§ 515.15 and 515.16 shall be submitted to the Commission's Secretary'' and cross-reference subpart X.

The preliminary portions of the new subpart X mirror the current procedures in § 515.17, save that an ALJ, rather than a hearing officer, would preside over the proceeding. Once a timely request is received, the Secretary would transmit the request to the Office of Administrative Law Judges who would notify BCL and BOE of the hearing request. BOE would provide the applicant or licensee a copy of the notice previously given as well as the BCL materials supporting the decision. The ALJ would then issue a notice advising the applicant or licensee of the right to respond in support of a license application or continuation of a current OTI license. The licensee or applicant would have 30 days to file a response and supporting documentation. BOE would then have 20 days to submit a reply memorandum and supporting documents. These proposed deadlines

[6] 46 CFR 515.17(a).

[7] 46 CFR 515.17(b).

[8] 46 CFR 515.17(c).

[9] *See* 46 CFR 502.141–150. Given that the record in OTI license application and revocation/suspension is generally more limited, such a substantial discovery process is not necessary.

[10] 46 CFR 502.304.

[11] 46 CFR 502.304(f).

[12] 46 CFR 502.321(b) (''The following sections in subparts A through Q apply to situations covered by this subpart: §§ 502.2(a) (Requirement for filing); 502.2(f)(1) (Email transmission of filings); 502.2(i) (Continuing obligation to provide contact information); 502.7 (Documents in foreign languages); 502.21–502.23 (Appearance, Authority for representation, Notice of appearance; substitution and withdrawal of representative); 502.43 (Substitution of parties); 502.253 (Interest in reparation proceedings); and 502.254 (Attorney fees in complaint proceedings)'').

[13] 46 CFR 502.312.

[14] 46 CFR 502.313.

[15] 46 CFR 502.314.

[16] 46 CFR 502.315.

[17] 46 CFR 502.318.

are identical to those currently listed in § 515.17.

Under the current § 515.17, the notice, response, and reply constitute the entirety of the record. To provide the ALJ with additional discretion and flexibility, the new subpart X would permit the ALJ to require additional information from the parties. Additionally, the new subpart X would allow for parties to request oral hearing or oral argument in either the applicant/licensee's response or BOE's reply to the response. A request for oral hearing or argument would be ruled on within 10 days of receipt of the request and would only occur at the discretion of the ALJ. While neither oral proceedings nor additional information were expressly permitted under § 515.17 and could extend the proceeding beyond the current § 515.17 timeline, we expect use of these procedures to be the exception rather than the norm. In addition, expressly permitting the use of these procedures when necessary will help ensure that determinations are based on a complete and accurate record and eliminate confusion regarding the presiding officer's authority.

To ensure a streamlined process, the Commission would still require that the presiding officer issue a decision within 40 days of the record being closed, which would be either when the reply to the response is submitted, or, if additional information is required or oral hearing or argument is conducted, the completion of either event.

The exceptions process would remain the same as under current § 515.17, except that either party (BOE or the applicant/licensee) would have the ability to file exceptions within 22 days after the ALJ's decision is issued. Under § 515.17, only the applicant or licensee may currently do so. BOE has the right to file exceptions in other Commission proceedings, and we believe the best course will be to allow a similar right in OTI license hearings.

The discretionary review process would also be altered somewhat. Currently, discretionary Commission review of hearing officer decisions is governed by the general provisions in 46 CFR 501.27, which allows for review if one less than a majority of Commissioners (*i.e.,* two Commissioners if there are four or five Commissioners total) votes to review the matter. The proposed change would make the discretionary review procedures consistent with those for other decisions under part 502 (*i.e.,* ALJ and SCO decisions), and a single Commissioner would be able to request Commission review within 30 days after the ALJ's decision is issued.

Subpart T also includes its own sections on computation of time and service. These provisions do not differ substantially from the generally applicable rules in subpart G of part 502, which covers time, and subpart H, which covers service of documents. The Commission intends to incorporate via cross-reference nearly all of subparts G and H instead of including the separate provisions for time and service in subpart T. This will bring license hearings in line with other proceedings under part 502 and any future improvements to the Commission rules on service and time would automatically apply to these proceedings. The only section in these subparts that would not apply to license hearings under subpart X would be § 502.115, which concerns service in rulemaking and petition proceedings.

To ensure consistency across 502 proceedings, other sections of 502 would also apply to license hearings under subpart X, including: §§ 502.1–502.13 (General information); 502.21–502.23 (Appearance, Authority for representation, Notice of appearance; substitution and withdrawal of a representative); 502.42 (Bureau of Enforcement); 502.43 (Substitution of parties); and 502.223–502.230 (Decisions). This includes many of the sections cross-referenced in subpart T, along with additional general rules that would establish a more defined framework for conducting license hearings. Sections 502.253 (Interest in reparation proceedings); and 502.254 (Attorney fees in complaint proceedings), which apply in subpart T proceedings, would not apply to hearings under subpart X, as those provisions are only applicable to private complaint proceedings.

Among the chief considerations of the 2015 rule was the length of time required to complete a hearing. The proposed subpart X carries with it all the deadlines currently listed in § 515.17. Subpart X does allow for the submission of additional information and oral hearing and argument, but those are not expected to occur in most proceedings. Subpart X would also remove confusion about the assignment of a hearing officer and thus would likely reduce the overall time required to complete a hearing.

IV. Conclusion

Since the 2015 rulemaking, the Commission has encountered several issues implementing the hearing procedures established by § 515.17. To resolve these issues and improve the license hearing process, the Commission is proposing to replace the current hearing procedures with a modified version of the procedures in subpart T of the Commission's Rules of Practice and Procedure. The Commission is seeking comment on the proposed new hearing procedures.

V. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

You may submit your comments via email to the email address listed above under **ADDRESSES**. Please include the docket number associated with this document and the subject matter in the subject line of the email. Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential and public versions of confidential comments should be submitted by email.

You may also submit comments by mail to the address listed above under **ADDRESSES**.

How do I submit confidential business information?

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If your comments contain confidential information, you must submit the following by mail to the address listed above under **ADDRESSES**:

- A transmittal letter requesting confidential treatment that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked ''Confidential-Restricted,'' and the confidential material clearly marked on each page. You should submit the confidential copy to the Commission by mail.
- A public version of your comments with the confidential information excluded. The public version must state ''Public Version—confidential materials excluded'' on the cover page and on each affected page and must clearly indicate any information withheld. You may submit the public version to the Commission by email or mail.

Will the Commission consider late comments?

The Commission will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date.

How can I read comments submitted by other people?

You may read the comments received by the Commission at the Commission's Electronic Reading Room or the Docket Activity Library at the addresses listed above under **ADDRESSES**.

VI. Rulemaking Analyses and Notices

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553), the agency must prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the impact of the proposed rule on small entities. 5 U.S.C. 603. An agency is not required to publish an IRFA, however, for the following types of rules, which are excluded from the APA's notice-and-comment requirement: Interpretative rules; general statements of policy; rules of agency organization, procedure, or practice; and rules for which the agency for good cause finds that notice and comment is impracticable, unnecessary, or contrary to public interest. See 5 U.S.C. 553(b).

Although the Commission has elected to seek public comment on this proposed rule, the rule is a rule of agency procedure or practice. Therefore, the APA does not require publication of a notice of proposed rulemaking in this instance, and the Commission is not required to prepare an IRFA.

National Environmental Policy Act

The Commission's regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4. The proposed rule would amend the Commission procedures for the revocation, suspension, and denial of OTI licenses. This rulemaking thus falls within the categorical exclusion for ''issuance, modification, denial and revocation of ocean transportation intermediary licenses.'' 46 CFR 504.4(a)(1). Therefore, no environmental assessment or environmental impact statement is required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. This proposed rule does not contain any collections of information as defined by 44. U.S.C. 3502(3) and 5 CFR 1320.3(c).

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 515

Freight, Freight forwarders, Maritime carriers, Reporting and recordkeeping requirements.

For the reasons set forth above, the Federal Maritime Commission proposes to amend 46 CFR parts 502 and 515 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–584; 591–596; 18 U.S.C. 207; 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; 5 CFR part 2635.

Subpart X [Redesignated as Subpart Y]

■ 2. Redesignate subpart X, consisting of § 502.991, as subpart Y.

■ 3. Add new subpart X, consisting of §§ 502.701 through 502.709, to read as follows:

Subpart X—Hearing Procedure Governing Denial, Suspension, or Revocation of OTI License

Sec.

502.701 Purpose and scope.
502.702 Hearing requests.
502.703 Applicant or licensee response.
502.704 Reply.
502.705 Additional information.
502.706 Request for an oral hearing or argument.
502.707 Intervention.
502.708 Decision.
502.709 Applicability of other rules to this subpart.

Subpart X—Hearing Procedure Governing Denial, Suspension, or Revocation of OTI License

§ 502.701 Purpose and scope.

(a) The purpose of this subpart is to provide the hearing procedures for the denial, suspension, or revocation of an ocean transportation intermediary (OTI) license applied for or issued under part 515 of this chapter when the Bureau of Certification and Licensing has issued a notice of intent to deny under § 515.15 of this chapter or notice of revocation or suspension under § 515.16 of this chapter and the applicant or licensee timely requests a hearing under those sections.

(b) Denial, suspension, and revocation proceedings under this subpart will be adjudicated by the administrative law judges of the Commission under the procedures set forth in this subpart. [Rule 701.]

§ 502.702 Hearing requests.

(a) Upon receipt of a timely hearing request under § 515.17 of this chapter, the Secretary will transmit the request to the Office of Administrative Law Judges.

(b) The assigned administrative law judge will notify the Bureau of Certification and Licensing and the Bureau of Enforcement of the hearing request, and the Bureau of Enforcement must file with the administrative law judge and serve on the applicant or licensee a copy of the notice given to the applicant or licensee and a copy of BCL materials supporting the notice. [Rule 702.]

§ 502.703 Applicant or licensee response.

Upon receiving the materials described in § 502.702(b), the administrative law judge will issue a notice advising the applicant or licensee of the right to respond in support of an OTI application or continuation of a current OTI license. The response must be:

(a) Filed with the administrative law judge within 30 days of the administrative law judge's notice; and

(b) Include any supporting information or documents, such as affidavits of fact, memoranda, or written argument. [Rule 703.]

§ 502.704 Reply.

The Bureau of Enforcement may, within twenty (20) days of service of the response filed by the applicant or licensee, file with the administrative law judge and serve upon the applicant or licensee a reply memorandum accompanied by appropriate affidavits and supporting documents.

§ 502.705 Additional information.

The administrative law judge may require the submission of additional affidavits, documents, or memoranda from the Bureau of Enforcement or the licensee or applicant. [Rule 705.]

§ 502.706 Request for an oral hearing or argument.

(a) In the usual course of disposition of matters filed under this subpart, no oral hearing or argument will be held, but the administrative law judge, in their discretion, may order such hearing.

(b) A request for oral hearing or argument may be incorporated in the applicant or licensee's response or in the Bureau of Enforcement's reply to the response. Requests for oral hearing or argument will not be entertained unless they set forth in detail the reasons why the filing of affidavits or other documents will not permit the fair and expeditious disposition of the claim, and the precise nature of the facts sought to be proved or issues to be addressed at an oral hearing or argument.

(c) The administrative law judge will rule upon a request for oral hearing or argument within ten (10) days of its receipt.

(d) In the event oral hearing or argument is ordered, it will be held in accordance with the rules applicable to other formal proceedings, as set forth in subparts A through Q of this part. [Rule 706.]

§ 502.707 Intervention.

Intervention will ordinarily not be permitted. [Rule 707.]

§ 502.708 Decision.

(a) Except as described in paragraph (b) of this section, the administrative law judge will issue a decision within forty (40) days after the submission of the Bureau of Enforcement's reply.

(b) If oral hearing or argument is conducted or additional information is required, then the decision will be issued within forty (40) days after the oral proceeding or the deadline for submission of additional information, whichever is later.

(c) The decision of the administrative law judge will be final, unless, within twenty-two (22) days from the date of service of the decision, either party files exceptions under § 502.227(a)(1) or the Commission makes a determination to review under § 502.227(a)(3) and (d). [Rule 708.]

§ 502.709 Applicability of other rules to this subpart.

(a) Except as otherwise specifically provided in this subpart or in paragraph (b) of this section, the sections in subparts A through Q, inclusive, of this part do not apply to proceedings covered by this subpart.

(b) The following sections in subparts A through Q apply to proceedings covered by this subpart: §§ 502.1–502.11, 502.13 (Filing requirements, Document requirements, and General rules); 502.21–502.23 (Appearance, Authority for representation, Notice of appearance, Substitution, and Withdrawal of representative); 502.42 (Bureau of Enforcement); 502.43 (Substitution of parties); 502.101–502.105 (Computation of time); 502.114, 502.116–502.117 (Service of documents); 502.223–502.230 (Decisions). [Rule 709.]

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

■ 4. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

■ 5. Revise § 515.17 to read as follows:

§ 515.17 Hearing Procedures governing denial, revocation, or suspension of OTI License.

All hearing requests under §§ 515.15 and 515.16 shall be submitted to the Commission's Secretary. The hearing will be adjudicated under the procedures set forth in subpart X of part 502 of this chapter.

By the Commission.

Rachel Dickon,

Secretary.

[FR Doc. 2019–18742 Filed 8–30–19; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF TRANSPORTATION [4910–EX–P]

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 384

[Docket No. FMCSA–2013–0353]

RIN [2126–AA70 Revise]

Article 19–A of the State of New York's Vehicle and Traffic Law

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of petition for determination of preemption; reopening of the comment period.

SUMMARY: On September 12, 2013, FMCSA published a request for comments on petitions submitted by Motor Coach Canada (MCC) and the American Bus Association (ABA) seeking a determination that Article 19–A of the State of New York's Vehicle and Traffic Law governing drivers of passenger-carrying interstate motor vehicles is preempted by Federal Law. The comment period closed on November 12, 2013. The Agency received 6 comments. In view of the passage of time since the initial request for comments, and because ABA recently requested that the docket be re-opened for additional comments, FMCSA is reopening the comment period for 30 days to ensure that all interested parties have an opportunity to comment or provide new information.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2013–0353 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Medalen, Regulatory and Legislative Affairs Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 0001; by email at *charles.medalen@dot.gov,* or by telephone at 202–366–1354. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0353), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2013–0353, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2013–0353, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking and other processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On September 12, 2013, FMCSA published notice of a petition for determination of preemption, under 49 U.S.C. 31141, of Article 19–A of the State of New York's Vehicle and Traffic Law and its implementing regulations (15 CRR–NY Ch.6) [78 FR 56267]. Article 19–A and the implementing regulations establish a wide range of requirements applicable to both interstate and intrastate passenger carriers operating in New York. Under this regulatory scheme, all interstate passenger carriers must file an annual compliance affidavit certifying that their drivers are not disqualified under State law and reporting the number of days and vehicle miles of bus service provided in New York during the previous year. An interstate carrier is generally exempt from the rest of Article 19–A, which includes requirements related to employment, driver medical qualifications, reporting, recordkeeping and other matters affecting both drivers and carriers, unless it operates certain types of school buses or operates in New York for more than 100 days or more than 10,000 vehicle miles annually. However, interstate carriers that exceed the 10,000-mile thresholds can apply for a waiver for bus drivers who operate less than 30 days per year in New York. Otherwise, an interstate passenger carrier operating in New York is required to comply with Article 19–A. The New York Department of Motor Vehicles (NY DMV) makes information about compliance with Article 19–A available through the following web link: *http://www.dmv.ny.gov/art19.htm.*

Section 31141 of title 49, United States Code, prohibits States from enforcing a law or regulation on commercial motor vehicle safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether that law or regulation (1) has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations; (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation [49 U.S.C. 31141(c)(1)]. If the Secretary determines that a State law or regulation has the same effect as a regulation based on § 31136, it may be enforced [49 U.S.C. 31141(c)(2)]. A State law or regulation that is less stringent may not be enforced [49 U.S.C. 31141(c)(3)]. And a State law or regulation the Secretary determines to be additional to or more stringent than a regulation based on § 31136 may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulations prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce [49 U.S.C. 31141(c)(4)]. To determine whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State's law or regulation and all similar laws and regulations of other States will have on interstate commerce [49 U.S.C. 31141(c)(5)]. The Secretary's authority under § 31141 has been delegated to the FMCSA Administrator by 49 CFR 1.87(f).

Comments Requested

On July 2, 2019, ABA asked the Administrator to re-open the docket ''for any additional public comments on matters that might have arisen since the September 12, 2013 notice and to issue a final determination of preemption as soon as practicable.'' The ABA letter is available in the docket for this proceeding. In view of this request and the time that has passed since the publication of the 2013 notice, FMCSA is re-opening the comment period to allow the public another opportunity to review the MCC and ABA applications for a determination of preemption, which are in the docket listed above, and to offer comments. Although preemption is a legal determination reserved to the judgment of the Agency, FMCSA welcomes comment on any

issues raised by MCC and ABA, or that otherwise may be relevant to this proceeding.

Issued on: August 26, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–18949 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2018–0248]

RIN 2126–AC19

Hours of Service of Drivers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening session.

SUMMARY: The FMCSA announces that it will hold a public listening session concerning potential changes to its hours-of-service rules for truck drivers. On August 22, 2019, FMCSA published a Notice of Proposed Rulemaking (NPRM) seeking comment on proposed changes to its hours-of-service (HOS) requirements to provide greater flexibility for drivers who are subject to the HOS rules without adversely affecting safety. The listening session will allow interested persons to present comments, views, and relevant research on topics mentioned above. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration. The session will be webcast to allow interested parties to participate remotely.

DATES: The listening session will be held on September 17, 2019. The listening session will begin at 1:00 p.m. local time and end at 3 p.m., or earlier, if all participants wishing to express their views have done so.

ADDRESSES: The listening session will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

You may submit comments identified by Docket Number FMCSA–2018–0248 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.
- *Submissions Containing Confidential Business Information (CBI):* Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: For special accommodations for any of these HOS listening sessions, such as sign language interpretation, contact Shannon L. Watson, Senior Policy Advisor, (202) 385–2395 or at *FMCSAregs@dot.gov* to allow us to arrange for such services. For information concerning the hours-of-service rules, contact Ms. La Tonya Mimms, Chief, Driver and Carrier Operations Division, (202) 366–4325, *mcpsd@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA–2018–0248), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period for the ANPRM. Late comments will be considered to the extent practicable.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your submission contains commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the listening session, it is important that you clearly designate the submitted comments as CBI. Please mark any page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM and associated listening sessions. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period for the NPRM.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 14, 2019, FMCSA issued an NPRM concerning amendments to its hours-of-service (HOS) requirements to provide greater flexibility for drivers who are subject to the HOS rules without adversely affecting safety. First, the Agency proposed to change the short-haul exception to the record of duty status (RODS) requirement available to certain commercial motor vehicle (CMV) drivers by lengthening the drivers' maximum on-duty period from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 air miles (115.08 statute miles) to 150 air miles (172.6 statute miles). Second, the Agency proposed to modify the adverse driving conditions exception by extending by 2 hours the maximum window during which driving is permitted. Third, the Agency proposed to increase flexibility for the 30-minute break rule by requiring a break after 8 hours of driving time (instead of on-duty time), and allowing the requirement to be satisfied by an on-duty break from driving, rather than requiring an off-duty break. Fourth, the Agency proposed to modify the sleeper-berth exception to allow drivers to split their required 10-hours off duty into two periods: One period of at least 7 consecutive hours in the sleeper berth and the other period of not less than 2 consecutive hours, either off duty or in the sleeper berth. Neither period would count against the driver's 14-hour driving window. Fifth, the Agency proposed to allow one off-duty break of at least 30 minutes, but not more than 3 hours, that would pause a truck driver's 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift. The NPRM also posed questions about other HOS-related topics the Agency is considering as part of this rulemaking.

The listening sessions will provide interested persons the opportunity to share their views on these topics with representatives of the Agency.

III. Meeting Participation

The listening sessions are open to the public. Speakers' remarks will be limited to 10 minutes each. The public may submit material to the FMCSA staff at each session for inclusion in the public docket, FMCSA–2018–0248.

Issued on: August 27, 2019.

Alan Hanson,

Deputy Administrator.

[FR Doc. 2019–18978 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XG955

Atlantic Highly Migratory Species; Amendment 12 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

ACTION: Notice of availability; notice of intent; request for comments.

SUMMARY: NMFS announces the availability of a scoping document and its intent to initiate an amendment to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). Given recent revisions to the National Standard guidelines and recent NMFS policy directives, which aim to improve and streamline fishery management procedures to enhance their utility for managers and the public, NMFS has determined it is necessary to: Reassess current HMS FMP objectives to reflect the changing needs of the HMS fisheries, and potentially adopt revised FMP objectives; review stock status determination criteria (SDC) for internationally-managed HMS and adopt such criteria, rather than continue to apply domestic criteria, which at times differ; review the standardized bycatch reporting methodology (SBRM) for certain HMS fisheries and update, if necessary; consider triggers for initiating allocation reviews for quota-managed HMS stocks and adopt such triggers, if appropriate; and consider revising the publication date of the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Report and adopt such revision. The goal of the scoping document is to examine potential options and modify domestic HMS fishery management measures to be consistent with the national standards guidelines and recent NMFS policy directives, and to request additional information and input from consulting parties and the public prior to development of Amendment 12 to the 2006 Consolidated Atlantic HMS FMP.

DATES: One webinar will be held on October 9, 2019. See **SUPPLEMENTARY INFORMATION** for webinar date and instructions. NMFS requests receipt of any comments on the scoping document by November 4, 2019.

ADDRESSES: You may submit comments on the scoping document, identified by NOAA–NMFS–2019–0096, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0096,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Rick Pearson, NMFS/SF1, 263 13th Avenue South, Saint Petersburg, FL 33701.

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 generally will 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 will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the scoping document and supporting documents are available from the HMS Management Division website at: *https://www.fisheries.noaa.gov/action/amendment-12-2006-consolidated-hms-fishery-management-plan-msa-guidelines-and-national* or constituents can contact Rick Pearson by phone at 727–824–5399 or Sarah McLaughlin at 978–281–9260 for hard copies.

FOR FURTHER INFORMATION CONTACT: Rick Pearson at 727–824–5399 or Sarah McLaughlin at 978–281–9260.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that any FMP or FMP amendment be consistent with ten National Standards.

In 2016, NMFS revised the National Standard guidelines to improve and streamline the guidelines to enhance their utility for managers and the public and provide flexibility in meeting current Magnuson-Stevens Act mandates (81 FR 71858, October 18, 2016). The final rule included a recommendation that FMP objectives should be reassessed on a regular basis to reflect the changing needs of the fishery over time. Although no time frame was prescribed, the National Standard guidelines indicated that NMFS should provide notice to the public of the expected schedule for review.

The National Standard guidelines final rule also indicated that, for stocks managed under international agreement, NMFS may use the SDC defined by the relevant international body (*e.g.,* the International Commission for the Conservation of Atlantic Tunas). Although the National Standard guidelines final rule does not require a review of international SDC, it allows NMFS to consider their appropriateness and applicability.

The Magnuson-Stevens Act requires that any FMP, with respect to any fishery, establish an SBRM to assess the amount and type of bycatch occurring in a fishery. On January 19, 2017, NMFS published a final rule (82 FR 6317) to interpret and provide guidance on this Magnuson-Stevens Act requirement. Specifically, each FMP must identify the required procedure or procedures that constitute the SBRM for a fishery and conduct an analysis that explains how the SBRM meets the purposes described in the Magnuson-Stevens Act. With the changes in the SBRM guidelines, NMFS has determined that it is necessary to consider amending the HMS FMP to update SBRMs for some fisheries and to add fisheries for which SBRMs are not yet described (including tuna greenstick fishery, swordfish buoy gear fishery, and recreational speargun fishery).

On February 23, 2017, NMFS issued Fisheries Allocation Policy Directive 01–119 (*https://www.fisheries.noaa.gov/national/laws-and-policies/fisheries-management-policy-directives*), which describes a mechanism to ensure that fisheries allocations are periodically evaluated. The policy and directives establish three steps in an allocation review process, with the first step occurring if a review is triggered. Categories of triggers that can be used to initiate an allocation review include: Public interest, time, or indicators. The policy directive also requires the identification of one or more triggers for each fishery with a quota allocation that meets the definition contained in the revised policy directive. The scoping document for Draft Amendment 12 to the 2006 Consolidated Atlantic HMS FMP begins the process for considering allocation triggers for quota-managed HMS.

Finally, the HMS SAFE report is a public document that provides a summary of scientific information concerning the most recent biological condition of stocks, stock complexes, and marine ecosystems, essential fish habitat (EFH), and the social and economic condition of recreational and commercial HMS fishing interests, fishing communities, and the fish processing industries. The Magnuson-Stevens Act specifies that SAFE reports summarize, on a periodic basis, the best scientific information available concerning the past, present, and possible future condition of the stocks, EFH, marine ecosystems, and fisheries being managed under Federal regulation. In 2008, NMFS published a final rule for Amendment 2 to the 2006 Consolidated HMS FMP (73 FR 40657, July 15, 2008) that, among other things, required the publication of the HMS SAFE report by the fall of each year. The scoping document for Draft Amendment 12 begins the process for considering adjusting the publication date of the HMS SAFE report to account for unexpected delays, while remaining compliant with Magnuson-Stevens Act requirements.

In this scoping document, NMFS begins the process of re-assessing HMS FMP objectives, considering international SDCs for HMS managed under international agreement, updating HMS FMP SBRM to include fisheries which are not yet described, considering allocation criteria for quota-managed HMS, and adjusting the timing for publication of the annual HMS SAFE Report.

Request for Comments

NMFS requests additional information and comments from consulting parties and the public on the scoping document. The document includes a summary of the anticipated purpose and need of the FMP amendment and the potential environmental, social, and economic impacts of conservation and management of some potential options. The scoping document is available online at the HMS website: *https://www.fisheries.noaa.gov/action/amendment-12-2006-consolidated-hms-fishery-management-plan-msa-guidelines-and-national.* One webinar will be held (see Table 1 for webinar time and instructions) to provide the opportunity for public comment. These comments will be used to assist in the development of the upcoming amendment to the 2006 Consolidated Atlantic HMS FMP.

TABLE 1—TIME AND INSTRUCTIONS OF THE SCOPING WEBINAR AND CONFERENCE CALL

Date	Time	Webinar instructions
October 9, 2019	2:00–4:00 p.m	*Link: https://noaanmfs-events1.webex.com/noaanmfs-events1/onstage/g.php?MTID=ea75b63983365ec291964d9bc1a6fb968.* *Event Password:* NOAA. *Dial In:* 888–843–6167. *Passcode:* 3439062.

The public is reminded that NMFS expects participants at public scoping meetings and on conference calls or webinars to conduct themselves appropriately. At the beginning of the webinar and conference call, a representative of NMFS will explain the ground rules (*e.g.,* all comments are to be directed to the Agency; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). A NMFS representative will attempt to structure the webinar and conference call so that all attending members of the public will be able to comment if they so choose, regardless of the controversial nature of the subject matter. If attendees do not respect the ground rules they will be asked to leave the webinar or conference call.

NMFS anticipates that Draft Amendment 12 to the 2006 Consolidated HMS FMP will be available in 2020 and that Final

Amendment 12 will be available in 2021.

Dated: August 28, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–18939 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 84, No. 170
Tuesday, September 3, 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

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Hygiene

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S Codex Office is sponsoring a public meeting on September 26, 2019. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 51st Session of the Codex Committee on Food Hygiene (CCFH) of the Codex Alimentarius Commission, in Cleveland, Ohio, November 4–8, 2019. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 51st Session of the CCFH and to address items on the agenda.

DATES: The public meeting is scheduled for September 26, 2019, from 1:00–4:00 p.m. EDT.

ADDRESSES: The public meeting will take place in Meeting Room 107–A of the Whitten Building, 1400 Independence Ave SW, Washington, DC 20250. Documents related to the 51st Session of the CCFH will be accessible via the internet at the following address: *http://www.fao.org/fao-who-codexalimentarius/meetings/en/.*

Ms. Jenny Scott, U.S. Delegate to the 51st Session of the CCFH, invites U.S. interested parties to submit their comments electronically to the following email address: *jenny.scott@fda.hhs.gov.*

Call-In-Number: If you wish to participate in the public meeting for the 51st Session of the CCFH by conference call, please use the call-in-number: 888–844–9904 and participant code 5126092.

Registration: Attendees may register to attend the public meeting by emailing *uscodex@usda.gov* by September 23, 2019. Early registration is encouraged because it will expedite entry into the building. The meeting will take place in a Federal building. Attendees should bring photo identification and plan for adequate time to pass through the security screening systems. Attendees who are not able to attend the meeting in person, but who wish to participate, may do so by phone, as discussed above.

For Further Information about the 51st Session of the CCFH, contact U.S. Delegate, Ms. Jenny Scott, Senior Advisor, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–300), Room 3B–014, College Park, MD 20740, Phone: +1 (240) 402–2166, Fax: +1 (301) 436–2632, *jenny.scott@fda.hhs.gov.*

For Further Information about the public meeting Contact: U.S. Codex Office, 1400 Independence Avenue SW, Room 4861, South Agriculture Building, Washington, DC 20250. Phone (202) 720 7760, Fax: (202) 720–3157, Email: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on CCFH are:

(a) Developing basic provisions on food hygiene, applicable to all food or to specific food types;

(b) Considering and amending or endorsing provisions on food hygiene contained in Codex commodity standards and codes of practice developed by Codex commodity committees;

(c) Considering specific food hygiene problems assigned to it by the Commission;

(d) Suggesting and prioritizing areas where there is a need for microbiological risk assessment at the international level and developing questions to be addressed by the risk assessors; and

(e) Considering microbiological risk management matters in relation to food hygiene and in relation to the FAO/WHO risk assessments.

The CCFH is hosted by the United States. The United States attends the CCFH as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 51st Session of the CCFH will be discussed during the public meeting:

- Matters referred by the Codex Alimentarius Commission and/or other Codex Subsidiary Bodies to the Committee
- Matters arising from the Work of FAO and WHO
- Information from the World Organisation for Animal Health (OIE)
- Proposed draft code of practice on food allergen management for food business operators
  - Comments in reply to CL 2019/69–FH
- Proposed draft revision of the General Principles of Food Hygiene (CXC 1–1969) and its HACCP Annex
  - Comments in reply to CL 2019/70–FH
- Proposed draft guidance for the management of biological foodborne outbreaks
  - Comments in reply to CL 2019/71–FH
- Proposed draft guidelines for the control of Shiga toxin-producing Escherichia coli (STEC) in beef, unpasteurized milk and cheese produced from unpasteurized milk, leafy greens, and sprouts
  - Comments in reply to CL 2019/72–FH
- Discussion paper on principles for the safe use of water in food processing
- Other Business and Future Work:
  - (a) New Work/Forward Workplan (Proposals in reply to CL 2019/50–FH)

Public Meeting

At the September 26, 2019, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Ms. Jenny Scott, U.S. Delegate for the 51st Session of the CCFH (see **ADDRESSES**).

Written comments should state that they relate to activities of the 51st Session of the CCFH.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA web page located at: *http://www.usda.gov/*codex, a link that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscription themselves and have the option to password protect their accounts.

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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 *https://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 at Washington DC, on August 21,2019.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2019–18876 Filed 8–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Fresh Fruits and Vegetables

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S Codex Office is sponsoring a public meeting on September 12, 2019. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 21st Session of the Codex Committee on Fresh Fruits and Vegetables (CCFFV) of the Codex Alimentarius Commission, in Monterrey, Nuevo Leon, Mexico, October 7–11, 2019. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 21st Session of the CCFFV and to address items on the agenda.

DATES: The public meeting is scheduled for September 12, 2019, from 10:00 a.m.–12:00 p.m. EDT.

ADDRESSES: The public meeting will take place in Meeting Room 2–L285 of the Whitten Building, 1400 Independence Ave. SW, Washington, DC 20250. Documents related to the 21st Session of the CCFFV will be accessible via the internet at the following address: *http://www.fao.org/fao-who-odexalimentarius/meetings/en/.*

Mr. Dorian LaFond, U.S. Delegate to the 21st Session of the CCFFV, invites U.S. interested parties to submit their comments electronically to the following email address: *dorian.lafond@usda.gov.*

Call-In-Number: If you wish to participate in the public meeting for the 21st Session of the CCFFV by conference call, please use the call-in-number: 888–844–9904 and participant code 5126092.

Registration: Attendees may register to attend the public meeting by emailing *uscodex@usda.gov* by September 10, 2019. Early registration is encouraged because it will expedite entry into the building. The meeting will take place in a Federal building. Attendees should bring photo identification and plan for adequate time to pass through the security screening systems. Attendees who are not able to attend the meeting in person, but who wish to participate, may do so by phone, as discussed above.

For Further Information about the 21st Session of the CCFFV, contact U.S. Delegate, Mr. Dorian LaFond, International Food Standards Coordinator, Fruits and Vegetables Program, Specialty Crops Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 0247, Washington, DC 20250, Phone: +1 (202) 690–4944, Email: *dorian.lafond@usda.gov.*

For Further Information about the public meeting Contact: U.S. Codex Office, 1400 Independence Avenue SW, Room 4861, South Agriculture Building, Washington, DC 20250. Phone 202 720 7760, Fax: (202) 720–3157, Email: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade. The Terms of Reference of the Codex Committee on Fresh Fruits and Vegetables (CCFFV) are:

a. To elaborate worldwide standards and codes of practice as may be appropriate for fresh fruits and vegetables
b. to consult, as necessary, with other international organizations in the standards development to avoid duplication

The CCFFV is hosted by Mexico. The United States attends the CCFFV as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 21st Session of the CCFFV will be discussed during the public meeting:

- Matters arising from the Codex Alimentarius Commission and other committees
- Draft Standard for Kiwifruit: tolerance for decay
- Draft Standard for Garlic
- Proposed Draft Standard for Ware Potatoes
- Proposed Draft Standard for Fresh Dates
- Proposed Draft Standard for Yams
- Proposed Draft Standard for Onions and Shallots

- Proposed Draft Standard for Berry Fruits
- Discussion Paper on glossary terms used in the layout for Codex standards for fruits and vegetables
- Other business

Public Meeting

At the September 12, 2019, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Mr. Dorian LaFond, U.S. Delegate for the 21st Session of the CCFFV (see **ADDRESSES**). Written comments should state that they relate to activities of the 21st Session of the CCFFV.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA web page located at: *http://www.usda.gov/codex,* a link that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscription themselves and have the option to password protect their accounts.

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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 *https://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 at Washington, DC, on August 21, 2019.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2019–18875 Filed 8–30–19; 8:45 am]

BILLING CODE P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, September 13, 2019, 12:00 p.m. EDT.

ADDRESSES: Place: National Place Building, 1331 Pennsylvania Ave. NW, 11th Floor, Washington, DC 20425. (Entrance on F Street NW.)

FOR FURTHER INFORMATION CONTACT: Brian Walch: (202) 376–8371; TTY: (202) 376–8116; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. There will also be a call-in line for individuals who desire to listen to the meeting and presentations: (800) 823–1563, conference ID 5311767. The meeting will also live-stream. (Subject to change.) Persons with disabilities who need accommodation should contact Pamela Dunston at (202) 376–8105 or at *access@usccr.gov* at least seven business days before the date of the meeting.

Meeting Agenda

I. Approval of Agenda

II. Business Meeting

A. Presentation by Nebraska Advisory Committee Chair on the Committee's recent statement on use of Native American Mascots in Non-Native Public Schools
B. Presentation by Maine Advisory Committee Chair on the Committee's recent report, *Criminalization of People with Mental Illnesses in Maine*
C. Presentation by South Dakota Advisory Committee Chair on the Committee's recent *Summary of Briefings on Subtle Racism in South Dakota*
D. Discussion and vote on discovery materials for the Commission's project on subminimum wages for workers with disabilities
E. Discussion and vote on revised timeline for Commission's project on Title IX, *Freedom from Sexual Harassment, the Department of Education, and Free Speech on Campus*
F. Management and Operations
- Staff Director's Report

G. [At 2:00 p.m. EDT] Speaker Series presentation by Professors Eric Foner and Thavolia Glymph, *Lessons of the Reconstruction Period for Today's Civil Rights Debates.*

III. Adjourn Meeting

Dated: August 29, 2019.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2019–19034 Filed 8–29–19; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Review of DOC Policy in Opportunity Zones

AGENCY: U.S. Department of Commerce.

ACTION: Request for information.

SUMMARY: Consistent with Executive Order 13853, ''Establishing the White House Opportunity and Revitalization Council,'' (''The Council'') (''Executive Order 13853'' or ''the Order'') this document informs the public that the U.S. Department of Commerce (''DOC'' or ''the Department'') intends to maximize the beneficial impact of investment in Opportunity Zones. In accordance with the implementation guidance issued by the Council, the Department has been charged with leading the Economic Development subcommittee (''work stream'') on Opportunity Zones. To inform that work, DOC is reviewing economic development programs policies, practices, planned actions, regulations, and guidance across the entire Federal Government and within its own programs. Through this notice, DOC seeks input and recommendations from the public to help spur economic development in qualified Opportunity Zones and other distressed areas across the country.

DATES: Written comments on this request for information (''RFI'') must be submitted by October 18, 2019.

ADDRESSES: All submissions must refer to the title above.

Comments may be submitted through any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. 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 will be publicly accessible. DOC will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

• *Email: regulations@eda.gov.* Include ''Comments on RFI'' in the subject line of the message.

• *Mail:* Office of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230. Please indicate ''Comments on DOC's Request for Information on Opportunity Zones'' on the envelope.

FOR FURTHER INFORMATION CONTACT: Mara Quintero Campbell, Senior Advisor, Office of Regional Affairs, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Suite 72023, Washington, DC 20230; telephone: (202) 482–5479.

SUPPLEMENTARY INFORMATION:

I. Background on Opportunity Zones and the White House Opportunity and Revitalization Council

The 2017 Tax Cuts and Jobs Act (Pub. L. 115–97) created new tax incentives to encourage the investment of private capital in projects and activities intended to catalyze economic development and job creation in low-income communities nationwide designated by governors as ''Opportunity Zones.'' Opportunity Zones are low income census tracts nominated by governors and certified by the U.S. Department of the Treasury. The Opportunity Zone designation encourages investment in these certified census tracts by granting investors extensive Federal tax advantages for using their capital gains to finance new projects and enterprises (or substantially improve existing projects and enterprises) located within qualified Opportunity Zones. For more information on the Opportunity Zones tax incentives, please see IRS guidance found at: *https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions.*

There are more than 8,700 Census tracts designated by a Governor or other chief administrative official as Opportunity Zones across all 50 States, the District of Columbia, and five U.S. territories. The following are relevant data and characteristics of the Opportunity Zones and those who reside within Opportunity Zones:

• Nearly 35 million Americans live in communities designated as Opportunity Zones.

• More than one-in-five of all Opportunity Zones have a poverty rate over 40 percent, compared to just over one-in-eight ''low-income communities'' (LICs) and one-in-20 Census tracts nationwide.

• 71 percent of Opportunity Zones meet the U.S. Treasury Department's definition of ''severely distressed.'' [1]

• Life expectancy is on average three years shorter for Opportunity Zone residents than it is nationally.

• Approximately 22 percent of Opportunity Zone adult residents have not attained a high school diploma, compared to 13 percent nationally.

The Opportunity and Revitalization Council

Executive Order 13853 created the Council with the U.S. Housing and Urban Development (''HUD'') Secretary (or the Secretary's designee) as the Chair. Other members of the Council include: Assistant to the President for Domestic Policy (Vice-Chair); Secretary of the Treasury; Attorney General; Secretary of the Interior; Secretary of Agriculture; Secretary of Commerce; Secretary of Labor; Secretary of Health and Human Services; Secretary of Transportation; Secretary of Energy; Secretary of Education; Administrator of the Environmental Protection Agency; Director of the Office of Management and Budget; Administrator of the Small Business Administration; Assistant to the President for Economic Policy; Chairman of the Council of Economic Advisers; Chairman of the Council on Environmental Quality; and the heads of such other agencies, offices, or independent regulatory agencies as the Chair may designate or invite.

Executive Order 13853 directs the Council to:

(a) Assess the actions each Federal agency can take under existing authorities to prioritize or focus Federal investments and programs on urban and economically distressed communities, including qualified Opportunity Zones;

(b) Assess the actions each agency can take under existing authorities to minimize all regulatory and administrative costs and burdens that discourage public and private investment in urban and economically distressed communities, including qualified Opportunity Zones;

(c) Regularly consult with officials from State, local, and tribal governments and individuals from the private sector to solicit feedback on how best to stimulate the economic development of urban and economically distressed areas, including qualified Opportunity Zones;

(d) Coordinate Federal interagency efforts to help ensure that private and public stakeholders—such as investors; business owners; institutions of higher education (including Historically Black Colleges and Universities, as defined by 50 U.S.C. 3224(g)(2), and tribally controlled colleges and universities, as defined by 25 U.S.C. 1801(a)(4)); K–12 education providers; early care and education providers; human services agencies; State, local, and tribal leaders; public housing agencies; non-profit organizations; and economic development organizations—can successfully develop strategies for economic growth and revitalization;

(e) Recommend policies that would: (i) Reduce and streamline regulatory and administrative burdens, including burdens on applicants applying for multiple Federal assistance awards; (ii) Help community-based applicants, including recipients of investments from qualified opportunity funds, identify and apply for relevant Federal resources; and (iii) Make it easier for recipients to receive and manage multiple types of public and private investments, including by aligning certain program requirements;

(f) Evaluate the following: (i) Whether and how agencies can prioritize support for urban and economically distressed areas, including qualified Opportunity Zones, in their grants, financing, and other assistance; (ii) Appropriate methods for Federal cooperation with and support for States, localities, and tribes that are innovatively and strategically facilitating economic growth and inclusion in urban and economically distressed communities, including qualified Opportunity Zones, consistent with preserving State, local, and tribal control; (iii) Whether and how to develop an integrated web-based tool through which entrepreneurs, investors, and other stakeholders can see the full range of applicable Federal financing programs and incentives

[1] ''Severely distressed'' generally means a poverty rate of 30 percent or a median family income no greater than 60 percent of the area benchmark. See The State of Socioeconomic Need and Community Change in Opportunity Zones, Economic Innovation Group (Dec. 2018). *https://eig.org/opportunityzones/communitychange.*

available to projects located in urban and economically distressed areas, including qualified Opportunity Zones; (iv) Whether and how to consider urban and economically distressed areas, including qualified Opportunity Zones, as possible locations for Federal buildings, through consultation with the General Services Administration; (v) Whether and how Federal technical assistance, planning, financing tools, and implementation strategies can be coordinated across agencies to assist communities in addressing economic problems, engaging in comprehensive planning, and advancing regional collaboration; and (vi) What data, metrics, and methodologies can be used to measure the effectiveness of public and private investments in urban and economically distressed communities, including qualified Opportunity Zones.

Economic Development Subcommittee

On April 17, 2019, the Council published an Implementation Plan, outlining a detailed work plan describing how the Council will accomplish the goals specified in the Order. The Implementation Plan established five work streams: Economic Development, Entrepreneurship, Safe Neighborhoods, Workforce Development, and Measurement.

DOC was selected by the Council to lead the Economic Development work stream and is supported by: HUD, Department of Agriculture, Treasury Department, Department of Transportation, Department of Health and Human Services, Council on Environmental Quality, and the Small Business Administration. The primary objective of the Economic Development work stream is to leverage Federal grants and loans in a more integrated way to develop dilapidated properties and provide basic infrastructure and financial tools to attract private investment.

II. Department of Commerce Economic Development Programs

DOC promotes job creation and economic growth by ensuring fair and reciprocal trade, providing the data necessary to support commerce and constitutional democracy, and fostering innovation by setting standards and conducting foundational research and development. The Department, through the Economic Development Administration (''EDA''), provides grant investments in infrastructure construction, planning, technical assistance, entrepreneurship and innovation programs, revolving loan funds, and other capacity building investments that are designed to leverage existing regional assets to support the implementation of economic development strategies. These strategies facilitate the creation of new businesses and industries, and the growth of existing businesses and industries. EDA programs that are used to help regions and communities catalyze investment, innovation and job creation in distressed areas include:

(1) *Public Works:* Empowers distressed communities to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term, private sector jobs and investment.

(2) *Economic Adjustment Assistance:* Assists state and local interests in designing and implementing strategies to adjust or bring about change to an economy. (The program focuses on areas that have experienced or are under threat of serious structural damage to the underlying economic base. Under Economic Adjustment, EDA also administers its Revolving Loan Fund Program, which supplies small businesses and entrepreneurs with the gap financing needed to start or expand their business.)

(3) *Regional Innovation Strategies:* Supports innovation and entrepreneurship capacity-building activities by creating and expanding cluster-focused proof-of-concept and commercialization programs and early-stage seed capital funds through the i6 Challenge and the Seed Fund Support Grant competition, respectively.

A full description of EDA's grant programs, including programs that support planning and technical assistance, can be found at *https://www.eda.gov/programs/eda-programs/.*

The Department, through EDA, also serves as the lead integrator of the Federal Government's economic development resources. The Economic Development Integration (''EDI'') business practice is designed to facilitate improved coordination and streamlining of Federal technical assistance, strategic planning, financing tools and other project design and implementation resources. The practice enhances local and regional capacity for the comprehensive collaboration and strategic planning that are necessary to successfully address economic issues, including the effective integration of resources from multiple Federal agencies, which will be important to the Opportunity Zone work stream on Economic Development. More information on the EDI business practice can be found at *https://eda.gov/edi.*

The Department's Minority Business Development Administration (''MBDA'') promotes the growth of minority-owned businesses through the mobilization and advancement of public and private sector programs, policy, and research. A full description of MBDA's programs, including information on its grants and loan programs, can be found at *https://www.mbda.gov/page/grants-and-loans.*

In addition to EDA and MBDA, the Department supports economic development through many of its other Bureaus and Agencies. For example, the U.S. Census Bureau and the Bureau of Economic Analysis provide statistical data and tools to help encourage private and public investment throughout the country. The International Trade Administration, through SelectUSA, provides tailored reports to foreign investors interested in specific geographic areas including Opportunity Zones. Finally, the National Institute of Standards and Technology through its Hollings Manufacturing Extension Partnership (''MEP'') supports public-private partnerships that work with manufacturers to develop new products and customers, expand and diversify markets, adopt new technology, and enhance value within supply chains. Additional information about these various DOC bureaus and offices is available online at *https://www.commerce.gov/.*

III. Purpose of This Request for Information

The Opportunity Zone tax incentive is a historic and powerful new tool meant to help bring private capital into underserved communities. However, as stated in the Implementation Plan, to create the conditions for long-term sustainable economic growth, economically distressed communities cannot rely on private capital and tax incentives alone. Many of these communities are also in need of public sector investment and technical assistance to ensure they develop the foundations and investment conditions necessary to support a thriving private sector. However, too often communities that attempt to access these catalytic Federal resources encounter a labyrinth of distinct rules and regulations, multiple application and review processes, and a myriad of burdensome and duplicative administrative requirements.

Therefore, the Department seeks public input on how the Federal Government can better align its various economic development programs and resources so as to encourage and facilitate beneficial investments in urban and economically distressed

communities, including in qualified Opportunity Zones. The Department requests information from and the perspectives of multiple stakeholders who support economic development in Opportunity Zones, including State, local and tribal officials, institutions of higher education, nonprofits, philanthropic organizations and other impact investors, economic development and other experts in relevant disciplines, and affected stakeholders in the private sector.

IV. Specific Information Requested

To assist in Department's approach to Opportunity Zones, DOC invites ideas and information on the following questions:

1. How can the Federal Government target and streamline infrastructure programs in qualified Opportunity Zones and other economically distressed communities to create long-term sustainable economic growth?

a. For example, what actions could DOC agencies and bureaus (EDA, MBDA, etc.) take under existing authorities to focus Federal investments and programs on distressed communities and regions that include qualified Opportunity Zones?

2. How can public and/or private sector recipients leverage Federal grants and loans in a more integrated way?

a. For example, what policies could the Federal Government implement that would make it easier for recipients to receive and manage multiple types of public and private investments, such as through streamlining application procedures and/or aligning program requirements?

b. What types of information or tools (including web-based) would be helpful for entrepreneurs, investors, and other stakeholders to facilitate understanding of applicable Federal programs and resources to support investments in Opportunity Zones?

3. How can coordination between Federal, state, and local capital investment be improved to maximize economic development to the benefit of qualified Opportunity Zones?

a. For example, what policies, technical assistance, or tools could the Federal Government provide communities to attract private investment and spur economic development?

b. What additional resources or policy changes might communities need to successfully compete for private investment in rural Opportunity Zones?

4. How can the Federal Government provide increased statutory and/or administrative flexibility in existing Federal programs in qualified Opportunity Zones to increase economic development outcomes?

a. For example, how can Federal requirements or guidance for regional economic development planning foster improved coordination of resources for infrastructure, workforce development, housing, and safety in qualified Opportunity Zones and surrounding areas?

5. What data would be useful for the Federal Government to collect to evaluate the economic development impact of program investments that are designed to assist distressed communities in qualified Opportunity Zones?

a. What data would be useful for the government to collect to determine that increased investment has provided inclusive opportunities for businesses and residents of distressed areas, including in qualified Opportunity Zones?

b. What data would be useful in determining that increased private investment in qualified Opportunities Zones increased regional competitiveness, innovation and resilience?

V. How will this information be used?

The Department aims to use the information received to help inform policies and procedures related to Federal economic development programs. In particular, the Department seeks to use information received to identify administrative flexibilities and propose legislative changes to improve coordination and streamlining of Federal economic programs to spur private investment in qualified Opportunity Zones and other economically distressed areas.

* * * * *

Dated: August 26, 2019.

John Fleming,

Assistant Secretary of Commerce for Economic Development.

[FR Doc. 2019–18947 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will

not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity to request a review: Not later than the last day of September 2019,[2] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period of review
Antidumping Duty Proceedings Period of Review	
BELARUS:	
Steel Concrete Reinforcing Bars A–822–804	9/1/18–8/31/19
BRAZIL:	
Cold-Rolled Steel Flat Products A–351–843	9/1/18–8/31/19
Emulsion Styrene-Butadiene Rubber A–351–849	9/1/18–8/31/19
INDIA:	
Cold-Rolled Steel Flat Products A–533–865	9/1/18–8/31/19
Lined Paper Products A–533–843	9/1/18–8/31/19
Oil Country Tubular Goods A–533–857	9/1/18–8/31/19
INDONESIA:	
Steel Concrete Reinforcing Bars A–560–811	9/1/18–8/31/19
JAPAN:	
Stainless Steel Wire Rod A–588–843	9/1/18–8/31/19
LATVIA:	
Stainless Concrete Reinforcing Bars A–449–804	9/1/18–8/31/19
MEXICO:	
Emulsion Styrene-Butadiene Rubber A–201–848	9/1/18–8/31/19
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes A–201–847	9/1/18–8/31/19
Magnesia Carbon Bricks A–201–837	9/1/18–8/31/19
MOLDOVA:	
Steel Concrete Reinforcing Bars A–841–804	9/1/18–8/31/19
POLAND:	
Emulsion Styrene-Butadiene Rubber A–455–805	9/1/18–8/31/19
Steel Concrete Reinforcing Bars A–455–803	9/1/18–8/31/189
REPUBLIC OF KOREA:	
Cold-Rolled Steel Flat Products A–580–881	9/1/18–8/31/19
Emulsion Styrene-Butadiene Rubber A–580–890	9/1/18–8/31/19
Heavy Walled Rectangular Welded Carbon Pipes and Tubes A–580–880	9/1/18–8/31/19
Oil Country Tubular Goods A–580–870	9/1/18–8/31/19

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when Commerce is closed.

	Period of review
Stainless Steel Wire Rod A–580–829	9/1/18—8/31/19
SOCIALIST REPUBLIC OF VIETNAM:	
Oil Country Tubular Goods A–552–817	9/1/18–8/31/19
TAIWAN:	
Forged Steel Fittings A–583–863	5/17/18–8/31/19
Narrow Woven Ribbons With Woven Selvedge A–583–844	9/1/18–8/31/19
Raw Flexible Magnets A–583–842	9/1/18–8/31/19
Stainless Steel Wire Rod A–583–828	9/1/18–8/31/19
THE PEOPLE'S REPUBLIC OF CHINA:	
Foundry Coke A–570–862	9/1/18—8/31/19
Freshwater Crawfish Tailmeat A–570–848	9/1/18–5/15/19
Kitchen Appliance Shelving and Racks A–570–941	9/1/18–8/31/19
Lined Paper Products A–570–901	9/1/18–8/31/19
Magnesia Carbon Bricks A–570–954	9/1/18–8/31/19
Narrow Woven Ribbons With Woven Selvedge A–570–952	9/1/18–8/31/19
New Pneumatic Off-the-Road Tires A–570–912	9/1/18–2/3/19
Raw Flexible Magnets A–570–922	9/1/18–8/31/19
Steel Concrete Reinforcing Bars A–570–860	9/1/18—8/31/19
TURKEY:	
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes A–489–824	9/1/18–8/31/19
Oil Country Tubular Goods A–489–816	9/1/18–8/31/19
UKRAINE:	
Steel Concrete Reinforcing Bars A–823–809	9/1/18–8/31/19
UNITED KINGDOM:	
Cold-Rolled Steel Flat Products A–412–824	9/1/18–8/31/19
Countervailing Duty Proceedings	
BRAZIL:	
Cold-Rolled Steel Flat Products C–351–844	1/1/18–12/31/18
INDIA:	
Cold-Rolled Steel Flat Products C–533–866	1/1/18–12/31/18
Lined Paper Products C–533–844	1/1/18–12/31/18
Oil Country Tubular Goods C–533–858	1/1/18–12/31/18
REPUBLIC OF KOREA:	
Cold-Rolled Steel Flat Products C–580–882	1/1/18–12/31/18
THE PEOPLE'S REPUBLIC OF CHINA:	
Kitchen Appliance Shelving and Racks C–570–942	1/1/18–12/31/18
Magnesia Carbon Bricks C–570–955	1/1/18–12/31/18
Narrow Woven Ribbons With Woven Selvedge C–570–953	1/1/18–12/31/18
Raw Flexible Magnets C–570–923	1/1/18–12/31/18
TURKEY:	
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes C–489–825	1/1/18–12/31/18
Oil Country Tubular Goods C–489–817	1/1/18–12/31/18
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of

merchandise subject to antidumping findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *http://access.trade.gov*.[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of September 2019. If Commerce does not receive, by the last day of September 2019, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 19, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–18936 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See also* the Enforcement and Compliance website at *http://trade.gov/enforcement/.*

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–090, C–570–091]

Certain Steel Trailer Wheels 12 to 16.5 Inches From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on imports of certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China).

DATES: Applicable September 3, 2019.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane and Charles Doss at (202) 482–5449 and (202) 482–4474, respectively (AD), and Keith Haynes at 202–482–5139 (CVD), AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on July 9, 2019, Commerce published its affirmative final determination of sales at less than fair value (LTFV) and affirmative finding of critical circumstances in the AD investigation of certain steel wheels from China, and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of steel wheels from China and affirmative finding of critical circumstances.[1] On August 22, 2019, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of LTFV imports and subsidized imports of certain steel wheels from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.[2] The ITC also notified Commerce of its negative findings concerning critical circumstances with regard to imports of this product from China.[3]

Scope of the Orders

The products covered by these orders are certain steel wheels 12 to 16.5 inches in diameter from China. For a complete description of the scope of the orders, *see* the appendix to this notice.

AD Order

On August 22, 2019, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of steel wheels from China that are sold in the United States at LTFV. Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this AD order. Because the ITC determined that imports of certain steel wheels from

[1] *See Certain Steel Trailer Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances,* 84 FR 32707 (July 9, 2019) (*AD Final Determination*); *see also Certain Steel Trailer Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances,* 84 FR 32723 (July 9, 2019) (*CVD Final Determination*).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated August 22, 2019 (ITC Notification); *see also Steel Trailer Wheels from China,* Inv. No. 701–TA–609 and 731–TA–1421 (USITC Publication 4943).

[3] *Id.*

China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China entered, or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of certain steel wheels from China. Antidumping duties will be assessed on unliquidated entries of certain steel wheels from China entered, or withdrawn from warehouse, for consumption on or after April 22, 2019, the date of publication of the *AD Preliminary Determination*.[4]

Continuation of Suspension of Liquidation—AD

In accordance with section 736 of the Act, we will instruct CBP to continue the suspension of liquidation on entries of certain steel wheels from China, effective on the date of publication in the **Federal Register** of the ITC's final affirmative injury determination. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. Accordingly, effective on the date of publication in the **Federal Register** of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on the subject merchandise, a cash deposit equal to the estimated weighted-average dumping margins listed below. As stated in the *AD Final Determination,* Commerce made certain adjustments for export subsidies from the *CVD Final Determination* to the estimated weighted-average dumping margins to determine each of the cash deposit rates.

Exporter	Producer	Weighted-average margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Changzhou Chungang Machinery Co., Ltd	Changzhou Chungang Machinery Co., Ltd	38.27	16.57
China-Wide Entity		44.35	22.65

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of certain steel wheels from China, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of certain steel wheels from China, entered, or withdrawn from warehouse, for consumption on or after January 22, 2019 (*i.e.,* 90 days prior to the date of publication of the *AD Preliminary Determination*), but before April 22, 2019 (*i.e.,* the date of publication of the *AD Preliminary Determination*).

CVD Order

On August 22, 2019, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that the industry in the United States producing steel wheels is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of steel wheels from China.[5] Therefore, in accordance with section 705(c)(2) of the Act, we are issuing this CVD order.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after February 25, 2019, the date on which Commerce published the *CVD Preliminary Determination*[6] and before June 25, 2019, the effective date on which Commerce instructed CBP to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than 120 days. Therefore, entries of subject merchandise from China made on or after June 25, 2019, and prior to the date of publication of the ITC's final determination in the **Federal Register** are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

Suspension of Liquidation—CVD

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of certain steel wheels in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, Commerce will instruct CBP to require, at the same time as importers would normally deposit estimated duties on the subject merchandise, a cash deposit for each entry of subject merchandise equal to the subsidy rates listed below.[7] The all-others rate applies to all producers or exporters not specifically listed below, as appropriate.

Producer/exporter	Subsidy rate (percent)
Xingmin Intelligent Transportation Systems (Group)	386.45
Zhejiang Jingu Company Limited	388.31
All Others	387.38

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the affirmative *Preliminary Determination* on February 25, 2019. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on June 25, 2019.

[4] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances,* 84 FR 16643 (April 22, 2019) (*AD Preliminary Determination*).

[5] *See* ITC Notification.

[6] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 84 FR 5989 (February 25, 2019) (*CVD Preliminary Determination*).

[7] *See* section 706(a)(3) of the Act.

Therefore, in accordance with section 733(d) of the Act, Commerce instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of certain steel wheels from China entered, or withdrawn from warehouse, for consumption on or after June 25, 2019, the date on which the provisional measures expired, through the day preceding the date of publication of the ITC Final Determinations in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC Final Determination in the **Federal Register**.

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of certain steel wheels from China, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of certain steel wheels from China, entered, or withdrawn from warehouse, for consumption on or after November 27, 2018 (*i.e.,* 90 days prior to the date of publication of the *CVD Preliminary Determination*), but before February 25, 2019 (*i.e.,* the date of publication of the *CVD Preliminary Determination*).[8]

Notification to Interested Parties

This notice constitutes the AD and CVD orders with respect to certain steel wheels from China pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The products subject to these orders are certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA's required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of these orders. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in China.

Excluded from this scope are the following: (1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube; (2) aluminum wheels; (3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including, but not limited to, Physical Vapor Deposition (PVD); (4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2; (5) steel wheels that meet the following specifications: steel wheels with a nominal wheel diameter ranging from 15 inches to 16.5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3.75 inches to 5.5 inches; and (6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to these orders are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

[8] *See CVD Preliminary Determination.*

[FR Doc. 2019–18937 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) and the International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2019

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in October 2019 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Monosodium Glutamate from China (A–570–992) (1st Review)	Jacqueline Arrowsmith, (202) 482–5255.
Monosodium Glutamate from Indonesia (A–560–826) (1st Review)	Jacqueline Arrowsmith, (202) 482–5255.
Steel Concrete Reinforcing Bar from Mexico (A–201–844) (1st Review)	Joshua Poole, (202) 482–1293.
Certain Frozen Fish Fillets from Vietnam (A–552–801) (3rd Review)	Matthew Renkey, (202) 482–2312.
Countervailing Duty Proceedings	
Chlorinated Isocyanurates from China (C–570–991) (1st Review)	Mathew Renkey, (202) 482–2312.
Steel Concrete Reinforcing Bar from Turkey (C–489–819) (1st Review)	Joshua Poole, (202) 482–1293.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in October 2019.	

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 19, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–18935 Filed 8–30–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF505

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction Activities Associated With the Raritan Bay Pipeline

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Transcontinental Gas Pipe Line Company, LLC (Transco), a subsidiary of Williams Partners L.P., to take marine mammals incidental to construction activities associated with the Raritan Bay Pipeline. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than October 3, 2019.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Carduner@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/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 mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the proposed action qualifies to be categorically excluded from further NEPA review.

Information in Transco's application and this notice collectively provide the environmental information related to proposed issuance of these regulations and subsequent incidental take authorization for public review and comment. We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the request for incidental take authorization.

Summary of Request

On February 7, 2019, NMFS received a request from Transco for an IHA to take marine mammals incidental to construction activities associated with the Raritan Bay Loop pipeline offshore of New York and New Jersey. Transco submitted a revised version of the application on May 23, 2019, and this application was deemed adequate and complete. Transco's request is for take of 10 species of marine mammals by harassment. Neither Transco nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Transco, a subsidiary of Williams Partners L.P., is proposing to expand its existing interstate natural gas pipeline system in Pennsylvania and New Jersey and its existing offshore natural gas pipeline system in New Jersey and New York waters. The Northeast Supply Enhancement Project would consist of several components, including offshore pipeline facilities in New Jersey and New York. The proposed offshore pipeline facilities would include the Raritan Bay Loop pipeline, which would be located primarily in Raritan Bay, as well as parts of the Lower New York Bay and the Atlantic Ocean.

Construction of the Raritan Bay Loop pipeline would require pile installation and removal, using both impact and vibratory pile driving, which may result in the incidental take of marine mammals. Transco would install and remove a total of 163 piles, which would range in size from 10 to 60 inches in diameter, using a vibratory device and/or diesel impact hammer. These piles would be temporary; they would remain in the water only for the duration of each related offshore construction activity. Once offshore construction of the project is complete, all piles installed by Transco would be removed.

Dates and Duration

In-water construction is anticipated to occur between the 2nd quarter of 2020 and the 4th quarter of 2020. Pile installation and removal activities are planned to occur from June through August 2020. However the timeframe for pile removal may occur in fall 2020. Pile installation and removal activities are expected to take a total of 65.5 days.

Specific Geographic Region

Transco's proposed activity would occur in the waters of Raritan Bay, the Lower New York Bay, and the Atlantic Ocean (see Figure 1 in the IHA application). The Project area is located in the greater New York Bight region. The New York Bight is a triangular-shaped area of the continental shelf generally bounded by Montauk Point on eastern Long Island, Cape May in southern New Jersey, and the open shallows of the Atlantic Ocean. The depth of water in the area averages about 27 meters (m) (90 feet (ft)), except in the northwest-southeast–trending Hudson Canyon, which has depths in excess of 73 m (240 ft) (Ketchem et al. 1951). The New York Bight refers to the bend, or curve, in the shoreline of the open coast and great expanse of shallow ocean between Long Island and the New Jersey coast. Water depths exceed 30 m (100 ft) approximately 80 kilometers (km) (50 statute miles) offshore.

Detailed Description of Specific Activity

Transco is proposing to expand its existing interstate natural gas pipeline system in Pennsylvania and New Jersey and its existing offshore natural gas pipeline system in New Jersey and New York waters with the goal of providing an additional 400,000 dekatherms per day capacity to its customers. To provide this additional capacity, Transco proposes to expand portions of its system from an existing Compressor Station in York County, Pennsylvania, to the Rockaway Transfer Point in New York State waters, which represents the interconnection point between Transco's existing Lower New York Bay Lateral and the existing offshore Rockaway Delivery Lateral (RDL). The proposed project would consist of several components, including onshore pipeline facilities in Pennsylvania and New Jersey and offshore pipeline facilities in New Jersey and New York. Only the offshore pipeline components of the project have the potential to result in the take of marine mammals, thus the onshore components of the project are not analyzed further in this document.

Transco's proposed offshore pipeline facilities include the Raritan Bay Loop pipeline, which would be located primarily in Raritan Bay as well as parts of the Lower New York Bay and the Atlantic Ocean. The Raritan Bay Loop would begin at the onshore connection

with the Madison Loop in Middlesex, New Jersey (see Figure 1 in the IHA application). The offshore portion of the Raritan Bay Loop would extend from the Sayreville shoreline approximately 37.6 km (23.3 mi) across Raritan Bay and Lower New York Bay to the Rockaway Transfer Point, which is the interconnection point with the RDL in New York State waters in the Atlantic Ocean, approximately 4.8 km (3 mi) seaward of Rockaway, New York. Approximately 9.6 km (6.0 mi) of the offshore portion of the Raritan Bay Loop route would cross New Jersey waters, while the remaining 28 km (17.4 mi) would cross New York waters. The Raritan Bay Loop would cross a continuous expanse of open marine and estuarine waters in New Jersey and New York, which consists of three major contiguous waterbodies, including Raritan Bay, Lower New York Bay, and the Atlantic Ocean (See Figures 1 and 2 in the IHA application). This area is part of the coastal region known as the New York Bight.

Construction of the Raritan Bay Loop pipeline would require the installation of 163 piles, ranging in size from 10 to 60 inches in diameter, using a vibratory device and/or diesel impact hammer. Impact pile drivers are piston-type drivers that use various means to lift a piston to a desired height and drop the piston against the head of the pile in order to drive it into the substrate (Caltrans, 2015). Diesel impact hammers would be used to install approximately 34 steel piles (Table 1). A vibratory device uses spinning counterweights, causing the pile to vibrate at a high speed. The vibrating pile causes the soil underneath it to ''liquefy'' and allow the pile to move easily into or out of the sediment. Vibratory devices generally have source levels 10 to 20 decibels (dB) lower than impact devices, so their use is considered a means to reduce overall underwater sound when pile driving is necessary for a project and suitable sediment conditions exist (Caltrans, 2015). Vibratory devices would be used to install and remove approximately 163 steel pipe piles (Table 1). Note that some piles would require both impact and vibratory installation.

The total time to install a pile is dependent on the installation method (vibratory or impact), diameter of the pile, substrate composition, and depth the pile needs to penetrate through the substrate. For pile installation of 0.9- to 1.5-m (34- to 60-in) piles using a diesel impact hammer, the estimated time is 38 to 62 minutes per pile. For pile installation of 0.3- to 1.5-m (10- to 60-in) piles using a vibratory hammer, the estimated time is 15 minutes per pile. For pile removal of 0.3- to 1.5-m (10- to 60-in) piles using a vibratory hammer, the estimated time is 5 to 30 minutes per pile. The minimum handling time (*i.e.,* periods during which the pile is being positioned, steadied, etc., and no in-water construction noise is anticipated) is dependent on activity type and pile size. For vibratory hammer periods for 0.3- to 1.2-m (10- to 48-in) piles, the handling time ranges from 15 to 45 minutes. For vibratory hammer periods for 1.5-m (60-in) piles, the minimum handling time is 1 hour and 45 minutes. For impact hammer periods, the minimum handling time is 30 minutes. The total duration of pile installation (including both vibratory and impact pile driving) is estimated at 42.5 days. The piles would remain in the offshore environment only for the duration of each related offshore construction activity. Once offshore construction is complete, all piles would be removed using a vibratory hammer, which is expected to occur over an estimated 23 days. Thus the total duration of pile installation and removal is 65.5 days (*i.e.,* 42.5 days for pile installation and 23 days for pile removal). Installation and removal of all piles is expected to be completed during summer 2020 (June–August); however, pile removal could shift to fall 2020 (September, October, and/or November), after finalization of the construction schedule.

All piles would be installed along a string of locations within Raritan Bay (see Figure 2 in the IHA application). Transco would complete construction of the various components of the offshore pipeline in several stages with overlapping schedules. An overview of these stages and their general sequence are described below.

- *Temporary fixed platform:* During assembly of the fixed platform, vibratory and impact hammers would be used to install the steel piles; vibratory hammers would be used to remove the piles once the work is completed.
- *Pre-trenching, cable crossings, and initial pipelay:* Trenching for the offshore (subsea) pipeline would take place using a clamshell dredging device. One clamshell dredge with an environmental bucket and its supporting scows would be mobilized to first excavate a pit and trench at the offshore horizontal directional drill exit point for the Morgan Shore Approach horizontal directional drill (HDD). Transco would also mobilize a barge equipped with diving, jetting, and material-handling equipment to remove sediment that covers the first Neptune Cable crossing. Transco would then place concrete mattresses on either side of the cable in the excavated areas to create a bridge above the cable. Due to shallow water depths near the Morgan shoreline, a combination of the pipelay barge and the temporary fixed platform would install pipeline in this section of trench. Following completion of a successful hydrostatic test of the pipeline, a clamshell dredge would backfill the trench. A second clamshell dredge with an environmental bucket would begin trenching the Raritan Bay Channel and the Chapel Hill Channel crossing.
- *HDD Crossings:* For the Morgan Shore Approach HDD, Transco would mobilize a marine-support barge. The clamshell dredge (with environmental bucket) would excavate the exit point and then a vibratory device would be used to install the temporary fixed platform and the piles, known as ''goal posts,'' to guide the pipe at the exit point. Transco would assemble the HDD pipe string on the pipelay barge, a winch wire from the fixed platform would be attached to the HDD pipe string that would pull the pipe string into place with the aid of a tug on the tail end section, lay the pipe string on the seafloor, and then complete a hydrostatic test of the pipeline segment. For the Ambrose Channel crossing, Transco would mobilize a clamshell dredge with an environmental bucket and two liftboats with drilling equipment to the Lower New York Bay. The clamshell dredge would excavate pits at the east point and west point, and then a vibratory device would be used to install piles (goal posts) on opposite sides of the Ambrose Channel. Following the goal post installation, dolphin/fender piles (installed using a vibratory device and/or impact hammer), and a casing would be installed at both HDD pits. The HDD string would then be laid and pulled through.
- *Additional Pipelay and Backfill:* Following assembly and installation of the Ambrose Channel HDD described above, an anchored pipelay barge would begin laying pipe on the seafloor from the east Ambrose HDD pit to the Rockaway Neptune cable crossing. The anchored pipelay barge would then relocate to west of the Ambrose Channel entry HDD point and lay the pipeline from the west Ambrose HDD pit to the mid-line tie-in point at milepost (MP) 16.6. After Transco has laid the pipeline, Transco would use a jet trencher to lower the pipeline and a clamshell dredge would backfill the trench near the Ambrose Channel, Ambrose HDD pits, and navigation channels. Transco would bury the pipe to a minimum depth of 1.22 m (4 ft) (or

equivalent) and in accordance with any permit conditions as directed by the USACE.

• *Subsea Manifold Tie-in, Hydrostatic Testing, and Commissioning:* Hand jets would be used to expose the existing subsea manifold at the RDL, and a new tie-in valve spool would be installed. A tie-in skid and tie-in spools would be installed at the end of the Raritan Bay Loop. Transco would seal the Raritan Bay Loop pipeline between the onshore entry point and the tie-in skid and pre-commissioning would then occur, which would include hydrostatic pressure testing of the new pipeline. After completion of the hydrostatic test, a final spool piece would be installed to connect the Raritan Bay Loop to the subsea manifold. The tie-in spools between the tie-in skid and tie-in valve spool would be dewatered, the manifold tie-in location would be backfilled, and Transco would introduce natural gas into the completed Raritan Bay Loop.

The various components of the proposed construction of the Raritan Bay Loop pipeline, including pile type, size and quantity, installation method (*i.e.,* impact or vibratory), and pile driving or removal duration, are shown in Table 1 and are described in greater detail in the IHA application.

TABLE 1—PILE DRIVING SUMMARY FOR RARITAN BAY LOOP, INCLUDING PILE TYPES AND DRIVING DURATIONS

Milepost	Site	Pile type	Purpose	Diameter (in.)	Quantity	Installation method	Installation		Removal	
							Driving time per pile [c]	Duration (days) [d]	Removal time (min./pile)	Duration (days) [d]
12.59	Morgan Shore Approach HDD.	Platform Piles (for temporary fixed platform).	Temporary fixed platform for Morgan Shore Approach HDD.	36	18	Vibratory & Diesel Impact Hammer.	V–15 Min/Pile I–52–62 Min/Pile [e]	4.5	30	3
12.59	Morgan Shore Approach HDD.	Platform Reaction Piles.	Provide additional lateral capacity for pipeline pulling winch.	36	4	Vibratory & Diesel Impact Hammer.	V–15 Min/Pile I–52–62 Min/Pile [e]	2	30	
12.59	Morgan Shore Approach HDD.	Support Barge Fender Piles.	Tie up and breast support barge alongside HDD operations.	36–48	4	Vibratory Hammer	V–15 Min/Pile	2	15	
12.59	Morgan Shore Approach HDD.	Water Barge Fender Piles.	Tie up and breast water barge alongside HDD operations.	36–48	4	Vibratory Hammer	V–15 Min/Pile		15	
12.59	Morgan Shore Approach HDD.	HDD String Goal Posts.	Support HDD string	24	10	Vibratory Hammer	V–15 Min/Pile	3	5	3
13.84	Neptune Power Cable Crossing (MP13.84).	Sleeper Vertical Pile	Provide mechanical protection to ensure separation between Neptune Power cable and pipeline.	10	8	Vibratory Hammer	V–15 Min/Pile	2	15	1.5
14.5 to 16.5	MP14.5 to MP16.5	Morgan Shore Pull Vertical Guide Piles.	Ensure pipeline stays within pipeline corridor during surface tow between MP14.5 to MP16.5.	24	22	Vibratory Hammer	V–15 Min/Pile	5	15	1.5
28.0 to 29.36	MP28.0 to MP29.36	Pipelay Barge Mooring Pile.	Assist pipelay barge with mooring in vicinity of Ambrose Shipping Channel.	34	12	Vibratory Hammer	V–15 Min/Pile	3	30	2
29.4	Ambrose Channel HDD West Side.	W750 Side Piles	Landing of small barges/vessels alongside prior to fender piles being installed.	36	3	Vibratory Hammer	V–15 Min/Pile	1.5	15	0.5
29.4	Ambrose Channel HDD West Side.	Reaction Frame Piles.	Provide additional lateral capacity for HDD pipeline pull.	36–60	8	Vibratory & Diesel Impact Hammer.	V–15 Min/Pile I–38 Min/Pile [e f]	4	30	0.5
29.4	Ambrose Channel HDD West Side.	Support Barge Fender Piles.	Tie up and breast support barge alongside HDD operations.	36–48	4	Vibratory Hammer	V–15 Min/Pile	1.5	15	1
29.4	Ambrose Channel HDD West Side.	Water Barge Fender Piles.	Tie up and breast water barge alongside HDD operations.	36–48	4	Vibratory Hammer	V–15 Min/Pile		15	
29.4	Ambrose Channel HDD West Side.	HDD String Goal Posts.	Support HDD string	24	12	Vibratory Hammer	V–15 Min/Pile	1.5	5	2
30.48	Ambrose Channel HDD East Side.	Ambrose East Vertical Stabilization Piles.	Ensure HDD string is secured while awaiting pullback.	24	22	Vibratory Hammer	V–15 Min/Pile	5	15	0.5
30.48	Ambrose Channel HDD East Side.	W751 Side Piles	Landing of small barges/vessels alongside prior to fender piles being installed.	36	3	Vibratory Hammer	V–15 Min/Pile	0.5	15	0.5
30.48	Ambrose Channel HDD East Side.	Support Barge Fender Piles.	Tie up and breast support barge alongside HDD operations.	36–48	4	Vibratory Hammer	V–15 Min/Pile	1	15	1
30.48	Ambrose Channel HDD East Side.	HDD Drill String Goal Posts.	Support HDD string	24	10	Vibratory Hammer	V–15 Min/Pile	1.5	5	2
30.48	Ambrose Channel HDD East Side.	Pipelay Barge Mooring Pile.	Assist pipelay barge with mooring at Ambrose East.	60	1	Vibratory Hammer	V–15 Min/Pile [f]	0.5	15	1
34.5 to 35.04	MP34.5 to MP35.04	Pipelay Barge Mooring Pile.	Assist pipelay barge with mooring.	34	4	Vibratory & Diesel Impact Hammer.	V–15 Min/Pile I–52 Min/Pile [e]	3	15	2

TABLE 1—PILE DRIVING SUMMARY FOR RARITAN BAY LOOP, INCLUDING PILE TYPES AND DRIVING DURATIONS—Continued

Milepost	Site	Pile type	Purpose	Diameter (in.)	Quantity	Installation method	Installation		Removal	
							Driving time per pile [c]	Duration (days) [d]	Removal time (min./pile)	Duration (days) [d]
35.04	Neptune Power Cable Crossing (MP35.04).	Crossing Pile	Ensure temporary stability of pipeline at crossing location.	10	2	Vibratory Hammer ...	V–15 Min/Pile	1	15	1

Underwater sound produced during impact pile driving and vibratory driving and removal could result in incidental take of marine mammals by Level B harassment and, for some species, Level A harassment.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Proposed Monitoring and Reporting*).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the IHA 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 (SARs; *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' website (*www.fisheries.noaa.gov/find-species*).

There are 42 marine mammal species that have been documented within the U.S. Atlantic Exclusive Economic Zone (EEZ). However, 29 of these species are not expected to occur within the project area, based on a lack of sightings in the area and their known habitat preferences and distributions, which are generally further offshore and at greater depths than the project area. These are: The blue whale (*Balaenoptera musculus*), sei whale (*Balaenoptera borealis*), Bryde's whale (*Balaenoptera edeni*), sperm whale (*Physeter macrocephalus*), dwarf and pygmy sperm whale (*Kogia sima* and *Kogia breviceps*), beluga whale (*Delphinapterus leucas*), northern bottlenose whale (*Hyperoodon ampullatus*), killer whale (*Orcinus orca*), pygmy killer whale (*Feresa attenuata*), false killer whale (*Pseudorca crassidens*), melon-headed whale (*Peponocephala electra*), Risso's dolphin (*Grampus griseus*), striped dolphin (*Stenella coeruleoalba*), Atlantic spotted dolphin (*Stenella frontalis*), white-beaked dolphin (*Lagenorhynchus albirostris*), pantropical spotted dolphin (*Stenella attenuata*), Fraser's dolphin (*Lagenodelphis hosei*), rough-toothed dolphin (*Steno bredanensis*), Clymene dolphin (*Stenella clymene*), spinner dolphin (*Stenella longirostris*), hooded seal (*Cystophora cristata*), ringed seal (*Pusa hipsida*), Cuvier's beaked whale (*Ziphius cavirostris*), four species of Mesoplodont beaked whale (*Mesoplodon* spp.), and the West Indian manatee (*Trichechus manatus latirostris*) (which occurs further south than the project area). These species are not analyzed further in this document.

There are 13 marine mammal species that could potentially occur in the proposed project area and that are included in Table 10 of the IHA application. However, the temporal and/or spatial occurrence of three of the species listed in Table 10 of the IHA application is such that take of these species is not expected to occur, and they are therefore not discussed further beyond the explanation provided here. Take of these species is not anticipated either because they have very low densities in the project area, or because of their likely occurrence in habitat that is outside the project area, based on the best available information. The Atlantic white-sided dolphin (*Lagenorhynchus acutus*) occurs throughout temperate and sub-polar waters of the North Atlantic, most prominently in continental shelf waters to depths of approximately 100 m (330 ft) (Hayes et al., 2018). Though recent survey data in unavailable, Atlantic white-sided dolphins were found primarily east and north of Long Island and the project area based on observations made during the Cetaceans and Turtle Assessment Program (CeTAP) surveys from 1978 to 1982 (CeTAP, 1982). The Atlantic white-sided dolphins observed south of Long Island were farther offshore in the deeper water of the continental shelf proper and closer to the continental shelf slope. There are two pilot whale species in the western North Atlantic: The long-finned pilot whale (*Globicephala melas melas),* and short-finned pilot whale (*Globicephala macrorhynchus).* The latitudinal ranges of the two species remain uncertain, although south of Cape Hatteras, most pilot whale sightings are expected to be short-finned pilot whales, while north of ~42° N most pilot whale sightings are expected to be long-finned pilot whales, and the two species overlap spatially along the mid-Atlantic shelf break between New Jersey and the southern flank of Georges Bank (Hayes *et al.,* 2018). The available data suggests that long-finned pilot whales are more common along the continental shelf off the northeast coast of the United States during winter and early spring, and move into the more northerly waters of Georges Bank and the Gulf of Maine from late spring through autumn (CeTAP, 1982). Both species prefer deeper offshore waters compared to the relatively shallow waters of the project area, are not often observed in the waters overlying the continental shelf proper and are more commonly seen at the continental shelf break and farther offshore on the slope. As these species are not expected to occur in the project area during the proposed activities, they are not discussed further in this document.

We expect that the species listed in Table 2 will potentially occur in the project area and will potentially be taken as a result of the proposed project. Table 2 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' SARs). While no mortality is anticipated or authorized here, PBR is included here as a gross indicator 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' 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. All values presented in Table 2 are the most recent available at the time of publication and are available in the 2017 Atlantic SARs (Hayes *et al.,* 2018) or draft 2018 SARs, available online at: *www.fisheries.noaa.gov/action/2018-draft-marine-mammal-stock-assessment-reports-available.*

TABLE 2—MARINE MAMMALS KNOWN TO OCCUR IN THE PROJECT AREA THAT MAY BE AFFECTED BY THE PROPOSED ACTIVITY

Common name (scientific name)	Stock	MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Annual M/SI [4]	Occurrence and seasonality in project area
Toothed whales (Odontoceti)							
Bottlenose dolphin (*Tursiops truncatus*).	W. North Atlantic, Offshore.	-; N	77,532 (0.40; 56,053; 2011).	[5] 97,476 (0.06) ..	561	39.4	Rare in summer; absent in winter.
	W. North Atlantic Coastal Migratory.	-; N	6,639 (0.41; 4,759; 2015).		48	unknown	Common year round.
Common dolphin [6] (*Delphinus delphis*).	W. North Atlantic	-; N	173,486 (0.55; 55,690; 2011).	86,098 (0.12)	557	406	Common year round.
Harbor porpoise (*Phocoena phocoena*).	Gulf of Maine/Bay of Fundy.	-; N	79,833 (0.32; 61,415; 2011).	*45,089 (0.12) ..	706	255	Common year round.
Baleen whales (Mysticeti)							
North Atlantic right whale (*Eubalaena glacialis*).	W. North Atlantic	E; Y	451 (0; 455; n/a)	*535 (0.45)	0.9	56	Year round in continental shelf and slope waters, occur seasonally.
Humpback whale [7] (*Megaptera novaeangliae*).	Gulf of Maine	-; N	896 (0.42; 239; n/a)	*1,637 (0.07)	14.6	9.8	Common year round.
Minke whale [6] (*Balaenoptera acutorostrata*).	Canadian East Coast	-; N	20,741 (0.3; 1,425; n/a)	*2,112 (0.05)	14	7.5	Year round in continental shelf and slope waters, occur seasonally.
Earless seals (Phocidae)							
Gray seal [8] (*Halichoerus grypus*).	W. North Atlantic	-; N	27,131 (0.10; 25,908; n/a).	.....	1,389	5,688	Common year round.
Harbor seal (*Phoca vitulina*)	W. North Atlantic	-; N	75,834 (0.15; 66,884; 2012).	.....	2,006	345	Common year round.
Harp seal (*Pagophilus groenlandicus*).	W. North Atlantic	-; N	7,411,000 (unk.; unk; 2014).		unk	225,687	Rare.

[1] 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 (see footnote 3) 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] Stock abundance as reported in NMFS marine mammal stock assessment reports (SAR) except where otherwise noted. SARs available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate. All values presented here are from the 2018 draft Atlantic SARs.

[3] This information represents species- or guild-specific abundance predicted by recent habitat-based cetacean density models (Roberts *et al.,* 2016, 2017, 2018). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Atlantic Ocean, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area. For those species marked with an asterisk, the available information supported development of either two or four seasonal models; each model has an associated abundance prediction. Here, we report the maximum predicted abundance.

[4] Potential biological removal, 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 size (OSP). Annual M/SI, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI values often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the draft 2018 SARs.

[5] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. Roberts *et al.* (2016) produced a density model for bottlenose dolphins that does not differentiate between offshore and coastal stocks.

[6] Abundance as reported in the 2007 Canadian Trans-North Atlantic Sighting Survey (TNASS), which provided full coverage of the Atlantic Canadian coast (Lawson and Gosselin, 2009). Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided superior coverage of a stock's range (as compared with NOAA shipboard survey effort), the resulting abundance estimate is considered more accurate than the current NMFS abundance estimate (derived from survey effort with inferior coverage of the stock range). NMFS stock abundance estimate for the common dolphin is 70,184. NMFS stock abundance estimate for the fin whale is 1,618. NMFS stock abundance estimate for the minke whale is 2,591.

[7] 2018 U.S. Atlantic draft SAR for the Gulf of Maine feeding population lists a current abundance estimate of 896 individuals. However, we note that the estimate is defined on the basis of feeding location alone (*i.e.,* Gulf of Maine) and is therefore likely an underestimate.

[8] NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 505,000.

Two marine mammal species that are listed under the Endangered Species Act (ESA) may be present in the project area and may be taken incidental to the proposed activity: The North Atlantic right whale and fin whale.

Below is a description of the species that have the highest likelihood of occurring in the project area and are thus expected to potentially be taken by the proposed activities. For the majority of species potentially present in the specific geographic region, NMFS has designated only a single generic stock

(*e.g.,* ''western North Atlantic'') for management purposes. This includes the ''Canadian east coast'' stock of minke whales, which includes all minke whales found in U.S. waters is also a generic stock for management purposes. For humpback whales, NMFS defines stocks on the basis of feeding locations, *i.e.,* Gulf of Maine. However, references to humpback whales in this document refer to any individuals of the species that are found in the specific geographic region. Any biologically important areas (BIAs) that overlap spatially with the project area are addressed in the species sections below.

North Atlantic Right Whale

The North Atlantic right whale ranges from calving grounds in the southeastern United States to feeding grounds in New England waters and into Canadian waters (Hayes *et al.,* 2018). Surveys have demonstrated the existence of seven areas where North Atlantic right whales congregate seasonally, including north and east of the proposed project area in Georges Bank, off Cape Cod, and in Massachusetts Bay (Hayes *et al.,* 2018). In the late fall months (*e.g.,* October), right whales are generally thought to depart from the feeding grounds in the North Atlantic and move south to their calving grounds off Georgia and Florida. However, recent research indicates our understanding of their movement patterns remains incomplete (Davis *et al.* 2017). A review of passive acoustic monitoring data from 2004 to 2014 throughout the western North Atlantic demonstrated nearly continuous year-round right whale presence across their entire habitat range (for at least some individuals), including in locations previously thought of as migratory corridors, suggesting that not all of the population undergoes a consistent annual migration (Davis *et al.* 2017). In recent years, right whales have been observed off Long Island during the summer, outside of the migration period (NEFSC, 2019). According to the NMFS Northeast Fisheries Science Center's (NEFSC) North Atlantic Right Whale Sighting Advisory System, 50 right whale observations were reported in the waters south of Long Island and north of New Jersey between May 2004 and May 2019, with 6 observations in the project area (NEFSC, 2019). The project area is not a known feeding area for right whales and right whales are not expected to be foraging along the southern coast of Long Island, including the project area, as their main prey species are typically concentrated in offshore waters several miles seaward of the Project area, and right whale foraging behavior has never been documented near the coast of Long Island. Therefore, any right whales in the vicinity of the project area are expected to be transient, most likely migrating through the area.

The western North Atlantic population demonstrated overall growth of 2.8 percent per year between 1990 to 2010, despite a decline in 1993 and no growth between 1997 and 2000 (Pace *et al.* 2017). However, since 2010 the population has been in decline, with a 99.99 percent probability of a decline of just under 1 percent per year (Pace *et al.* 2017). Between 1990 and 2015, calving rates varied substantially, with low calving rates coinciding with all three periods of decline or no growth (Pace *et al.* 2017). On average, North Atlantic right whale calving rates are estimated to be roughly half that of southern right whales (*Eubalaena australis*) (Pace *et al.* 2017), which are increasing in abundance (NMFS 2015). In 2018, no new North Atlantic right whale calves were documented in their calving grounds; this represented the first time since annual NOAA aerial surveys began in 1989 that no new right whale calves were observed. Seven right whale calves were documented in 2019. The current best estimate of population abundance for the species is 411 individuals, based on data as of September 4, 2018 (Pettis et al., 2018).

Elevated North Atlantic right whale mortalities have occurred since June 7, 2017 along the U.S. and Canadian coast. A total of 27 confirmed dead stranded whales (19 in Canada; 8 in the United States) have been documented. This event has been declared an Unusual Mortality Event (UME), with human interactions, including entanglement in fixed fishing gear and vessel strikes, implicated in at least 13 of the mortalities thus far. More information is available online at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2019-north-atlantic-right-whale-unusual-mortality-event.*

NMFS' regulations at 50 CFR 224.105 designated nearshore waters of the Mid-Atlantic Bight as Mid-Atlantic U.S. Seasonal Management Areas (SMA) for right whales in 2008. SMAs were developed to reduce the threat of collisions between ships and right whales around their migratory route and calving grounds. A portion of one SMA, which is associated with the port of New York and New Jersey, overlaps spatially with the easternmost part of the project area (see Figure 7 in the IHA application). The SMA that occurs off New York and New Jersey is active from November 1 through April 30 of each year.

Fin Whale

Fin whales are common in waters of the U. S. Atlantic EEZ, principally from Cape Hatteras northward (Waring *et al.,* 2016). Fin whales are present north of 35-degree latitude in every season and are broadly distributed throughout the western North Atlantic for most of the year, though densities vary seasonally (Waring *et al.,* 2016). Fin whales are found in small groups of up to five individuals (Brueggeman *et al.,* 1987). Fin whales have been observed in the waters off the eastern end of Long Island, but are more common in deeper waters and would not be expected to occur within Raritan Bay.

Humpback Whale

Humpback whales are found worldwide in all oceans. Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the project area.

There have been anecdotal reports of increased sightings of live humpback whales in the project area (Hynes, 2016; Brown *et al.,* 2018a). Between 2011 and 2016, there have been at least 46 humpback whale sightings within Lower New York Bay, Upper New York Bay, and Raritan Bay (Brown *et al.,* 2018a). Most sightings occurred during the summer months (July to September), with no documented sightings in the winter (Brown *et al.,* 2018). A total of 617 humpback whale sightings were reported within the New York Bight based on data collected from 2011–2017 (Brown *et al.,* 2018). During winter, the majority of humpback whales from North Atlantic feeding areas mate and calve in the West Indies, where spatial and genetic mixing among feeding groups occurs, though significant numbers of animals are found in mid- and high-latitude regions at this time and some individuals have been sighted repeatedly within the same winter season, indicating that not all humpback

whales migrate south every winter (Hayes *et al.,* 2018).

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the 99 known cases. Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2016-2019-humpback-whale-unusual-mortality-event-along-atlantic-coast.*

Minke Whale

Minke whales occur in temperate, tropical, and high-latitude waters. The Canadian East Coast stock can be found in the area from the western half of the Davis Strait (45° W) to the Gulf of Mexico (Hayes *et al.,* 2018). This species generally occupies waters less than 100 m deep on the continental shelf. There appears to be a strong seasonal component to minke whale distribution (Hayes *et al.,* 2018). During spring and summer, they appear to be widely distributed from just east of Montauk Point, Long Island, northeast to Nantucket Shoals, and north towards Stellwagen Bank and Jeffrey's Ledge (CeTAP, 1982). During the fall, their range is much smaller and their abundance is reduced throughout their range (CeTAP, 1982). During the winter, they are largely absent from the vicinity of the project area (Waring *et al.,* 2012).

Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina, with a total of 61 strandings recorded when this document was written. This event has been declared a UME. Full or partial necropsy examinations were conducted on more than 60 percent of the whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2019-minke-whale-unusual-mortality-event-along-atlantic-coast.*

Common Dolphin

The common dolphin is found world-wide in temperate to subtropical seas. In the North Atlantic, common dolphins are typically found over the continental shelf between the 100-m and 2,000-m isobaths and over prominent underwater topography and east to the mid-Atlantic Ridge (Hayes *et al.,* 2018), but may be found in shallower shelf waters as well. Common dolphins occur primarily east and north of Long Island and may occur in the project area during all seasons (CeTAP, 1982). Between 2011 and 2015, 68 common dolphins stranded in New York and 53 stranded in New Jersey (Hayes et al., 2018). During 2013, 23 common dolphins stranded along the Long Island coast (RFMRP 2014).

Bottlenose Dolphin

There are two distinct bottlenose dolphin mophotypes in the western North Atlantic: The coastal and offshore forms (Hayes *et al.,* 2018). The two mophotypes are genetically distinct based upon both mitochondrial and nuclear markers (Hoelzel *et al.* 1998; Rosel *et al.* 2009). The offshore form is distributed primarily along the outer continental shelf and continental slope in waters greater than 40 m from Georges Bank to the Florida Keys (Hayes et al., 2018). The Western North Atlantic Northern Migratory Coastal stock occupies coastal waters from the shoreline to approximately the 20-m isobath between Assateague, Virginia, and Long Island, New York during warm water months. The stock migrates in late summer and fall and, during cold water months (best described by January and February), occupies coastal waters from approximately Cape Lookout, North Carolina, to the North Carolina/Virginia border (Garrison *et al.,* 2017). Based on the known distribution of the Western North Atlantic Northern Migratory Coastal stock, this stock could potentially occur in the vicinity of the project during area during the the proposed project; however, Sandy Hook, NJ (southeast of Raritan Bay) represents the northern extent of the stock's range, and there have been no confirmed sightings of the stock within the project area itself (Hayes *et al.,* 2018).

Harbor Porpoise

Harbor porpoises occur from the coastline to deep waters (>1800 m; Westgate *et al.* 1998), although the majority of the population is found over the continental shelf in waters less than 150 m (Hayes *et al.,* 2018). In the project area, only the Gulf of Maine/Bay of Fundy stock of harbor porpoise may be present. This stock is found in U.S. and Canadian Atlantic waters and is concentrated in the northern Gulf of Maine and southern Bay of Fundy region, but their range extends to North Carolina, depending on the season (Hayes *et al.* 2018). In 2011, six sightings were recorded inside Long Island Sound with one sighting recorded just outside the Sound (NEFSC and SEFSC, 2011). Between 2011 and 2015, 33 harbor porpoises stranded in New York and 17 stranded in New Jersey (Hayes *et al.,* 2018).

Harbor Seal

The harbor seal is found in all nearshore waters of the North Atlantic and North Pacific Oceans and adjoining seas above about 30° N (Burns, 2009). In the western North Atlantic, harbor seals are distributed from the eastern Canadian Arctic and Greenland south to southern New England and New York, and occasionally to the Carolinas (Hayes *et al.,* 2018). Their presence in the region of the project area is seasonal, with increasing numbers from October to March and a peak in mid-March (Hoover *et al.,* 2013), when adults, sub-adults, and juveniles are expected to migrate south from Maine. They return north to the coastal waters of Maine and Canada in late spring (Katona *et al.,* 1993). The closest known haulout sites for harbor seals in the vicinity of the project area are located 2.9 km (1. 8 mi) southwest of the Ambrose Channel Crossing site (Sandy Hook Beach) and 16.1 km (10 statute miles) east of the MP14.5 to MP16.5 site (Sandy Hook Beach), with additional haulout sites along the neighboring islands to the north (CRESLI, 2019). The Coastal Research and Education Society of Long Island (CRESLI) has monitored seal populations in the project area for over 15 years and continues to conduct behavioral and population studies of seals around Long Island, including regular observations at a major haulout site at Cupsogue Beach Park, located approximately 96.6 km (60 mi) north of the project area on the eastern shore of Long Island. There are approximately 26 haulout locations around Long Island, and CRESLI has documented a total of 18,321 harbor seals during 334 surveys since 2004 (CRESLI, 2019).

Since July 2018, elevated numbers of harbor seal and gray seal mortalities have occurred across Maine, New Hampshire and Massachusetts. This

event has been declared a UME. Additionally, stranded seals have shown clinical signs as far south as Virginia, although not in elevated numbers, therefore the UME investigation now encompasses all seal strandings from Maine to Virginia. Lastly, ice seals (harp and hooded seals) have also started stranding with clinical signs, again not in elevated numbers, and those two seal species have also been added to the UME investigation. A total of 1,593 reported strandings (of all species) had occurred as of the writing of this document. Full or partial necropsy examinations have been conducted on some of the seals and samples have been collected for testing. Based on tests conducted thus far, the main pathogen found in the seals is phocine distemper virus. NMFS is performing additional testing to identify any other factors that may be involved in this UME. Information on this UME is available online at: *www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018-2019-pinniped-unusual-mortality-event-along.*

Gray Seal

There are three major populations of gray seals found in the world; eastern Canada (western North Atlantic stock), northwestern Europe and the Baltic Sea. Gray seals in the project area belong to the western North Atlantic stock. The range for this stock is from New Jersey to Labrador. Current population trends show that gray seal abundance is likely increasing in the U.S. Atlantic EEZ (Hayes *et al.,* 2018). Although the rate of increase is unknown, surveys conducted since their arrival in the 1980s indicate a steady increase in abundance in both Maine and Massachusetts (Hayes *et al.,* 2018). It is believed that recolonization by Canadian gray seals is the source of the U.S. population (Hayes *et al.,* 2018). The closest known haulout sites for gray seals in the vicinity of the project area are located 2.9 km (1.8 mi) southwest of the Ambrose Channel Crossing site (Sandy Hook Beach) and 16.1 km (10 mi) east of the MP14.5 to MP16.5 site (Sandy Hook Beach). Additional haulout sites are likely Little Gull Island in the Long Island Sound (CRESLI, 2019). Gray seals also haul out on Great Gull Island and Little Gull Island in eastern Long Island Sound (DiGiovanni *et al.,* 2015).

As described above, elevated seal mortalities, including gray seals, have occurred from Maine to Virginia since July 2018. This event has been declared a UME, with phocine distemper virus identified as the main pathogen found in the seals. NMFS is performing additional testing to identify any other factors that may be involved in this UME. Information on this UME is available online at: *www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018-2019-pinniped-unusual-mortality-event-along.*

Harp Seal

Harp seals are highly migratory and occur throughout much of the North Atlantic and Arctic Oceans (Hayes *et al.,* 2018). Breeding occurs between late-February and April and adults then assemble on suitable pack ice to undergo the annual molt. The migration then continues north to Arctic summer feeding grounds. Harp seal occurrence in the project area is considered rare. However, since the early 1990s, numbers of sightings and strandings have been increasing off the east coast of the United States from Maine to New Jersey (Katona *et al.* 1993; Rubinstein 1994; Stevick and Fernald 1998; McAlpine 1999; Lacoste and Stenson 2000; Soulen *et al.* 2013). These extralimital appearances usually occur in January–May (Harris *et al.* 2002), when the western North Atlantic stock is at its most southern point of migration. Between 2011 and 2015, 78 harp seals stranded (mortalities) in New York and 22 stranded (mortalities) in New Jersey (Hayes *et al.,* 2018). During 2013, eight harp seals stranded (mortalities and alive) on Long Island (RFMRP, 2014). All of those strandings occurred between January and June.

As described above, elevated seal mortalities, including harp seals, have occurred across Maine, New Hampshire and Massachusetts, and as far south as Virginia, since July 2018. This event has been declared a UME, with phocine distemper virus identified as the main pathogen found in the seals. NMFS is performing additional testing to identify any other factors that may be involved in this UME. Information on this UME is available online at: *www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018–2019-pinniped-unusual-mortality-event-along.*

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, 2019) 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 decibel (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. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.

TABLE 3—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)—Continued

Hearing group	Generalized hearing range *
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

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 (2018) for a review of available information. Nine marine mammal species (six cetacean and three pinniped (all phocid species)) have the reasonable potential to co-occur with the proposed activities. Please refer to Table 2. Of the cetacean species that may be present, three are classified as low-frequency cetaceans (*i.e.,* all mysticete species), two are classified as mid-frequency cetaceans (*i.e.,* all delphinid species), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The *Estimated Take* 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* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

This section contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel (dB). A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event, and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source, and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for sound produced by the pile driving activity considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 hertz (Hz) and 50 kilohertz (kHz) (Mitson, 1995). In general, ambient

sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 decibels (dB) from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Underwater ambient sound in Raritan Bay and the New York Bight is comprised of sounds produced by a number of natural and anthropogenic sources. Human-generated sound is a significant contributor to the ambient acoustic environment in the project location. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

The impulsive sound generated by impact hammers is characterized by rapid rise times and high peak levels. Vibratory hammers produce non-impulsive, continuous noise at levels significantly lower than those produced by impact hammers. Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (*e.g.,* Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

Acoustic Effects

We previously provided general background information on marine mammal hearing (see ''Description of Marine Mammals in the Area of the Specified Activity''). Here, we discuss the potential effects of sound on marine mammals.

Potential Effects of Underwater Sound—Note that, in the following discussion, we refer in many cases to a review article concerning studies of noise-induced hearing loss conducted from 1996–2015 (*i.e.,* Finneran, 2015). For study-specific citations, please see that work. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to pile driving.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that pile driving may result in such effects (see below for further

discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The construction activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal, and California sea lion (*Zalophus californianus*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2018).

Behavioral Effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent

responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007). However, many delphinids approach low-frequency airgun source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012), indicating the importance of frequency output in relation to the species' hearing sensitivity.

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.;* 2004; Goldbogen *et al.,* 2013a, 2013b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007; Gailey *et al.,* 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from airgun surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially

reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress Responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment if disrupting behavioral patterns. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine

mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Potential Effects of the Specified Activity—As described previously (see ''Description of Active Acoustic Sound Sources''), Transco proposes to conduct pile driving and pile removal. The effects of pile driving and removal on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the distance between the pile and the animal; and the sound propagation properties of the environment.

Noise generated by impact pile driving consists of regular, pulsed sounds of short duration. These pulsed sounds are typically high energy with fast rise times. Exposure to these sounds may result in harassment depending on proximity to the sound source and a variety of environmental and biological conditions (Dahl et al. 2015; Nedwell et al., 2007). Illingworth & Rodkin (2007) measured an unattenuated sound pressure within 10 m (33 ft) at a peak of 220 dB re 1 µPa for a 2.4 m (96 in) steel pile driven by an impact hammer. Studies of underwater sound from pile driving finds that most of the acoustic energy is below one to two kHz, with broadband sound energy near the source (40 Hz to >40 kHz) and only low-frequency energy (<~400 Hz) at longer ranges (Bailey et al., 2010; Erbe, 2009; Illingworth & Rodkin, 2007). There is typically a decrease in sound pressure and an increase in pulse duration the greater the distance from the noise source (Bailey et al., 2010). Maximum noise levels from pile driving usually occur during the last stage of driving each pile where the highest hammer energy levels are used (Betke, 2008).

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007). It is possible that the onset of pile driving could result in temporary, short-term changes in an animal's typical behavioral patterns and/or temporary avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses. The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could lead to effects on growth, survival, or reproduction, such as drastic changes in diving/surfacing patterns or significant habitat abandonment are considered extremely unlikely in the case of the proposed project, as it is expected that mitigation measures, including clearance zones and soft start (described in detail below, see ''Proposed Mitigation Measures'') will minimize the potential for marine mammals to be exposed to sound levels that would result in more extreme behavioral responses. In addition, marine mammals in the project area are expected to avoid any area that would be ensonified at sound levels high enough for the potential to result in more severe acute behavioral responses, as the environment within Raritan Bay would allow marine mammals the ability to freely move to other areas of the Bay without restriction.

In the case of pile driving, sound sources would be active for relatively short durations, with relation to potential for masking. The frequencies output by pile driving activity are lower than those used by most species expected to be regularly present for communication or foraging. Those species who would be more susceptible to masking at these frequencies (LF cetaceans) use the area only seasonally. We expect insignificant impacts from masking, and any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for pile driving, and which have already been taken into account in the exposure analysis.

Anticipated Effects on Marine Mammal Habitat

The proposed activities would not result in permanent impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish. The proposed activities could also affect acoustic habitat (see masking discussion above), but meaningful impacts are unlikely. There are no known foraging hotspots, or other ocean bottom structures of significant biological importance to marine mammals present in the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (*e.g.,* fish). Impacts to the immediate substrate during installation of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time, without any expected effects on individual marine mammals. Impacts to substrate are therefore not discussed further.

Effects to Prey—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location and, for some, is not well documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.,* 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage,

barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.,* Pena *et al.,* 2013; Wardle *et al.,* 2001; Jorgenson and Gyselman, 2009; Cott *et al.,* 2012). More commonly, though, the impacts of noise on fish are temporary.

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.,* 2012b; Casper *et al.,* 2013).

The most likely impact to fish from pile driving activities in the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of an area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the expected short daily duration of individual pile driving events and the relatively small areas being affected.

The area likely impacted by the activities is relatively small compared to the available habitat in Raritan Bay. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Based on the information discussed herein, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations. Effects to habitat will not be discussed further in this document.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as noise from pile driving 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. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. 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 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 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 be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—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 impulsive and/or intermittent sources (*e.g.,* impact pile driving) and 120 dB rms for continuous sources (*e.g.,* vibratory driving). Transco's proposed activity includes the use of intermittent sources (impact pile driving) and continuous sources (vibratory driving), therefore use of the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment—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). The components of Transco's proposed activity that may result in the take of marine mammals include the use of impulsive and non-impulsive sources.

These thresholds are provided in Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 4—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.

Sound Propagation—Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * \log_{10}(R_1/R_2)$,

Where

B = transmission loss coefficient (assumed to be 15)

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log(range)). As is common practice in coastal waters, here we assume practical spreading loss (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Sound Source Levels—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. Acoustic measurements of pile driving at the project area are not available. Therefore, to estimate sound levels associated with the proposed project, representative source levels for installation and removal of each pile type and size were identified using the compendium compiled by the California Department of Transportation (Caltrans, 2015). The information presented in Caltrans (2015) is a compilation of SPLs recorded during various in-water pile driving projects in California, Oregon, Washington, and Nebraska. The compendium is a commonly used reference document for pile driving source levels when analyzing potential impacts on protected species, including marine mammals, from pile driving activities.

The proposed project would include impact and vibratory installation and vibratory removal of 0.25-m (10-in), 0.61-m (24-in), 0.86-m (34-in), 0.91-m (36-in), 0.91- to 1.2-m (36- to 48-in), and 1.5-m (60-in)-diameter steel pipe piles. Reference source levels from Caltrans (2015) were determined using data for piles of similar sizes, the same pile driving method as that proposed for the project, and at similar water depths (Table 5). While the pile sizes and water depths chosen as proxies do not exactly match those for the proposed project, they represent the closest matches available. It is assumed that the source levels shown in Table 5 are the most representative for each pile type and associated pile driving method. To be conservative, the representative sound source levels were based on the largest pile expected to be driven/removed at each potential in-water construction site. For example, where Transco may use a range of pile sizes (*i.e.,* 0.91 to 1.2 m (36 to 48 in)), the largest potential pile size (1.2 m (48 in)) was used in the modeling.

TABLE 5—MODELED PILE INSTALLATION AND REMOVAL SOURCE LEVELS

Pile diameter (in)	RMS (dB)		SEL	
	Impact	Vibratory	Impact	Vibratory
Installation				
10	.....	150	.....	150
24	.....	160	.....	160
34	193	168	183	168
36	193	168	183	168
48	.....	170	.....	170
60	195	170	185	170
Removal				
10	.....	150	.....	150
24	.....	160	.....	160
34	.....	168	.....	168
36	.....	168	.....	168
48	.....	170	.....	170
60	.....	170	.....	170

Since there would be many piles at each of the construction sites within close proximately to one another, it was not practical to estimate zones of influence (ZOIs) for each individual pile, and results would have been nearly identical for all similarly sized piles at each construction location. In order to simplify calculations, a representative pile site was selected for eight separate pile locations (Table 6) (See Figure 8 in the IHA application for the representative locations).

TABLE 6—REPRESENTATIVE PILE SITES SELECTED FOR MODELING

Location/mile post (MP)	Pile size (inches)
HDD Morgan Offshore (MP 12.59)	24
	36
	48
Neptune Power Cable Crossing (MP 13.84)	10
MP 14.5 to MP 16.5	24
MP 28.0 to MP 29.36	34
HDD Ambrose West Side (MP 29.4)	24
	36
	48
	60
HDD Ambrose East Side (MP 30.48)	24
	36
	48
	60
MP 34.5 to MP 35.04	34
Neptune Power Cable Crossing (MP 35.04)	10

For strings where only a single pile type would be installed or removed (*i.e.,* Neptune Power Cable Crossing MP13.84 and MP35.04, MP14.5 to MP16.5, MP28.0 to MP29.36, and MP34.5 to MP35.04), the representative pile location was selected in the middle of the string. For the HDD Morgan Offshore string site, the location closest to the platform installation was selected as the representative pile location as it represents the area with the largest pile sizes. The HDD Ambrose West Side and HDD Ambrose East Side representative pile locations were selected based on the entry and exit pits. The HDD Ambrose East Side is the entry pit and the HDD Ambrose West Side is the exit pit. This would also represent the outer limit of the HDD Ambrose string, and is therefore the most conservative modeling option.

Distances to isopleths associated with Level A and Level B harassment thresholds were calculated for each pile size, for vibratory and impact installation and removal activities, at the representative pile locations (Table 6). 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 pile driving from the proposed project the NMFS Optional User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS. Inputs used in the Optional User Spreadsheet, and the resulting isopleths, are reported below. The ''Impact Pile Driving'' and ''Non-Impulse-stationary-continuous'' tabs of the Optional User Spreadsheet were used to calculate isopleth distances to the Level A harassment thresholds for impact and vibratory driving, respectively.

The updated acoustic thresholds for impulsive sounds (such as pile driving) contained in the Technical Guidance (NMFS, 2018) were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. Isopleth distances to relevant Level A harassment thresholds were calculated, for both the SEL_{cum} and peak sound pressure level metrics, for all pile sizes at the representative pile driving locations as described above. The largest modeled isopleth distance to harassment thresholds based on the peak SPL metric was 34.1 m which was modeled based on 60 inch piles for the high frequency functional hearing group

(threshold of 202 dB re 1 μPa; Table 4). Calculation of isopleth distances to relevant Level A harassment thresholds for all pile sizes and all marine mammal functional hearing groups resulted in greater modeled distances associated with the SEL_{cum} metric than the peak sound pressure level metric, thus the modeled distances associated with the SEL_{cum} metric were carried forward in the exposure analysis to be conservative. It should be noted that this method likely results in a conservative estimate of Level A exposures because the SEL_{cum} metric assumes continuous exposure to the total duration of pile driving anticipated for a given day, which represents an unlikely scenario given that there is likely both some temporal and spatial separation between pile driving operations within a day (when multiple piles are driven), and that marine mammals are mobile and would be expected to move away from a sound source before it reached a level that would have the potential to result in auditory injury. Inputs to the Optional User Spreadsheet are shown in Tables 7 and 8. The resulting isopleth distances to Level A harassment thresholds are shown in Tables 9 and 10.

TABLE 7—INPUTS TO NMFS OPTIONAL USER SPREADSHEET (NMFS, 2018) TO CALCULATE ISOPLETH DISTANCES TO LEVEL A HARASSMENT THRESHOLDS FOR VIBRATORY DRIVING AND REMOVAL

Pile size (representative pile location)	Source level (RMS SPL)	Pile driving duration (hours) within 24-hour period	Pile removal duration (hours) within 24-hour period	Weighting factor adjustment (kHz)	Propagation (xLogR)	Distance of source level measurement (m)
10 in. (Neptune Power Cable Crossing MP 13.84)	150	1.0	1.0	2.5	15	10
10 in. (Neptune Power Cable Crossing MP 35.04)	150	0.5	0.5	2.5	15	10
24 in. (Ambrose East MP 30.48)	160	1.25	5.5	2.5	15	10
24 in. (Ambrose West MP 29.4)	160	1.5	0.5	2.5	15	10
24 in. (Morgan Offshore MP 12.59)	160	1.0	0.3	2.5	15	10
24 in. (MP 14.5)	160	1.25	2.75	2.5	15	10
36 in. (Morgan Offshore MP 12.59)	168	1.0	4	2.5	15	10
36 in. (Ambrose East MP 30.48)	168	0.75	0.75	2.5	15	10
36 in. (Ambrose West MP 29.4)	168	0.5	0.75	2.5	15	10
48 in. (Ambrose East MP 30.48)	170	2.0	2.0	2.5	15	10
48 in. (Ambrose West MP 29.4)	170	1.0	2.0	2.5	15	10
48 in. (Morgan Offshore MP 12.59)	170	1.0	0.75	2.5	15	10
60 in. (Ambrose East MP 30.48)	170	0.25	0.25	2.5	15	10
60 in. (Ambrose West MP 29.4)	170	0.5	4.0	2.5	15	10

Note: Tab A (“Non Impulsive Static Continuous”) in the NMFS Optional User Spreadsheet (NMFS, 2018) was used for all calculations for vibratory installation of piles.

TABLE 8—INPUTS TO NMFS OPTIONAL USER SPREADSHEET (NMFS, 2018) TO CALCULATE ISOPLETH DISTANCES TO LEVEL A HARASSMENT THRESHOLDS FOR IMPACT DRIVING

Pile size (representative pile location)	Source level (RMS SPL)	Number of strikes per pile	Number of piles per day	Weighting factor adjustment (kHz)	Propagation (xLogR)	Distance of source level measurement (m)
36 in. (Morgan Offshore MP 12.59)	183	2,500	*2/4	2	15	10
60 in. (Ambrose West	185	3,382	2	2	15	10

*The number of piles driven per day will vary based on the construction schedule, thus both scenarios (*i.e.,* 2 and 4 piles driven per day) were modeled.

Note: Tab E1 (“Impact Pile Driving”) in the NMFS Optional User Spreadsheet (NMFS, 2018) was used for all calculations for impact pile driving.

NMFS has established Level B harassment thresholds of 160 dB re1μPa (rms) for impulsive sounds (*e.g.,* impact pile driving) and 120 dB re1μPa (rms) for non-impulsive sounds (*e.g.,* vibratory driving and removal). Based on the predicted source levels associated with various pile sizes (Table 5) the distances from the pile driving/removal equipment to the Level B harassment thresholds were calculated, using the distance to the 160 dB threshold for the diesel impact hammer and the distance to the 120 dB threshold for the vibratory device, at the representative pile locations (Table 6). It should be noted that while sound levels associated with the Level B harassment threshold for vibratory driving/removal were estimated to propagate as far as 21,544 m (13 mi) from pile installation and removal activities based on modeling, it is likely that the noise produced from vibratory activities associated with the project would be masked by background noise before reaching this distance, as the Port of New York and New Jersey, which represents the busiest port on the east coast of the United States and the third busiest port in the United States, is located near the project area and sounds from the port and from vessel traffic propagate throughout the project area. However, take estimates conservatively assume propagation of project-related noise to the full extent of the modeled isopleth distance to the Level B harassment threshold. The modeled distances to isopleths associated with Level B harassment thresholds for impact and vibratory driving are shown in Tables 9 and 10.

TABLE 9—MODELED ISOPLETH DISTANCES TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR IMPACT AND VIBRATORY PILE INSTALLATION

			Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid seals	Cetaceans and phocids
Impulsive			183 dB	185 dB	155 dB	185 dB	160 dB
Non-Impulsive			199 dB	198 dB	173 dB	201 dB	120 dB
Location/mile post (MP)	Pile size (inches)	Hammer type	Distance to Level A harassment threshold (m)*				Distance to Level B harassment threshold (m)
HDD Morgan Offshore (MP 12.59)	24	Vibratory	5.9	0.5	8.7	3.6	4,641.6
	36	Vibratory	20.0	1.8	29.6	12.2	15,848.9
		Impact	4,635.2	164.9	5,521.3	2,480.6	1,584.9
	48	Vibratory	27.2	2.4	40.2	16.5	21,544.3
Neptune Power Cable Crossing (MP 13.84).	10	Vibratory	1.3	0.1	1.9	0.8	1,000.0
MP 14.5 to MP 16.5	24	Vibratory	6.8	0.6	10.1	4.1	4,641.6
MP 28.0 to MP 29.36	34	Vibratory	20.0	1.8	29.6	12.2	15,848.9
HDD Ambrose West Side (MP 29.4)	24	Vibratory	7.7	0.7	11.3	4.7	4,641.6
	36	Vibratory	12.6	1.1	18.6	7.7	15,848.9
	48	Vibratory	27.2	2.4	40.2	16.5	21,544.3
	60	Vibratory	17.1	1.5	25.3	10.4	21,544.3
		Impact	4,855.2	172.7	5,783.3	2,598.3	2,154.4
HDD Ambrose East Side (MP 30.48)	24	Vibratory	6.8	0.6	10.1	4.1	4,641.6
	36	Vibratory	16.5	1.5	24.4	10.0	15,848.9
	48	Vibratory	43.2	3.8	63.8	26.2	21,544.3
	60	Vibratory	10.8	1.0	16.0	6.6	21,544.3
MP 34.5 to MP 35.04	34	Vibratory	12.6	1.1	18.6	7.7	15,848.9
		Impact	2,920.0	103.9	3,478.2	1,562.7	1,584.9
Neptune Power Cable Crossing (MP 35.04).	10	Vibratory	0.8	0.1	1.2	0.5	1,000.0

*All distances shown are based on the SELcum metric. Distances to the peak SPL metric for impact driving were smaller than those for the SELcum metric for all pile sizes and scenarios.

TABLE 10—MODELED ISOPLETH DISTANCES TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR VIBRATORY PILE REMOVAL

			Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid seals	Cetaceans and phocids
Non-Impulsive			199 dB	198 dB	173 dB	201 dB	120 dB
Location/mile post (MP)	Pile size (inches)	Hammer type	Distance to Level A harassment threshold (m)				Distance to Level B harassment threshold (m)
HDD Morgan Offshore (MP 12.59)	24	Vibratory	2.6	0.2	3.9	1.6	4,641.6
	36	Vibratory	50.4	4.5	74.5	30.6	15,848.9
	48	Vibratory	22.4	2.0	33.2	13.6	21,544.3
Neptune Power Cable Crossing (MP 13.84).	10	Vibratory	1.3	0.1	1.9	0.8	1,000.0
MP 14.5 to MP 16.5	24	Vibratory	11.5	1.0	17.0	7.0	4,641.6
MP 28.0 to MP 29.36	34	Vibratory	41.6	3.7	61.5	25.3	15,848.9
HDD Ambrose West Side (MP 29.4)	24	Vibratory	3.7	0.3	5.5	2.2	4,641.6
	36	Vibratory	16.5	1.5	24.4	10.0	15,848.9
	48	Vibratory	43.2	3.8	63.8	26.2	21,544.3
	60	Vibratory	68.5	6.1	101.3	41.6	21,544.3
HDD Ambrose East Side (MP 30.48)	24	Vibratory	18.3	1.6	27.0	11.1	4,641.6
	36	Vibratory	16.5	1.5	24.4	10.0	15,848.9
	48	Vibratory	43.2	3.8	63.8	26.2	21,544.3
	60	Vibratory	10.8	1.0	16.0	6.6	21,544.3
MP 34.5 to MP 35.04	34	Vibratory	12.6	1.1	18.6	7.7	15,848.9
Neptune Power Cable Crossing (MP 35.04).	10	Vibratory	0.8	0.1	1.2	0.5	1,000.0

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

There are no marine mammal density estimates for Raritan Bay. The best available information regarding marine mammal densities in the project area is provided by habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018). These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts et al., 2016); more information, including the model results and supplementary information for each model, is available at *seamap.env.duke.edu/models/Duke-EC-GOM-2015/.* In subsequent years, certain models have been updated on the basis of additional data as well as certain methodological improvements. Although these updated models (and a newly developed seal density model) are not currently publicly available, our evaluation of the changes leads to a conclusion that these represent the best scientific evidence available. Marine mammal density estimates in the project area (animals/km^2) were obtained using these model results (Roberts *et al.,* 2016, 2017, 2018). As noted, the updated models incorporate additional sighting data, including sightings from the NOAA Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys from 2010–2014 (NEFSC & SEFSC, 2011b, 2012, 2014a, 2014b, 2015, 2016). For each cetacean species, density data for summer (June–August) and fall (September, October, November) were used to generate source grids by averaging monthly densities (see Figure 15 in the IHA application for an example of one such source grid). Since the source density grids do not extend to Raritan Bay, the grids were extrapolated to cover the bay and values were pulled from the nearest grid cell to assign density values to those empty cells in order to approximate densities in Raritan Bay (see Figure 16 in the IHA application). The resulting density grid was used to calculate take estimates of marine mammals for pile installation and removal activities. It should be noted that this approach likely results in conservative estimates of cetacean density for the project area, as cetacean densities in Raritan Bay are expected to be lower than the densities in the areas of the Atlantic Ocean from which the densities were extrapolated (with the exception of humpback whales, as described below).

For harbor seals and gray seals, densities were first obtained from Roberts et al. (2018), as described above for cetacean densities. However, because the pinniped data used in the Roberts et al. (2018) density models were derived from offshore aerial and vessel surveys, the models did not accurately represent the densities of pinnipeds that would be expected in Raritan Bay, as they underestimate densities that would be expected closer to shore which would be higher than those offshore due to closer proximity to haulouts. Thus, the extrapolation of pinniped densities from Roberts et al. (2018) to Raritan Bay resulted in exposure estimates that were not consistent with expectations of actual pinniped densities based on the number of opportunistic sightings reported in the project area. There have been no systematic studies focusing on seal populations within Raritan Bay, Lower New York Bay, or Sandy Hook Bay. Therefore, pinniped densities were estimated using systematic data collected by Coastal Research and Education Society of Long Island, Inc. (CRESLI) from November 18, 2018, to April 16, 2019, at Cupsogue Beach Park in Westhampton Beach, NY (CRESLI, 2019).

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. The following steps were performed to estimate the potential numbers of marine mammal exposures above Level A and Level B harassment thresholds as a result of the proposed activity:

1. Distances to isopleths corresponding to Level A and Level B harassment thresholds were calculated for each pile size for vibratory and impact installation and removal activities at the representative pile locations within the Project area, as described above.

2. GIS analysis was then used, incorporating these distance values and a viewshed analysis (described below), to calculate resulting ZOIs.

3. Species density estimations were incorporated in the GIS analysis to determine estimated number of daily exposures.

4. Daily exposure estimates were multiplied by the duration (days) of the corresponding in-water construction activity (based on pile size and location).

As described above, the distances to isopleths associated with Level A and Level B harassment thresholds were calculated for each pile size for vibratory and impact installation and removal activities (Tables 9 and 10). These distances to relevant thresholds were then incorporated into a GIS analysis to analyze the relevant ZOIs within which take of marine mammals would be expected to occur. Given that the proposed activity would occur in a semi-enclosed bay, the modeled distances to thresholds would in some cases be truncated by land (*i.e.,* the sounds from the proposed activity would not propagate to the full modeled isopleth distances because of the presence of land, which in some cases is closer to the pile driving/removal location than the total distances). A viewshed analysis is a standard technique used in GIS to determine whether an area is visible from a specific location (Kim et al., 2004). The analysis uses an elevation value of two points with direct line of sight to determine the likelihood of seeing the elevated point from the ground. Incorporating the viewshed analysis allowed GIS modeling of sound propagation to replicate how sound waves traveling through the water are truncated when they encounter land. GIS modeling used an artificial elevation model setting the water to zero (ground) and any land mass to 100 (elevated point) and focusing only on areas within the Project area where sound would propagate. Any land within direct 'line of sight' to the sound source would prevent the sound from propagating farther. This method was applied to each of the eight representative pile locations. This simple model does not account for diffusion, which would be minimal with large landmasses; therefore in the model no sound bends around landmasses. See Figure 9 in the IHA application for an example of applying the viewshed analysis to a single representative pile location (HDD Morgan Offshore).

A custom Python script was developed to calculate potential cetacean takes due to pile installation and removal activities. The script overlays the species-specific Level A and Level B harassment ZOIs (each clipped by the viewshed) for each pile size and type at each of the representative pile locations (Table 6), over the density grid cells. The script then multiplies the total density value by the area of the ZOI, resulting in initial take estimate outputs. The following formulas were implemented by the script for each species at each representative pile location:

Initial Level A take estimate = ZOI * d

Initial Level B take estimate = ZOI * d

Where:

ZOI = the ensonified area at or above the species-specific acoustic threshold, clipped by the viewshed.
d = density estimate for each species within the ZOI.

The initial take estimates were then multiplied by the duration (days) of the corresponding in-water construction activity (based on pile size and location). The following formulas demonstrate this method:

Level A take estimate = initial take estimate * X days of activity
Level B take estimate = initial take estimate * X days of activity

Where:

X days of activity = number of days for which the corresponding in-water construction activity occurs.

These numbers were then totaled to provide estimates of the numbers of take by Level A and Level B harassment for each species. The exposure numbers were rounded to the nearest whole individual. As the construction schedule has not yet been finalized, the take calculations described above were performed for two scenarios: (1) All construction activities occurring during summer 2020, and (2) installation occurring during the summer and removal in fall of 2020. To be conservative, the higher take estimates calculated between the two scenarios were then carried forward in the analysis.

Note that for bottlenose dolphins, the density data presented by Roberts et al. (2016) does not differentiate between bottlenose dolphin stocks. Thus, the take estimate for bottlenose dolphins calculated by the method described above resulted in an estimate of the total of bottlenose dolphins expected to be taken, from all stocks (for a total of 6,331 takes by Level B harassment). However, as described above, both the Western North Atlantic Northern Migratory Coastal stock and the Western North Atlantic Offshore stock have the potential to occur in the project area. As the project area represents the extreme northern extent of the known range of the Western North Atlantic Northern Migratory Coastal stock, and as dolphins from the Western North Atlantic Northern Migratory Coastal stock have never been documented in Raritan Bay, we assume that 25 percent of bottlenose dolphins taken would be from the North Atlantic Northern Migratory Coastal stock and the remaining 75 percent of bottlenose dolphins taken will be from the Western North Atlantic Offshore stock. Thus, we allocated 75 percent of the total proposed authorized bottlenose dolphin takes to the Western North Atlantic Offshore stock (total 4,748 takes by Level B harassment), and 25 percent to the Western North Atlantic Northern Migratory Coastal stock (total 1,583 takes by Level B harassment) (Table 11).

For humpback whales and harbor, gray and harp seals, the methods used to estimate take were slightly different than the methodology described above. For humpback whales, the steps above resulted in zero exposures above the Level B harassment threshold. However, there are confirmed anecdotal sightings of humpback whales within or near the project area, indicating that potential exposures above the Level B harassment threshold may occur and therefore should be accounted for. As the exposure estimate method described above resulted in zero exposures, other methods for calculating take by Level B harassment were applied. Brown et al. (2018) reported 617 sightings of humpback whales within the New York Bight from 2011 to 2017. The total number of sightings was divided by the total number of years of surveys (n=6), and this number was then divided by 12 months, to estimate a mean number of whales per month. This number was then multiplied by a conservative number of months of pile driving and removal activities (n=4) to estimate the number of humpback whales that may be taken Level B harassment (Table 11).

As described above, local survey data represents the best available information on abundance estimates for pinnipeds in the project area. Estimates of take by Level B harassment for gray and harbor seals were calculated using systematic data collected by CRESLI from November 18, 2018, to April 16, 2019, where a total of 2,689 harbor seals were sighted at Cupsogue Beach Park. The total number of sightings was divided by the total number of survey months (n=5) to get a mean number of individual seals per month. This number was then multiplied by a conservative number of potential months of pile driving and removal activities (n=4) to estimate a total number of seals (2,151) expected to be taken over the duration of the proposed project. To estimate the potential number of gray seals and harbor seals that may be taken, the ratio of harbor seals (64 percent) versus gray seals (36 percent) was calculated based on available density data. The data presented by Roberts et al. (2018 does not differentiate by seal species. Thus the best available density information on the ratio of gray to harbor seals comes from the U.S. Navy's OPAREA Density Estimates (Halpin et al. 2009; Navy 2007, 2012). The ratio of gray to harbor seals in the OPAREA Density Estimates was therefore applied to the total number of seals estimated to be taken (n=2,151), to estimate the total number of gray and harbor seals expected to be taken during the duration of the proposed project. Based on this approach, we propose to authorize the incidental take of 1,377 harbor seals (2,151 * 0.64) and 774 gray seals (2,151 * 0.36).

To calculate estimates of take by Level A harassment for gray and harbor seals, a ratio of take by Level A harassment relative to take by Level B harassment was calculated using the NODES data. These estimates accounted for the spatial extent of potential exposure to noise that could result in Level A and B harassment since they were based on the ensonifed areas multiplied by the NODES densities. Therefore, an estimation of the potential exposure of pinnipeds to Level A harassment as a proportion of potential exposure of pinnipeds to Level B harassment was used to calculate a reasonable estimate of Level A harassment takes using the Level B harassment estimates. This ratio was 0.009 for harbor seals and 0.008 for gray seals; therefore, we propose to authorize the take by Level A harassment of 12 harbor seals (1,377 * 0.009) and 6 gray seals (774 * 0.008).

Due to lack of data and their rare occurrence in the Mid-Atlantic region, no densities for harp seals are available. However, harp seals have been documented along the southern coast of Long Island during the winter, and a recent pinniped UME has resulted in increased strandings of harp seals on the Atlantic coast. Because so few harp seals have been documented in the region of the project area, we estimate that up to four harp seals (the total number opportunistically observed at Cupsogue Beach (CRESLI, 2008) could enter the Level B harassment zone and be taken by Level B harassment. Take numbers proposed for authorization are shown in Table 11.

TABLE 11—TOTAL NUMBERS OF POTENTIAL INCIDENTAL TAKES OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION AND PROPOSED TAKES AS A PERCENTAGE OF POPULATION

Species	Takes by Level A harassment proposed for authorization	Takes by Level B harassment proposed for authorization	Total takes proposed for authorization	Total takes proposed for authorization as a percentage of stock taken *
Fin whale	0	5	5	0.1
Humpback Whale	0	34	34	2.1
Minke Whale	0	1	1	0.0
North Atlantic Right Whale	0	2	2	0.5
Bottlenose Dolphin—Western North Atlantic Northern Migratory Coastal stock	0	1,583	1,583	23.8
Bottlenose Dolphin—Western North Atlantic Offshore stock	0	4,748	4,748	6.1
Common Dolphin	0	95	95	0.1
Harbor porpoise	0	11	11	0.0
Gray seal	6	774	780	2.9
Harbor seal	12	1,377	1,389	1.8
Harp seal	0	4	4	0.0

* Calculations of percentage of stock taken are based on the best available abundance estimate as shown in Table 2. For North Atlantic right whales the best available abundance estimate is derived from the 2018 North Atlantic Right Whale Consortium 2018 Annual Report Card (Pettis et al., 2018). For the pinniped species the best available abundance estimates are derived from the most recent NMFS Stock Assessment Reports. For all other species, the best available abundance estimates are derived from Roberts et al. (2016, 2017, 2018).

The take numbers we propose for authorization are considered conservative for the following reasons:

- Density estimates assume are largely derived from adjacent grid-cells that likely overestimate density in the vicinity of the project area.
- Proposed Level A harassment take numbers do not account for the likelihood that marine mammals will avoid a stimulus when possible before that stimulus reaches a level that would have the potential to result in injury; and
- Proposed Level A harassment take numbers do not account for the effectiveness of proposed mitigation and monitoring measures in reducing the number of takes.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The mitigation strategies described below are consistent with those required and successfully implemented under previous incidental take authorizations issued in association with in-water construction activities. Modeling was performed to estimate zones of influence (ZOI; see ''Estimated Take''); these ZOI values were used to inform mitigation measures for pile driving activities to minimize Level A harassment and Level B harassment to the extent possible, while providing estimates of the areas within which Level B harassment might occur.

In addition to the specific measures described later in this section, Transco would conduct briefings for construction supervisors and crews, the marine mammal monitoring teams, and Transco staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.

Pre-Clearance Zones

Transco would use Protected Species Observers (PSOs) to establish pre-clearance zones around the pile driving equipment to ensure these zones are clear of marine mammals prior to the start of pile driving. The purpose of ''clearance'' of a particular zone is to prevent potential instances of auditory injury and potential instances of more severe behavioral disturbance as a result of exposure to pile driving noise (serious injury or death are unlikely outcomes even in the absence of mitigation measures) by delaying the activity before it begins if marine mammals are detected within certain pre-defined distances of the pile driving equipment. The primary goal in this case is to prevent auditory injury (Level A harassment), and the proposed pre-clearance zones are larger than the modeled distances to the isopleths corresponding to Level A harassment (based on peak SPL) for all marine mammal functional hearing groups. These zones vary depending on species and are shown in Table 12. All

distances to pre-clearance zones are the radius from the center of the pile being driven.

TABLE 12—PROPOSED PRE-CLEARANCE ZONES DURING TRANSCO PILE DRIVING AND REMOVAL ACTIVITIES

Species	Clearance zone
North Atlantic right whale	Any distance.
Fin and humpback whale	1,000 m.
All other marine mammal species.	100 m.

If a marine mammal is observed approaching or entering the relevant pre-clearance zones prior to the start of pile driving operations, pile driving activity would be delayed until either the marine mammal has voluntarily left the respective clearance zone and been visually confirmed beyond that zone, or, 30 minutes have elapsed without re-detection of the animal.

Prior to the start of pile driving activity, the pre-clearance zones will be monitored for 30 minutes to ensure that they are clear of the relevant species of marine mammals. Pile driving would only commence once PSOs have declared the respective pre-clearance zones clear of marine mammals. Marine mammals observed within a pre-clearance zone will be allowed to remain in the pre-clearance zone (*i.e.,* must leave of their own volition), and their behavior will be monitored and documented. The pre-clearance zones (to a distance of 1,000 m) may only be declared clear, and pile driving started, when the entire pre-clearance zones are visible (*i.e.,* when not obscured by dark, rain, fog, etc.) for a full 30 minutes prior to pile driving.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning marine mammals or providing them with a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. Transco will utilize soft start techniques for impact pile driving by performing an initial set of three strikes from the impact hammer at a reduced energy level followed by a thirty second waiting period. The soft start process would be conducted a total of three times prior to driving each pile (*e.g.,* three strikes followed by a thirty second delay, then three additional single strikes followed by a thirty second delay, then a final set of three strikes followed by an additional thirty second delay). Soft start would be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer.

Shutdown

The purpose of a shutdown is to prevent some undesirable outcome, such as auditory injury or behavioral disturbance of sensitive species, by halting the activity. If a marine mammal is observed entering or within the shutdown zones after pile driving has begun, the PSO will request a temporary cessation of pile driving. Transco has proposed that, when called for by a PSO, shutdown of pile driving would be implemented when feasible. However, if a shutdown is called for before a pile has been driven to a sufficient depth to allow for pile stability, then for safety reasons the pile would need to be driven to a sufficient depth to allow for stability and a shutdown would not be feasible until after that depth was reached. We therefore propose that shutdown would be implemented when feasible. If shutdown is called for by a PSO, and Transco determines a shutdown to be technically feasible, pile driving would be halted immediately. After shutdown, pile driving may be initiated once all clearance zones are clear of marine mammals for the minimum species-specific time periods, or, if required to maintain installation feasibility. For North Atlantic right whales, shutdown would occur when a right whale is observed by PSOs at any distance, and a shutdown zone of 85 m (279 ft) would be implemented for all other species (Table 13). The 500 m zone is proposed as a protective measure to avoid takes by Level A harassment, and potentially some takes by Level B harassment, of North Atlantic right whales. The 85 m zone was calculated based on the distance to the Level A harassment threshold based on the peak sound pressure metric (202 dB re 1µ Pa) for a 66-inch steel pile, plus an additional 50 m (164-ft) buffer.

TABLE 13—PROPOSED SHUTDOWN ZONES DURING TRANSCO PILE DRIVING AND REMOVAL ACTIVITIES

Species	Shutdown zone
North Atlantic right whale	Any distance.
All other marine mammal species.	85 m.

Visibility Requirements

All in-water construction and removal activities would be conducted during daylight hours, no earlier than 30 minutes after sunrise and no later than 30 minutes before sunset. Pile driving would not be initiated at night, or, when the full extent of all relevant clearance zones cannot be confirmed to be clear of marine mammals, as determined by the lead PSO on duty. The clearance zones may only be declared clear, and pile driving started, when the full extent of all clearance zones are visible (*i.e.,* when not obscured by dark, rain, fog, etc.) for a full 30 minutes prior to pile driving.

Monitoring Protocols

Monitoring would be conducted before, during, and after pile driving activities. In addition, observers will record all incidents of marine mammal occurrence, regardless of distance from the construction activity, and monitors will document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zones will not result in delay of pile driving; that pile segment may be completed without cessation, unless the marine mammal approaches or enters the shutdown zone, at which point pile driving activities would be halted when practicable, as described above. Pile driving activities include the time to install a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

The following additional measures apply to visual monitoring:

(1) A minimum of two PSOs would be on duty at all times during pile driving and removal activity;

(2) Monitoring would be conducted by qualified, trained PSOs. One PSO would be stationed on the construction barge and one on an escort boat, during impact and vibratory pile installation and removal. The escort boat location would shift depending on work location, but will be a minimum of 100 to 200 m (328 to 656 ft) from the pile-driving location, depending on the site and the ensonification area associated with that specific pile-driving scenario;

(3) PSOs may not exceed four consecutive watch hours; must have a minimum two-hour break between watches; and may not exceed a combined watch schedule of more than 12 hours in a 24-hour period;

(4) Monitoring will be conducted from 30 minutes prior to commencement of pile driving, throughout the time required to drive a pile, and for 30 minutes following the conclusion of pile driving;

(5) PSOs will have no other construction-related tasks while conducting monitoring; and

(6) PSOs would have the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to document observations including, but not limited to: The number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury of marine mammals from construction noise within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs employed by Transco in satisfaction of the mitigation and monitoring requirements described herein must meet the following additional requirements:

- Independent observers (*i.e.,* not construction personnel) are required;
- At least one observer must have prior experience working as an observer;
- Other observers may substitute education (degree in biological science or related field) or training for experience;
- One observer will be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and
- NMFS will require submission and approval of observer CVs.

Vessel Strike Avoidance

Vessel strike avoidance measures will include, but are not limited to, the following, except under circumstances when complying with these measures would put the safety of the vessel or crew at risk:

- All vessel operators and crew must maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop their vessel to avoid striking these protected species;
- All vessels must travel at 10 knots (18.5 km/hr) or less within any designated Dynamic Management Area (DMA) for North Atlantic right whales;
- All vessels greater than or equal to 65 ft (19.8 m) in overall length will comply with 10 knot (18.5 km/hr) or less speed restriction in any Seasonal Management Area (SMA) for North Atlantic right whales per the NOAA ship strike reduction rule (73 FR 60173; October 10, 2008);
- All vessel operators will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;
- All survey vessels will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 500 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the right whale has moved outside of the vessel's path and beyond 500 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 500 m;
- All vessels will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean, with the exception of delphinoid cetaceans that voluntarily approach the vessel (*i.e.,* bow ride). Any vessel underway must remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway must reduce vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped; and
- All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped.

Transco will ensure that vessel operators and crew maintain a vigilant watch for marine mammals by slowing down or stopping the vessel to avoid striking marine mammals. Project-specific training will be conducted for all vessel crew prior to the start of the construction activities. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet.

We have carefully evaluated Transco's proposed mitigation measures and considered a range of other measures in the context of ensuring that we prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of these measures, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal 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 stock for subsistence uses.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS

should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Marine Mammal Observations

Transco will collect sighting data and behavioral responses to pile driving activity for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. PSOs would monitor all clearance zones at all times. PSOs would also monitor Level B harassment zones and would document any marine mammals observed within these zones, to the extent practicable (noting that some distances to these zones are too large to fully observe). Transco would conduct monitoring before, during, and after pile driving and removal, with observers located at the best practicable vantage points.

Transco would implement the following monitoring procedures:

- A minimum of two PSOs will maintain watch at all times when pile driving or removal is underway;
- PSOs would be located at the best possible vantage point(s) to ensure that they are able to observe the entire clearance zones and as much of the Level B harassment zone as possible;
- During all observation periods, PSOs will use binoculars and the naked eye to search continuously for marine mammals;
- If the clearance zones are obscured by fog or poor lighting conditions, pile driving will not be initiated until clearance zones are fully visible. Should such conditions arise while impact driving is underway, the activity would be halted when practicable, as described above; and
- The clearance zones will be monitored for the presence of marine mammals before, during, and after all pile driving activity.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. PSOs will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to the protocol will be coordinated between NMFS and Transco.

Data Collection

We require that observers use standardized data forms. Among other pieces of information, Transco will record detailed information about any implementation of delays or shutdowns, including the distance of animals to the pile and a description of specific actions that ensued and resulting behavior of the animal, if any. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* wind speed, percent cloud cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- 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 activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Type of construction activity (*e.g.,* impact or vibratory driving/removal) when marine mammals are observed.
- Description of implementation of mitigation measures (*e.g.,* delay or shutdown).
- Locations of all marine mammal observations; and
- Other human activity in the area.

Transco would note behavioral observations, to the extent practicable, if an animal has remained in the area during construction activities.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of monitoring for each installation's in-water work window. The report would include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and would also provide descriptions of any behavioral responses to construction activities by marine mammals. The report would detail the monitoring protocol, summarize the data recorded during monitoring including an estimate of the number of marine mammals that may have been harassed during the period of the report, and describe any mitigation actions taken (*i.e.,* delays or shutdowns due to detections of marine mammals, and documentation of when shutdowns were called for but not implemented and why). A final report must be submitted within 30 days following resolution of comments on the draft report.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing

sources of human-caused mortality, or ambient noise levels).

Pile driving and removal activities associated with the proposed project, as described previously, have the potential to disturb or temporarily displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A harassment (potential injury) or Level B harassment (potential behavioral disturbance) from underwater sounds generated from pile driving and removal. Potential takes could occur if individual marine mammals are present in the ensonified zone when pile driving and removal is occurring. To avoid repetition, the our analyses apply to all the species listed in Table 1, given that the anticipated effects of the proposed project on different marine mammal species and stocks are expected to be similar in nature.

Impact pile driving has source characteristics (short, sharp pulses with higher peak levels and sharper rise time to reach those peaks) that are potentially injurious or more likely to produce severe behavioral reactions. However, modeling indicates there is limited potential for injury even in the absence of the proposed mitigation measures, with most species predicted to experience no Level A harassment based on modeling results. In addition, the potential for injury is expected to be greatly minimized through implementation of the proposed mitigation measures including soft start and the implementation of clearance zones that would facilitate a delay of pile driving if marine mammals were observed approaching or within areas that could be ensonified above sound levels that could result in auditory injury. Given sufficient notice through use of soft start, marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious or resulting in more severe behavioral reactions.

We expect that any exposures above the Level A harassment threshold would be in the form of slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving (*i.e.* the low-frequency region below 2 kHz), not severe hearing impairment. If hearing impairment occurs, it is most likely that the affected animal would lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. However, given sufficient notice through use of soft start, marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious or resulting in more severe behavioral reactions.

Additionally, the numbers of exposures above the Level A harassment proposed for authorization are very low for all marine mammal stocks and species: For 9 of 11 stocks, we propose to authorize no takes by Level A harassment; for the remaining two stocks we propose to authorize no more than 12 takes by Level A harassment. As described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start, thereby minimizing the degree of PTS that would be incurred. No serious injury or mortality of any marine mammal stocks are anticipated or proposed for authorization. Serious injury or mortality as a result of the proposed activities would not be expected even in the absence of the proposed mitigation and monitoring measures.

Repeated exposures of individuals to relatively low levels of sound outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Instances of more severe behavioral harassment are expected to be minimized by proposed mitigation and monitoring measures. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and temporarily avoid the area where pile driving is occurring. Therefore, we expect that animals disturbed by project sound would simply avoid the area during pile driving in favor of other, similar habitats. We expect that any avoidance of the project area by marine mammals would be temporary in nature and that any marine mammals that avoid the project area during construction activities would not be permanently displaced.

Feeding behavior is not likely to be significantly impacted, as prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during construction activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, 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. There are no areas of notable biological significance for marine mammal feeding known to exist in the project area. In addition, there are no rookeries, mating areas, calving areas or migratory areas known to be biologically important to marine mammals within the proposed project area.

NMFS concludes that exposures to marine mammals due to the proposed project would result in only short-term effects to individuals exposed. Marine mammals may temporarily avoid the immediate area but are not expected to permanently abandon the area. Impacts to breeding, feeding, sheltering, resting, or migration are not expected, nor are shifts in habitat use, distribution, or foraging success. NMFS does not anticipate the marine mammal takes that would result from the proposed project would impact annual rates of recruitment or survival.

As described above, north Atlantic right, humpback, and minke whales, and gray, harbor and harp seals are experiencing ongoing UMEs. For North Atlantic right whales, as described above, no injury as a result of the proposed project is expected or proposed for authorization, and Level B harassment takes of right whales are expected to be in the form of avoidance of the immediate area of construction. In addition, the number of exposures above the Level B harassment threshold are minimal (*i.e.,* 2). As no injury or mortality is expected or proposed for authorization, and Level B harassment of North Atlantic right whales will be reduced to the level of least practicable adverse impact through use of proposed mitigation measures, the proposed authorized takes of right whales would not exacerbate or compound the ongoing UME in any way. For minke whales, although the ongoing UME is under investigation (as occurs for all UMEs), this event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000

whales. Even though the PBR value is based on an abundance for U.S. waters that is negatively biased and a small fraction of the true population abundance, annual M/SI does not exceed the calculated PBR value for minke whales. With regard to humpback whales, the UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains healthy. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. The status review identified harmful algal blooms, vessel collisions, and fishing gear entanglements as relevant threats for this DPS, but noted that all other threats are considered likely to have no or minor impact on population size or the growth rate of this DPS (Bettridge et al., 2015). As described in Bettridge et al. (2015), the West Indies DPS has a substantial population size (*i.e.,* approximately 10,000; Stevick et al., 2003; Smith et al., 1999; Bettridge et al., 2015), and appears to be experiencing consistent growth.

With regard to gray seals, harbor seals and harp seals, although the ongoing UME is under investigation, the UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (345) is well below PBR (2,006) (Hayes et al., 2018). For gray seals, the population abundance is over 27,000, and abundance is likely increasing in the U.S. Atlantic EEZ and in Canada (Hayes et al., 2018). For harp seals, the current population trend in U.S. waters is unknown, as is PBR (Hayes et al., 2018), however the population abundance is over 7 million seals, suggesting that the UME is unlikely to result in population-level impacts (Hayes et al., 2018).

Proposed authorized takes by Level A harassment for all species are very low (*i.e.,* no more than 12 takes by Level A harassment proposed for any of these species) and as described above, any Level A harassment would be expected to be in the form of slight PTS, *i.e.* minor degradation of hearing capabilities which is not likely to meaningfully affect the ability to forage or communicate with conspecifics. No serious injury or mortality is expected or proposed for authorization, and Level B harassment of North Atlantic right, humpback and minke whales and gray, harbor and harp seals will be reduced to the level of least practicable adverse impact through use of proposed mitigation measures. As such, the proposed authorized takes of North Atlantic right, humpback and minke whales and gray, harbor and harp seals would not exacerbate or compound the ongoing UMEs in any way.

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 or serious injury is anticipated or proposed for authorization;
- The anticipated impacts of the proposed activity on marine mammals would be temporary behavioral changes due to avoidance of the project area and limited instances of Level A harassment in the form of a slight PTS for two marine mammal stocks;
- Potential instances of exposure above the Level A harassment threshold are expected to be relatively low for most species; any potential for exposures above the Level A harassment threshold would be minimized by proposed mitigation measures including clearance zones;
- Total proposed authorized takes as a percentage of population are low for all species and stocks (*i.e.,* less than 24 percent for one stock and less than 7 percent for the remaining 10 stocks);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the project area during the proposed project to avoid exposure to sounds from the activity;
- Effects on species that serve as prey species for marine mammals from the proposed project are expected to be short-term and are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations;
- There are no known important feeding, breeding, calving or migratory areas in the project area.
- The proposed mitigation measures, including visual and acoustic monitoring, clearance zones, and soft start, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under 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.

We propose to authorize incidental take of 11 marine mammal stocks. The total amount of taking proposed for authorization is less than 24 percent for one of these stocks, and less than 7 percent for all remaining stocks (Table 11), which we consider to be relatively small percentages and we preliminarily find are small numbers of marine mammals relative to the estimated overall population abundances for those stocks.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of all affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure

ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of North Atlantic right whales and fin whales, which are listed under the ESA. The NMFS Office of Protected Resources has requested initiation of Section 7 consultation with the NMFS Greater Atlantic Regional Fisheries Office for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Transco for conducting construction activities in Raritan Bay for a period of one year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed action. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal.

On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: August 28, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR009

Taking of Marine Mammals Incidental to Specific Activities; Taking of Marine Mammals Incidental to Pile Driving Activities During Construction of a Ferry Terminal at Seaplane Lagoon, Alameda Point, San Francisco, California

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Alameda (City) to incidentally harass, by Level A and B harassment only, marine mammals during pile driving and removal activities during construction of a ferry terminal at Seaplane Lagoon, Alameda Point, San Francisco, California.

DATES: This Authorization is effective from August 20, 2019 through August 19, 2020.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, 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/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 mitigation, monitoring and reporting of such takings are set forth.

Summary of Request

On February 22, 2019, NMFS received a request from the City for an IHA to take marine mammals incidental to pile driving activities during construction of a ferry terminal in Seaplane Lagoon, Alameda, California. The application was deemed adequate and complete on June 28, 2019. The applicant's request was for take seven species of marine mammals by Level B harassment only. Neither the City nor NMFS expects serious injury or mortality to result from

this activity and, therefore, an IHA is appropriate.

Description of Activity

Seaplane Lagoon is located at the western end of Alameda Island within the 150-acre Waterfront Town Center area of Alameda Point and on the former Alameda Point Naval Air Station in Alameda, California. The project area is located along the eastern shoreline of Seaplane Lagoon, west of Ferry Point, south of West Atlantic Avenue, and north of West Oriskany Avenue. The purpose of this project is to provide facilities to expand the existing ferry service from Alameda and Oakland to San Francisco in order to address the limited capacity at the existing Main Street Ferry Terminal, accommodate the anticipated increase in demand for ferry service from Alameda to San Francisco due to planned development of the Alameda Point Project, and to provide enhanced emergency response services to Alameda in the event of transbay service disruptions.

Project construction is expected begin in August 2019 and will be completed within approximately one year of initiation. All of the in-water work (float installation with piles and gangway) is expected to be completed within one environmental work season (August 20 to November 30). Approximately 24 total days of pile driving activities are estimated to occur, with 12 days of vibratory hammering installation and removal for template piles, 6 days of vibratory hammering for permanent piles, and 6 days of impact hammering for permanent piles.

A pier and abutment are required at the entrance to the ferry terminal to provide secure and safe entry from the land to the passenger access gangway. The pier will extend out from the abutment to provide sufficient depth for the ferry vessels and float. The abutment will be located on the shoreline and will consist of a concrete abutment (24 feet (ft) long by 3 ft wide) supported on steel piles. The pier will be placed in the water and consist of a cast-in-place concrete structure (83.1 ft long by 20 ft wide) supported on piles with a perimeter guardrail. Approximately six 24-inch (in) diameter octagonal concrete piles offshore of the revetment and four 24-in diameter steel piles inshore of the revetment will be used for the pier. The abutment and pier deck will be installed above the high tide line.

The pier will be covered by a canopy similar to those on other San Francisco Bay Area Water Emergency Transportation Authority (WETA) terminals in the San Francisco Bay Area. Dimensions would be longer than the pier by 16 ft (100 ft long by 20 ft wide), with an approximate height of 8.5 ft to 20 ft above the pier deck. The additional length would overhang the pier landside and shade the stairs up to the pier.

A gangway will connect the pier to the boarding float. The aluminum gangway (90 ft long by 10 ft wide) will be supported on the landside end of the pier by cantilevered seat supports, and the waterside end of the gangway will be supported by a boarding float. The finished walking surface, which will consist of fiberglass micromesh decking, will range in elevation from 8.4 ft at the pier to approximately 4.4 ft above the water surface on the boarding float.

The Seaplane Lagoon Ferry Terminal will include a boarding float where passengers will board and disembark from the ferry (see Figure 3 of the application). The float structure will be a steel pontoon barge (135 ft long by 42 ft wide by 8 ft deep) with internal compartments. Fenders and mooring cleats will be located around the perimeter of the float to accommodate vessel berthing scenarios. The float will be held in position with an arrangement of four 36-in diameter steel guide piles and two 36-in diameter steel fender piles, totaling six piles.

Piles will be installed for the abutment, pier, and float. The 36-in steel piles will be installed with a vibratory hammer, 24-in concrete piles will be installed with an impact hammer, and 14-in steel template piles will be installed with a vibratory hammer (see Table 1 below). The abutment piles will be installed from the landside, and are expected to require an impact hammer to penetrate the underlying material. Four steel piles (the abutment piles) will be installed above the high tide line and therefore are not discussed further.

Template piles will be used to support the in-water piles. These will consist of 12 to 18 14-in steel H-type piles (see Table 1 below). One template typically includes four piles, but up to six template piles would be used at one time. (see Table 1 below).

TABLE 1—PILE DRIVING AND REMOVAL ACTIVITIES FOR SEAPLANE LAGOON FERRY TERMINAL

Description	Project component			
	Temporary template pile installation	Temporary template pile removal	Permanent pile installation	Permanent pile installation
Diameter of Steel Pile (inches)	14	14	24	36
# of Piles	18	18	6	6
Vibratory Pile Driving				
Total Quantity	18	18	0	6
Max # Piles Vibrated per Day	6	6	0	1
Impact Pile Driving				
Total Quantity	0	0	6	0
Max # Piles Impacted per Day	0	0	1	0

Further details of the planned DPD project is provided in the **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019).

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the City was published in the **Federal Register** on July 18, 2019 (84 FR 34347). That notice described, in detail, the City's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received

comments from the Marine Mammal Commission (Commission). The Commission recommended that NMFS issue the IHA, subject to inclusion of the mitigation, monitoring, and reporting measures.

Comment: The Commission informally noted there were specification missing or incorrect in the proposed hydroacoustic monitoring plan, including number of piles monitored, farfield measurements, frequency range of the hydrophone, and collection of background sound

Response: NMFS discussed these items with the Commission during the comment period and have confirmed the following changes. Two piles from each pile type will be monitored. For impact installation, two 24-in concrete piles, for vibratory installation, 36-in steel piles, and for vibratory installation and extraction, two H-piles will be monitored. The far-field hydrophone will be located at least 1 km from the 36-in piles during vibratory installation to better assess the extent of the Level B harassment zone. The City will conduct recordings from 10 Hz to 20 kHz. Further, the City will collect background sound measurements continuously for 10 minutes prior to pile driving. NMFS has confirmed that the various additions and revisions are included in the final authorization and the hydroacoustic monitoring plan.

Comment: The Commission indicated in previous letter that NMFS should consult with scientists and acousticians to determine the appropriate accumulation time that action proponents should use to determine the extent of the Level A harassment zones based on the associated SELcum thresholds in such situations. The Commission understands that NMFS has formed an internal committee to address this issue and is consulting with external acousticians and modelers as well. The Commission continues to believe that animat modeling, that considers various operational and animal scenarios, is the best way to determine the appropriate accumulation time. More importantly, animat modeling could directly inform or be incorporated into NMFS's user spreadsheet that currently estimates the Level A harassment zones. Commission recommends that NMFS continue to make this issue a priority to resolve in the near future and consider incorporating animat modeling into its user spreadsheet.

Response: As described in NMFS 2018 *Revision to Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing,* NMFS is committed to re-examining the default 24-hour accumulation period and continues to work with the internal committee to investigate alternative means of identifying appropriate accumulation periods.

Comment: The Commission recommends that, for all relevant incidental take authorizations, NMFS refrain from using a source level reduction factor for sound attenuation device implementation during impact pile driving due to the different noise level reduction.

Response: While it is true that noise level reduction measured at different received ranges does vary, given that both Level A and Level B estimation using geometric modeling is based on noise levels measured at near-source distances (approximately 10m), NMFS believes it reasonable to use a source level reduction factor for sound attenuation device implementation during impact pile driving. In the case of the San Francisco-Oakland Bay Bridge impact driving isopleth estimates using an air bubble curtain for source level reduction, NMFS reviewed Caltrans' bubble curtain ''on and off'' studies conducted in San Francisco Bay in 2003 and 2004. The equipment used for bubble curtains has likely improved since 2004 but due to concerns for fish species, Caltrans has not able to conduct ''on and off'' tests recently. Based on 74 measurements (37 with the bubble curtain on and 37 with the bubble curtain off) at both near (< 100 m) and far (> 100 m) distances, the linear averaged received level reduction is 6 dB. If limiting the data points (a total of 28 measurements, with 14 during bubble curtain on and 14 during bubble curtain off) to only near distance measurements, the linear averaged noise level reduction is 7 dB. Based on this analysis, we conclude that there is not a significant difference of source level reduction between near and far-distance measurements. As a conservative approach, NMFS used the reduction of 7 dB of the source level for impact zone estimates.

NMFS will evaluate the appropriateness of using a certain source level reduction factor for sound attenuation device implementation during impact pile driving for all relevant incidental take authorizations when more data become available. Nevertheless at this point, we think it appropriate that a 7 dB reduction is reasonable to be used as a source level reduction factor for impact pile driving using an air bubble curtain system.

Comment: The Commission questioned whether the public notice provisions for IHA Renewals fully satisfy the public notice and comment provision in the MMPA and discussed the potential burden on reviewers of reviewing key documents and developing comments quickly. Additionally, the Commission recommended that NMFS use the IHA Renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

Response: NMFS has responded to these comments previously and refers the reader to the comment responses included in the final notice of the issuance of an IHA to Avangrid Renewables, LLC (84 FR 31035–31036, June 28, 2019).

Comment: The Commission claims that NMFS did not have sufficient time to review public comments or to revise the proposed IHA accordingly. The Commission recommended that NMFS (1) delay issuance of the Final IHA until it has thoroughly reviewed and assessed the Commission's recommendations and any comments from the public and revised the authorization accordingly and (2) take all steps necessary in the future to ensure that it publishes and finalizes IHAs far enough in advance of the planned start date of the project activities to ensure full consideration is given to comments received.

Response: NMFS thanks the Commission for its concerns regarding the IHA process. NMFS had sufficient time and we thoroughly reviewed the comments received. We made all appropriate revisions to the final IHA.

Changes From the Proposed IHA to Final IHA

As described in the **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019), no estimated take by Level A harassment was proposed. After additional consideration, NMFS is authorizing six instances of take by Level A harassment of harbor seals, one instance of take for each day during the six days of impact pile driving. The permanent threshold shift (PTS) ispopleth is 28.5 m for harbor seals during impact pile driving, but because there is a nearby haulout, it is possible that a harbor seal could enter the Level A harassment zone before it was detected and the City is able to shutdown.

As discussed above in the *Comments and Responses* section above, changes were made to the hydoacoustic monitoring plan to clarify monitoring. Two piles from each pile type will be monitored. For impact installation, two 24-in concrete piles, for vibratory installation, 36-in steel piles, and for

vibratory installation and extraction, two H-piles will be monitored. The far-field hydrophone will be located at least 1 km (or as close to 1 km as possible due to access) from the 36-in piles during vibratory installation to better assess the extent of the Level B harassment zone. The City will conduct recordings from 10 Hz to 20 kHz. Further, the City will collect background sound measurements continuously for 10 minutes prior to pile driving. NMFS has confirmed that the various additions and revisions are included in the final authorization and the hydroacoustic monitoring plan.

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 2 lists all species with expected potential for occurrence in the project 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 (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Pacific and SARs (Carretta *et al.,* 2018). All values presented in Table 2 are the most recent available at the time of publication (the SARS available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 2—MARINE MAMMAL OCCURRENCE IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, Nmin, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae: Gray whale	*Eschrichtius robustus*.	Eastern North Pacific.	-/- ; N	26,960 (0.05, 25,849, 2016)	801	138
Family Balaenopteridae (rorquals): *Humpback whale*.	*Megaptera novaeangliae*.	California/Oregon/Washington.	E/D ; Y ..	2,900 (0.048, 2,784, 2014)	16.7 (U.S. waters).	18.8
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae: Bottlenose dolphin.	*Tursiops truncatus*	California Coastal	-/- ; N	453 (0.06, 346, 2011)	2.7	> 2
Family Phocoenidae (porpoises): Harbor porpoise.	*Phocoena phocoena*.	San Francisco-Russian River.	-/- ; N	9,886 (0.51, 6,625, 2011)	66	0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions): California sea lion.	*Zalophus californianus*.	U.S.	-/- ; N	257,606 (n/a, 233,515, 2014)	14,011 ...	≥319
Northern fur seal	*Callorhinus ursinus*	California	-/- ; N	14,050 (n/a, 7,524, 2013)	451	1.8
.....	.....	Eastern North Pacific.	-/- ; N	626,734 (n/a., 530,474, 2014)	11,405 ...	1.1
Guadalupe fur seal.	*Arctocephalus townsendi*.	Mexico to California.	T/D ; Y ...	20,000 (n/a, 15,830, 2010)	542	> 3.2
Family Phocidae (earless seals):						

TABLE 2—MARINE MAMMAL OCCURRENCE IN THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, Nmin, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Pacific harbor seal.	*Phoca vitulina richardii.*	California	-/- ; N	30,968 (n/a, 27,348, 2012)	1,641	43
Northern elephant seal.	*Mirounga angustirostris.*	California Breeding	-/- ; N	179,000 (n/a, 81,368, 2010)	4,882	8.8

1—Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

2—NMFS marine mammal stock assessment reports online at: www.nmfs.noaa.gov/pr/sars/. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case]

3—These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note—Italicized species are not expected to be taken or authorized.

All species that could potentially occur in the project area are included in Table 2. However, the temporal and/or spatial occurrence of humpback whales and Guadalupe fur seals is such that take is not expected to occur, and they are not discussed further as this was previously explained in the **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019).

A detailed description of the of the species likely to be affected by the City's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019), since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. 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

Acoustic effects on marine mammals during the specified activity can occur from vibratory and impact pile driving. The effects of underwater noise from the City's planned activities have the potential to result in Level A and B harassment of marine mammals in the vicinity of the action area. The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. With both types, it is likely that the pile driving could result in temporary, short term changes in an animal's typical behavioral patterns and/or avoidance of the affected area. The **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019), included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice (84 FR 34347; July 18, 2019).

Anticipated Effects on Marine Mammal Habitat

The main impact issue associated with the planned activity would be temporarily elevated sound levels and the associated direct effects on marine mammals. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (*i.e.,* fish) near where the piles are installed. Impacts to the immediate substrate during installation and removal of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time, but which would not be expected to have any effects on individual marine mammals. Impacts to substrate are therefore not discussed further. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (84 FR 34347; July 18, 2019); therefore, that information is not repeated here; please refer to that **Federal Register** notice for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

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).

Take of marine mammals incidental to the City's pile driving and removal activities could occur as a result of Level A and B harassment. Below we describe how the potential take is estimated. 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 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 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—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 120 dB re 1 µPa (rms) for continuous (*e.g.,* vibratory pile driving) and above 160 dB re 1 µPa (rms) for impulsive sources (*e.g.,* impact pile driving). The City's planned activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 µPa (rms) are applicable.

Level A harassment—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. The technical guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, and reflects the best available science on the potential for noise to affect auditory sensitivity by:

- Dividing sound sources into two groups (*i.e.,* impulsive and non-impulsive) based on their potential to affect hearing sensitivity;
- Choosing metrics that best address the impacts of noise on hearing sensitivity, *i.e.,* sound pressure level (peak SPL) and sound exposure level (SEL) (also accounts for duration of exposure); and
- Dividing marine mammals into hearing groups and developing auditory weighting functions based on the science supporting that not all marine mammals hear and use sound in the same manner.

These thresholds were developed by compiling and synthesizing the best available science, and are provided in Table 3 below. 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.*

The City's pile driving and removal activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and removal) sources.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT (AUDITORY INJURY)

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.

Sound Propagation

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography.

The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

where:

B = transmission loss coefficient (assumed to be 15)

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log(range)). As is common practice in coastal waters, here we assume practical spreading loss (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Sound Source Levels

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. There are source level measurements available for certain pile types and sizes from the similar environments recorded from underwater pile driving projects (CALTRANS 2015) that were evaluated and used as proxy sound source levels to determine reasonable sound source levels likely result from the City's pile driving and removal activities (Table 4). Many source levels used were more conservation as the values were from larger pile sizes.

TABLE 4—PREDICTED SOUND SOURCE LEVELS

Activity	Sound source level at 10 meters	Sound source
Vibratory Pile Driving/Removal		
14-in H pile steel pile temporary	155 SPL	CALTRANS 2015 (12-in H piles sound source value used, as no 14-in H pile sound source level is available).
36-in steel pile permanent	170 SPL	CALTRANS 2015.
Impact Pile Driving		
24-in concrete pile permanent	166 SEL/176 SPL	CALTRANS 2015.

Notes: These are unattentuated values, as the applicant proposes to use a bubble curtain for a 7dB reduction for impact driving.

Level A Harassment

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 from impact and vibratory pile driving), NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet (Tables 5 and 6), and the resulting isopleths are reported below (Table 7).

TABLE 5—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING

USER SPREADSHEET INPUT—Vibratory Pile Driving Spreadsheet Tab A.1 Vibratory Pile Driving Used		
	14-in H piles (temporary install/removal)	36-in piles (permanent)
Source Level (RMS SPL)	155	170
Weighting Factor Adjustment (kHz)	2.5	2.5
Number of piles within 24-hr period	6	1
Duration to drive a single pile (min)	4	20
Propagation (xLogR)	15	15
Distance of source level measurement (meters) †	10	10

TABLE 6—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR IMPACT PILE DRIVING

USER SPREADSHEET INPUT—Impact Pile Driving Spreadsheet Tab E.1 Impact Pile Driving Used	
	24-in concrete piles (permanent)
Source Level (Single Strike/shot SEL)	* 159
Weighting Factor Adjustment (kHz)	2
Number of strikes per pile	3100
Number of piles per day	1
Propagation (xLogR)	15
Distance of source level measurement (meters) †	10

* this includes the 7dB reduction from use of a bubble curtain.

TABLE 7—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET OUTPUTS TO CALCULATE LEVEL A HARASSMENT PTS ISOPLETHS

User spreadsheet output		PTS isopleths (meters)				
		Level A harassment				
Activity	Sound source level at 10 m	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid
Vibratory Pile Driving/Removal						
14-in H pile steel installation/removal.	155 dB SPL	1.5	0.1	2.2	0.9	0.1
36-in steel permanent installation.	170 dB SPL	13.1	1.2	19.3	7.9	0.6
Impact Pile Driving						
24-in concrete permanent installation.	166 SEL/176 SPL (159 dB SEL as attenuated).	53.3	1.9	63.5	28.5	2.1

Level B Harassment

Utilizing the practical spreading loss model, the City determined underwater noise will fall below the behavioral effects threshold of 120 dB rms for marine mammals at the distances shown in Table 8 for vibratory pile driving/removal. For calculating the Level B Harassment Zone for impact driving, the practical spreading loss model was used with a behavioral threshold of 160 dB rms for marine mammals at the distances shown in Table 8 for impact pile driving. Table 8 below provides all Level B Harassment radial distances (m) and their corresponding areas (km^2) during the City's planned activities.

TABLE 8—RADIAL DISTANCES (METERS) TO RELEVANT BEHAVIORAL ISOPLETHS AND ASSOCIATED ENSONIFIED AREAS (SQUARE KILOMETERS (KM^2)) USING THE PRACTICAL SPREADING MODEL

Activity	Received level at 10 m	Level B harassment Zone (m) *	Level B Harassment Zone (km^2)
Vibratory Pile Driving/Removal			
14-in H piles installation/removal	155 dB SPL	2,154	2.190
36-in steel permanent installation	170 dB SPL	21,544	21.49
Impact Pile Driving			
24-in concrete permanent installation	166 dB SEL/176 dB SPL (169 dB SPL attenuated)	39.8	0.004

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that inform the take calculations. Potential exposures to impact pile driving and vibratory pile driving/removal for each acoustic threshold were estimated using group size estimates and local observational data to create a density estimate. As previously stated, take by Level B harassment only will be considered for this action.

Distances to Level A harassment thresholds are relatively small and mitigation is expected to avoid Level A harassment from these activities.

Gray Whales

There are no density estimates of gray whales available in the project area. Gray whales travel alone or in small, unstable groups, although large aggregations may be seen in feeding and breeding grounds (NMFS 2018). Gray whales are uncommon in the San Francisco Bay. It is estimated that approximately 2–6 individuals enter the bay in a typical year (CALTRANS 2018). However nine gray whales have stranded in the San Francisco Bay in 2019 (Katz 2019). To be conservative, NMFS authorizes seven instances of take by Level B harassment of gray whales. Because the required shutdown measures are larger than the associated Level A harassment zones, and those zones are relatively small (53.3 m at the largest during impact pile driving), and activities will occur over a small number of days, we believe the PSO will be able to effectively monitor the Level A harassment zones and we do not anticipate take by Level A harassment of gray whales.

Bottlenose Dolphin

There are no density estimates of Bottlenose dolphin available in the project area. Individuals in the San Francisco Bay are typically sighted near the Golden Gate Bridge, where an average of five dolphins enter the bay approximately three times annually. Two individuals are sighted regularly near Alameda Point, outside of the Seaplane Lagoon (CALTRANS 2018). Low numbers (ranging from 1 to 5) of individually identified coastal bottlenose dolphins have been seen along the southwest side of Alameda Island since July 2016. Much of the time, the dolphins were close to the south side of the main outer breakwater that separates the bay from the lagoon areas. The last reliable sighting there was April 7, 2019 of a single individual (TMMC, B. Keener pers. comm. 2019). For the purpose of this assessment it is predicted that two bottlenose dolphins may occur in the San Francisco Bay in the Project vicinity on all pile driving days (*i.e.,* up to 48 individuals in 24 days. Therefore, NMFS authorizes 48 instances of take of bottlenose dolphin by Level B harassment. The Level A harassment zones are all under 2 m for mid-frequency cetaceans; therefore, no take by Level A harassment is anticipated.

Harbor Porpoise, Harbor Seals, and California Sea Lions

In-water densities of harbor porpoises, harbor seals, California sea lions were calculated based on 17 years of observations during monitoring for the San Francisco Bay-Oakland Bay Bridge (SFOBB) construction and demolition project (Caltrans 2018). Care was taken to eliminate multiple observations of the same animal, although this can be difficult and is likely that the same individual may have been counted multiple times on the same day. The amount of monitoring performed per year varied, depending on the frequency and duration of construction activities with the potential to affect marine mammals. During the 257 days of monitoring from 2000 through 2017 (including 15 days of baseline monitoring in 2003), 1,029 harbor seals, 83 California sea lions, and 24 harbor porpoises were observed in waters in the project vicinity in total. In 2015, 2016, and 2017, the number of harbor seals in the project area increased significantly. A California sea lion density estimate of 0.161 animals/km^2 was calculated using the data from 2000–2017. In 2017, the number of harbor porpoise in the project area also increased significantly. Therefore, a harbor seal density estimate of 3.957 animals/km^2 was calculated using the 2015–2017 data. A harbor porpoise density estimate of 0.167 animals/km^2 was calculated using the 2017 data, which may better reflect the current use of the project area by these animals. These observations included data from baseline, pre-, during, and post-pile driving, mechanical dismantling, on-shore blasting, and off-shore implosion activities.

In addition to the information provided above regarding harbor seal density estimates, harbor seals are known to use the tip of Breakwater Island, which is located approximately 1.0 mile southwest of the project area, as a haulout site. These seals forage in the project area as well (WETA 2011). In recent years, up to 32 harbor seals have been observed making irregular use of the Breakwater Island haulout (AECOM 2017). The City of Alameda has also recently installed a haulout platform approximately 0.5 mile southeast of the site. Although these locations are not considered primary haulouts for harbor seals due to the relatively low numbers of individuals that are present, Breakwater Island and the City haulout platform are reportedly the only haulout sites in the central Bay that are accessible to seals throughout the full tidal range.

A local group of Alameda Point Harbor Seal Monitors regularly counts the number of harbor seals at Alameda Point, and based on count data from 2014 to 2019 an average of 11.7 harbor seals is present at Alameda Point year-round (Bangert pers. comm. 2019 in the application). However, the numbers of harbor seals present in the area varies considerably with season, with higher numbers in the winter due to the presence of spawning Pacific herring (*Clupea pallasii*) in the San Francisco Bay. Project pile driving activities will occur during the months of August and September, and therefore we estimated the average number of harbor seals based on count data these months only. The data summary indicated that the numbers of harbor seals present at Alameda increased in 2017 and 2018 compared to 2015 and 2016, and therefore only count data from 2017 and 2018 was used to ensure that the density estimate reflects current conditions. The average number of harbor seals counted at Alameda Point in August and September of 2017 and 2018 was 6.5 individuals. These densities described above for harbor porpoise, harbor seals, and California sea lions are then used to calculate estimated take and described in the sub-sections below for these species.

Harbor Porpoise

A predicted density of 0.167 animals/km^2 based for harbor porpoise was used to estimate take (Table 9). The estimated take was calculated using this density multiplied by the area ensonified above the threshold multiplied by the number of days per activity (*e.g.,* 6 days of impact pile driving) (Table 9). Therefore, a total of 26 instances of take by Level B harassment are authorized for harbor porpoise. Because the required shutdown measures are larger than the associated Level A harassment zones, and the harassment zones are not very larger (63.5 m at the largest during impact pile driving), and will only occur over a small number of days, we believe the PSO can effectively monitor the Level A harassment zones and therefore we do not anticipate take by Level A harassment of harbor porpoise.

TABLE 9—ESTIMATED TAKE BY LEVEL B HARASSMENT OF HARBOR PORPOISE

Source	Density (animals/km²)	Area (km²)	Days of activity	Take by level B harassment
Vibratory Installation and Removal 14-in H piles	0.167	2.190	12	4.389.
Vibratory 36-in piles	0.167	21.490	6	21.533.
Impact 24-in piles	0.167	0.004	6	0.004.
Total Take by Level B harassment				25.926 (rounded to 26).

Harbor Seal

A predicted a density of 3.957 animals/km² for harbor seals was used to estimate take by Level B harassment (Table 10). This density should account for harbor seals exposed in the water while moving to and from the breakwater haulout since those animals would be in the bay and accounted for by the density estimate. The estimated take was calculated using this density multiplied by the area ensonified above the threshold multiplied by the number of days per activity (*e.g.,* 6 days of impact pile driving) (Table 10). Therefore, a total of 615 instances of take by Level B harassment are authorized for harbor seals.

As discussed in the *Changes from the Proposed IHA to the Final IHA* section we reconsidered Level A harassment for harbor seals during impact pile driving. Although the PTS isopleths are small (28.5 m at the largest during impact pile driving), it is possible a harbor seal could pop up in the Level A harassment zone without being detected and before a PSO could communicate a shutdown to the contractor. Therefore, we will authorize one instance of take by Level A harassment of harbor seals per day during the six days of impact piles driving for a total of six instances of take by Level A harassment of harbor seals.

TABLE 10—ESTIMATED TAKE BY LEVEL B HARASSMENT OF HARBOR SEAL

Source	Density (animals/km²)	Area (km²)	Days of activity	Take by level B harassment
Vibratory Installation and Removal 14-in H piles	3.957	2.190	12	103.999.
Vibratory 36-in piles	3.957	21.490	6	510.216.
Impact 24-in piles	3.957	0.004	6	0.095.
Total Take by Level B harassment				614.31 (rounded to 615).

California Sea Lions

A predicted a density of 0.161 animals/km² based for California sea lions was used to estimate take by Level B harassment (Table 11). The estimated take was calculated using this density multiplied by the area ensonified above the threshold multiplied by the number of days per activity (*e.g.,* 6 days of impact pile driving) (Table 11). Therefore, a total of 25 instances of take by Level B harassment are authorized for California sea lions. The Level A harassment zones are all under 2.1 m for otariids; therefore, no take by Level A harassment of California sea lions is anticipated.

TABLE 11—ESTIMATED TAKE BY LEVEL B HARASSMENT OF CALIFORNIA SEA LIONS

Source	Density (animals/km²)	Area (km²)	Days of activity	Take by level B harassment
Vibratory Installation and Removal 14-in H piles	0.161	2.190	12	4.231.
Vibratory 36-in piles	0.161	21.490	6	20.759.
Impact 24-in piles	0.161	0.004	6	0.004.
Total Take by Level B Harassment				24.994 (rounded to 25).

Northern Elephant Seal

There are no density estimates of northern elephant seals available in the project area. Elephant seals breed between December and March and have been rarely cited in San Francisco Bay. It is anticipated that if an elephant seal is encountered at all during pile driving or drilling it would be a juvenile. For the purpose of this assessment, we predict that up to one northern elephant seal may occur in the San Francisco Bay in the Project vicinity on up to 20 percent of pile driving days (*i.e.,* up to 4.8 individuals in 24 days). This assumption is consistent with the recent IHA for the demolition and reuse of the marine foundations of the original east span of the San Francisco-Oakland Bay Bridge (CALTRANS 2018). Therefore, NMFS authorizes five instances of take (0.2 seals/day multiplied by 24 project days) by Level B harassment of elephant seals. Because the required shutdown measures are larger than the associated Level A harassment zones, and those zones are relatively small (28.5 m at the largest during impact pile driving), we believe the PSO can effectively monitor the Level A harassment zones and therefore we do not anticipate any take by Level A harassment of northern elephant seals.

Northern Fur Seals

There are no density estimates of northern fur seals available in the project area. The Marine Mammal Center reported only two to four northern fur seal strandings in the Bay in 2015 and 2016 (in Marin, San Francisco, and Santa Clara counties) (TMMC 2017). To account for the possible rare presence of the species in the action area, NMFS authorizes three instances of take by Level B harassment of northern fur seals. The Level A harassment zones are all under 2.1 m for otariids; therefore, no take by Level A harassment of Northern fur seals is anticipated.

Table 12 below summarizes the estimated take for all the species described above as a percentage of stock abundance.

TABLE 12—AUTHORIZED TAKE AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (N_{EST})	Authorized level A harassment	Authorized level B harassment	Percent of stock
Gray Whale	Eastern North Pacific (26,960)	0	7	Less than 1 percent.
Bottlenose Dolphin	California Coastal (453)	0	48	10.596 percent.
Harbor Porpoise	San Francisco-Russian River (9,886).	0	27	Less than one percent.
Harbor Seal	California (30,968)	4	615	Less than 2 percent.
Northern Elephant Seal	California Breeding (179,000)	0	5	Less than one percent.
California Sea Lion	U.S. (257,606)	0	25	Less than one percent.
Northern fur seal	Eastern DPS, California (20,000)	0	3	Less than one percent.

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.

The following mitigation measures are planned in the IHA:

Timing Restrictions

All work will be conducted during daylight hours. If poor environmental conditions restrict visibility full visibility of the shutdown zone, pile installation would be delayed.

Sound Attenuation

To minimize noise during impact pile driving, a 12-in thick wood cushion block will be used. Bubble curtains will be also used during any impact pile driving of piles located in the water. The bubble curtain will be operated in a manner consistent with the following performance standards:

a. The bubble curtain will distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;

b. The lowest bubble ring will be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact; and

c. Air flow to the bubblers must be balanced around the circumference of the pile.

Soft Start

Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

Shutdown Zone for In-Water Heavy Machinery Work

For in-water heavy machinery work other than pile driving, if a marine mammal comes within 10 m of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

Shutdown Zones

For all pile driving/removal activities, the City will establish shutdown zones for a marine mammal species that is greater than its corresponding Level A harassment zone. The calculated PTS isopleths were rounded up to a whole number to determine the actual shutdown zones that the applicant will operate under (Table 13). The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area).

TABLE 13—PILE DRIVING SHUTDOWN ZONES DURING PROJECT ACTIVITIES

Activity	Shutdown zones (radial distance in meters, area in km² *)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid
In-Water Construction Activities					
Heavy machinery work (other than pile driving).	10 (0.00015 km²).	10 (0.00015 km²).	10 (0.00015 km²).	10 (0.00015 km²)	10 (0.00015 km²).
Vibratory Pile Driving/Removal					
14-in H pile steel installation/removal	10 (0.00015 km²).	10 (0.00015 km²).	10 (0.00015 km²).	10 (0.00015 km²)	10 (0.00015 km²).
36-in steel permanent installation	15 (0.00035 km²).	10 (0.00015 km²).	20 (0.00063 km²).	10 (0.00015 km²)	10 (0.00015 km²).
Impact Pile Driving					
24-in concrete permanent installation	55 (0.00475 km²).	10 (0.00015 km²).	65 (0.00663 km²).	30 (0.00141 km²)	10 (0.00015 km²).

* Note: km² were divided by two to account for land.

Non-Authorized Take Prohibited

If a species enters or approaches the Level B harassment zone and that species is either not authorized for take or its authorized takes are met, pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or an observation time period of 15 minutes has elapsed for pinnipeds and small cetaceans and 30 minutes for large whales.

Based on our evaluation of the City's planned measures, as well as other measures considered by NMFS, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the 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.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-min period. If a marine mammal is observed within the shutdown zone, pile driving activities will not begin until the animal has left the shutdown zone or has not been observed for 15 minutes. If the Level B Harassment Monitoring Zone has been observed for 30 minutes and no marine mammals (for which take has not been authorized) are present within the zone, work can continue even if visibility becomes impaired within the Monitoring Zone. When a marine mammal permitted for Level B harassment take has been permitted is present in the Monitoring zone, piling activities may begin and Level B harassment take will be recorded.

Monitoring Zones

The City will establish and observe monitoring zones for Level B harassment as presented in Table 8. The monitoring zones for this project are areas where SPLs are equal to or exceed 120 dB rms (for vibratory pile driving/removal) and 160 dB rms (for impact pile driving). These zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of the Level B harassment zones enables observers to be aware of and

communicate the presence of marine mammals in the project area, but outside the shutdown zone, and thus prepare for potential shutdowns of activity.

Visual Monitoring

Monitoring will be conducted 30 minutes before, during, and 30 minutes after all pile driving/removal and socking/rock anchoring activities. In addition, PSO will record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven/removed. Pile driving/removal activities include the time to install, remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Monitoring will be conducted by PSOs from on land. The number of PSOs will vary from one to two, depending on the type of pile driving, method of pile driving and size of pile, all of which determines the size of the harassment zones. Monitoring locations will be selected to provide an unobstructed view of all water within the shutdown zone and as much of the Level B harassment zone as possible for pile driving activities. A single monitor will be present during impact pile driving, when impacts of the project will be limited to the area within the Alameda Lagoon, and two monitors will be present during vibratory pile driving when project impacts will extend into the waters of the San Francisco Bay. Any areas that the PSO is not able to see will include a correction factor in the take estimate.

In addition, PSOs will work in shifts lasting no longer than 4 hours with at least a 1-hour break between shifts, and will not perform duties as a PSO for more than 12 hours in a 24-hour period (to reduce PSO fatigue).

Monitoring of pile driving will be conducted by qualified, NMFS-approved PSOs, who shall have no other assigned tasks during monitoring periods. The City will adhere to the following conditions when selecting PSOs:

- Independent PSOs will be used (*i.e.,* not construction personnel);
- At least one PSO must have prior experience working as a marine mammal observer during construction activities;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience;
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator will be designated. The lead observer must have prior experience working as a marine mammal observer during construction; and
- The City will submit PSO CVs for approval by NMFS for all observers prior to monitoring.

The City shall ensure that the PSOs have the following additional qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Experience and ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary; and
- Sufficient training, orientation, or experience with the construction operations to provide for personal safety during observations.

Acoustic Monitoring

The City has developed a sound attenuation monitoring plan to protect fish and marine mammals during pile driving activities (see Appendix B of the application for further details). The acoustic monitoring will include, but not limited to:

- Two piles from each pile type will be monitored. For impact installation, two 24-in concrete piles, for vibratory installation, 36-in steel piles, and for vibratory installation and extraction, two H-piles will be monitored;
- The far-field hydrophone will be located at least 1 km from the 36-in piles during vibratory installation to better assess the extent of the Level B harassment zone;
- Recordings will be conducted from 10 Hz to 20 kHz;
- Background sound measurements will occur continuously for 10 minutes prior to pile driving;

The acoustic monitoring will include documentation of the following, at a minimum:

- Hydrophone equipment and methods: Recording device, sampling rate, distance from the pile where recordings were made; and depth of recording device(s);
- Type of pile being driven and method of driving during recordings; and
- Mean, medium, and maximum sound levels (dB re: 1 μPa): Cumulative sound exposure level, peak sound pressure level, rms sound pressure level, and single-strike sound exposure level.

Reporting of Injured or Dead Marine Mammals

In the unanticipated event that the planned activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as serious injury, or mortality, the City must immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources and the West Coast Region Stranding Coordinator. The report must include the following information:

- Time and date of the incident;
- Description of the incident;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations and active sound source use 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).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the City to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City may not resume their activities until notified by NMFS.

In the event the City discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), the City must immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding

Coordinator, NMFS. The report must include the same information as the bullets described above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the City to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that the City discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City must report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS, within 24 hours of the discovery.

Final Report

The City shall submit a draft report to NMFS no later than 90 days following the end of construction activities or 60 days prior to the issuance of any subsequent IHA for the project. The City shall provide a final report within 30 days following resolution of NMFS' comments on the draft report. Reports shall contain, at minimum, the following:

- 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;
- Deviation from initial proposal in pile numbers, pile types, average driving times, 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 activity;
  - Type of construction activity that was taking place at the time of sighting;
  - Location and distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
  - If shutdown was implemented, behavioral reactions noted and if they occurred before or after shutdown; and
  - Estimated amount of time that the animals remained in the Level A or B Harassment Zone;
- Description of implementation of mitigation measures within each monitoring period (*e.g.,* shutdown or delay);
- Other human activity in the area within each monitoring period; and
- A summary of the following:
  - Total number of individuals of each species detected within the Level B Harassment Zone, and estimated as taken if correction factor appropriate;
  - Total number of individuals of each species detected within the Level A Harassment Zone and the average amount of time that they remained in that zone; and
  - Daily average number of individuals of each species (differentiated by month as appropriate) detected within the Level B Harassment Zone, and estimated as taken, if appropriate.

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).

As stated in the mitigation section, shutdown zones that are larger than the Level A harassment zones and are expected avoid the likelihood of Level A harassment for six of the seven species. As previously described, six instances of take by Level A harassment were added for harbor seals as a conservative measure if they enter the Level A harassment zone before detected by PSOs.

Exposures to elevated sound levels produced during pile driving activities may cause behavioral disturbance of marine mammals, but they are expected to be mild and temporary. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. These reactions and behavioral changes are expected to subside quickly when the exposures cease.

To minimize noise during pile driving, and thereby both the scale and potential severity of the anticipated effects, the City will use pile cushions and a bubble curtain during impact pile driving.

During all impact driving, implementation of soft start procedures and monitoring of established shutdown zones will be required, significantly reducing the possibility of injury. Given sufficient notice through use of soft start (for impact driving), marine mammals are expected to move away from an irritating sound source prior to it becoming potentially injurious. In addition, PSOs will be stationed within the action area whenever pile driving/removal activities are underway. Depending on the activity, the City will employ one to two PSOs to ensure all monitoring and shutdown zones are properly observed.

Two known pinniped haulout sites (non-pupping sites) are located in the vicinity of the project area. One is an existing haulout platform approximately 0.5 mile southeast of the project area (separated from project activities by approximately 0.3 mile of developed areas on-land). The second haulout is the western end of Breakwater Island, approximately 1.0 mile southwest of the location of pile driving activities (Figure 4 of the application). They are both well outside the PTS isopleths for pinnipeds. Exposures to elevated sound levels produced during pile driving activities once the animals enter the water from

the haulouts may cause behavioral responses by an animal, but they are expected to be mild and temporary and limited to Level B harassment.

The planned activities would not result in permanent impacts to habitats used directly by marine mammals except the actual footprint of the project. The footprint of the project is small, and equal to the area the ferry associated pile placement. The installation of piles for the new pier will result in permanent impacts on 61 ft^2 of aquatic habitat. At best, the impact area, which is located in Seaplane Lagoon, provides marginal foraging habitat for marine mammals and fish. In addition, impacts to marine mammal prey species are expected to be minor and temporary. Overall, the area impacted by the project is very small compared to the available habitat in the bay. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving/removal activities, it is expected that fish and marine mammals would temporarily move to nearby locations and return to the area following cessation of in-water construction activities. Therefore, indirect effects on marine mammal prey during the construction are not expected to be substantial.

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 serious injury or mortality is anticipated;
- Anticipated incidents of Level A harassment are very small in number and would consist of no more than a small degree of PTS;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- Minimal impacts to marine mammal habitat are expected;
- The action area is located and within an active marine commercial area;
- There are no rookeries, or other known areas or features of special significance for foraging or reproduction in the project area;
- The required mitigation measures (*i.e.,* shutdown zones and pile cushion, and bubble curtain) are expected to be effective in reducing the effects of the specified activity.

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 planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The take of 6 marine mammal stocks comprises less than two percent of the stock abundance, and less than 11 percent for bottlenose dolphins (California coastal).

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

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 ESA listed species are authorized for take. Therefore, NMFS has determined consultation under the ESA is not required.

Authorization

As a result of these determinations, NMFS authorizes an IHA to the City for pile driving and removal activities during construction of the Alameda Seaplane Lagoon ferry terminal provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 27, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–18884 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR031

Marine Mammals; File No. 23117

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that BBC Worldwide Americas, 1120 Avenue of the Americas, New York, NY 10036 (Responsible Party: Orla Doherty), has applied in due form for a permit to conduct commercial or educational photography on Weddell seals (*Leptonychotes weddellii*), minke whales (*Balaenoptera acutorostrata*) and killer whales (*Orcinus orca*).

DATES: Written, telefaxed, or email comments must be received on or before October 3, 2019.

ADDRESSES: These documents are available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-

West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film Weddell seals near McMurdo Station, Antarctica and to film killer and minke whales in ice leads of the Ross Sea. Up to 800 Weddell seals could be filmed annually from tripods on the ice, underwater divers, remotely operated underwater vehicles, pole cameras, static underwater cameras, and unmanned aircraft systems (UAS). A maximum of 200 minke whales and 500 killer whales could be filmed annually using UAS, cameras on the ice, and underwater pole and static cameras. Crabeater (*Lobodon carcinophaga*) and leopard (*Hydrurga leptonyx*) seals may be incidentally harassed during filming. Footage will be used for the Frozen Planet II television documentary series. The permit would be valid until January 31, 2021.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 27, 2019.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–18865 Filed 8–30–19; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0049]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting, to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, ''Generic Information Collection Plan for Surveys Using the Consumer Credit Panel.''

DATES: Written comments are encouraged and must be received on or before November 4, 2019 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2019–0049 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for Surveys Using the Consumer Credit Panel.

OMB Control Number: 3170–0066.

Type of Review: Extension without change of an existing information collection.

Affected Public: Individuals and households.

Estimated Number of Annual Respondents: 6,000.

Estimated Total Annual Burden Hours: 3,000.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau is charged with researching, analyzing, and reporting on topics relating to the Bureau's mission, including consumer behavior, consumer awareness, and developments in markets for consumer financial products and services. In order to improve its understanding of how consumers engage with financial markets, the Bureau has used the Consumer Credit Panel, a proprietary sample dataset from one of the national credit reporting agencies, as a frame to survey people about their experiences in consumer credit markets. The Bureau seeks to obtain approval for a generic information collection plan for these types of surveys. Surveys conducted under this generic information collection plan will support the Bureau's mission to conduct research in areas related to consumer finance including research to monitor developments in consumers' financial situations, related changes in their use of financial products, and the impacts that these decisions have on their balance sheets. All research under this plan will be for general, formative, and informational research on consumer financial markets and consumers' use of financial products and will not directly provide the basis for specific policymaking at the Bureau. This is a routine request for OMB to renew its approval of the collections of information currently approved under this OMB control number. The Bureau is not proposing any new or revised collections of information pursuant to this request.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the

information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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.

Dated: August 28, 2019.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2019–18933 Filed 8–30–19; 8:45 am]

BILLING CODE 4810–AM–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974; System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Corporation for National and Community Service (CNCS) Office of General Counsel (OGC) proposes to modify and rename a current CNCS system of records, *Legal Office Litigation/Correspondence Files—Corporation-13* to include substantive changes and modifications described in detail in the supplementary section.

DATES: You may submit comments until October 3, 2019. This System of Records Notice (SORN) will be effective October 3, 2019 unless CNCS receives any timely comments which would result in a contrary determination.

ADDRESSES: You may submit comments, identified by system name and number, to CNCS via any of the following methods:

1. Electronically through *regulations.gov*.

Once you access *regulations.gov*, locate the web page for this SORN by searching for *CNCS–01–OGC–Office of General Counsel (OGC) Legal Files.* If you upload any files, please make sure they include your first name, last name, and the name of the proposed SORN.

2. By email at *privacy@cns.gov.*

3. *By mail:* Corporation for National and Community Service, Attn: Chief Privacy Officer, OIT, 250 E St. SW, Washington, DC 20525.

4. By hand delivery or courier to CNCS at the address for mail between 9:00 a.m. and 4:00 p.m. Eastern Standard Time, Monday through Friday, except for Federal holidays.

Please note that all submissions received may be posted without change to *regulations.gov*, including any personal information.

FOR FURTHER INFORMATION CONTACT: If you have general questions about the system of record, you can email them to *FOIA@cns.gov* or mail them to the address in the **ADDRESSES** section above. Please include the system of record's name and number.

SUPPLEMENTARY INFORMATION: This notice serves to update and modify CNCS's SORN titled ''CORPORATION–13'' to incorporate changes to the system, include more details, and conform to SORN template requirements prescribed in Office of Management and Budget (OMB) Circular No. A–108. The substantive changes and modifications to the currently published version of CORPORATION–13 include:

1. Renumbering and renaming the SORN as *CNCS–01–OGC–Office of General Counsel (OGC) Legal Files.*

2. Stating that the records in the system are unclassified.

3. Updating all addresses to reflect the system's new location.

4. Specifying the authorities that permit maintenance of the system.

5. Clarifying and expanding the system purpose to maintain files related to legal actions, legal reviews, transactions, and other OGC activities consistent with its statutory authorities.

6. Expanding the categories of individuals, categories of records, and records source categories to match that broader purpose.

7. Replacing the current set of routine uses with new and modified routine uses that are specific to the system. This includes routine uses to conform with OMB Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information* (Jan. 3, 2017).

8. Expanding and clarifying how records may be stored and retrieved.

9. Revising the retention and disposal section to reflect updated guidance from the National Archives and Records Administration.

10. Revising the safeguards section to reflect updated cybersecurity guidance and practices.

11. Updating the record access, contesting record, and notification procedures to inform individuals that they may email an inquiry, establish a more efficient process, and clarify what individuals should include in an inquiry.

12. Providing additional information about the exemptions promulgated for the system.

CNCS determined that these changes are the most efficient, logical, taxpayer-friendly, and user-friendly method of complying with the publication requirements of the Privacy Act of 1974, as amended. The subject records reflect a common purpose, common functions, and common user community. This Notice of a Modified Systems of Records, as required by 5 U.S.C. 552a, also fully complies with all OMB policies.

SYSTEM NAME AND NUMBER:

CNCS–01–OGC–Office of General Counsel (OGC) Legal Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of General Counsel, Corporation for National and Community Service, 250 E St. SW, Washington, DC 20525.

SYSTEM MANAGER(S):

Law Office Manager, Office of General Counsel, Corporation for National and Community Service, 250 E St. SW, Washington, DC 20525.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. Chapter 171—Tort Claims Procedure, 31 U.S.C. Chapter 37—Claims, 40 U.S.C. Subtitle I—Federal Property and Administrative Services, and 42 U.S.C. 12651c—Corporation for National and Community Service.

PURPOSE(S) OF THE SYSTEM:

The Corporation for National and Community Service (CNCS) Office of General Counsel (OGC) uses the system to track, store, and manage the records it develops and acquires on matters that could or have led to investigations, mediation, or other legal actions before a judicial, administrative, or adjudicative body (collectively, ''legal action records''). OGC also uses the system to track, store, and manage the records it develops and acquires to complete legal reviews, provide legal opinions, oversee transactions, coordinate with other agencies, and perform other legal activities on behalf of CNCS (collectively, ''legal advice and guidance records'').

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by the system may include individuals who are or were involved in:

- Potential or actual legal actions with CNCS or referenced in the legal action. That may include parties to the legal action, mediators, arbiters, judges, other court personnel, witnesses, individuals with information that pertains to the legal action, CNCS employees, grantees, service members, and applicants.
- A transaction with CNCS, contract involving CNCS, or a CNCS program or matter that involves a legal or compliance review or other legal activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal action records may include, but are not limited to: Complaints, appeals documents, investigation reports, discovery documents, affidavits, declarations, witness statements, notes from interviews, correspondence within CNCS, documents and correspondence between the parties, the courts, or other individuals or entities involved in the legal action, court filings, mediations, personnel documents, grievance proceedings, and other internal working documents. The personal information in these documents may include, but are not limited to: names, dates of birth, addresses, telephone numbers, Social Security Numbers (SSNs), and salary information.

Legal advice and guidance records may include, but are not limited to: Contracts, Internal reports, notes, legal memoranda, correspondence to and from CNCS employees, contractors, grantees, service members, and applicants, information regarding grantees, service members, and applicants, and other documents about CNCS' operations and services that have been reviewed by OGC. The personal information in these documents may include, but are not limited to: Names, SSNs, National Service Participant Identification (NSPID) Numbers, home addresses, phone numbers, email addresses, dates of birth, financial information, medical records, salary information, and personnel records.

RECORD SOURCE CATEGORIES:

Records sources may include: individuals and entities involved in a legal action with CNCS and their authorized agents, individuals and entities with information relevant to a legal issue or action with CNCS and their authorized agents, CNCS employees, service members, grantees, applicants, information systems managed and controlled by CNCS and its contractors, information gathered from public sources, investigators, mediators, court records, grievance proceedings, contractors, and other Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained in the system may be disclosed to authorized entities, as is determined to be relevant and necessary, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To appropriate agencies, entities, and persons when:

a. CNCS suspects or has confirmed that there has been a breach of the system of records;

b. CNCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CNCS (including its information systems, programs, and operations), the Federal Government, or national security; and

c. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CNCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

2. To another Federal agency or Federal entity, when CNCS determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in:

a. Responding to a suspected or confirmed breach or

b. Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. To the National Archives and Records Administration (NARA) as needed to assist CNCS with records management, conduct inspections of CNCS's records management practices, and carry out other activities required by 44 U.S.C. 2904 and 2906.

4. To NARA's Office of Government Information Services so that it may review agency compliance with the Freedom of Information Act of 1967, as amended, (FOIA) provide mediation services to resolve FOIA disputes, and identify policies and procedures for improving FOIA compliance, and to the extent necessary to fulfill its responsibilities as required by 5 U.S.C. 552(h)(2)(A–B) and (3).

5. To a Federal agency in connection with hiring or retaining an employee, vetting a service member in response to the issuance of a security clearance, conducting a background check for suitability or security investigation of an individual, classifying jobs, the letting of a contract, or the issuance of a license, contract, grant, or other benefit by the requesting agency, and to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

7. To the Office of the President, a Member of Congress, or their personnel in response to a request made on behalf of, and at the request of, the individual who is the subject of the record. These advocates will receive the same records that individuals would have received if they filed their own request.

8. To any official or designee charged with the responsibility to conduct qualitative assessments at a designated statistical agency and other well established and trusted public or private research organizations, academic institutions, or agencies for an evaluation, study, research, or other analytical or statistical purpose.

9. To agency contractors, grantees, interns, and other authorized individuals engaged to assist the agency in the performance of a project, contract, service, grant, cooperative agreement, or other activity and require access to the records to accomplish an agency function, task, or assignment. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to CNCS employees.

10. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of CNCS, or when disclosure is necessary to demonstrate the accountability of CNCS' officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that

release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

11. To an appropriate Federal, State, local, tribal, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of civil or criminal law or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

12. To *consumer reporting agencies* (as defined in the Fair Credit Reporting Act, 14 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury, other Federal agencies maintaining debt servicing centers, and private collection contractors to collect a debt owed to the Federal Government as provided in regulations promulgated by CNCS.

13. To a contractor, grantee, or other recipient of Federal funds indebted to the Federal Government through its receipt of Federal Government funds if release of the record would allow the debtor to collect from a third party.

14. The names, SSNs, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and state of hire of employees may be disclosed to the Office of Child Support Enforcement Federal Parent Locator Service and the Treasury Offset Program to locate individuals owing child support and identify their income sources, establish and modify orders of child support, and for other child support enforcement actions.

15. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record permits the recipient to effect corrective action in the Federal Government's best interests.

16. To the Department of Justice (DOJ) when:

a. The agency, or any component thereof;

b. Any employee of the agency in his or her official capacity;

c. Any employee of the agency in his or her individual capacity where DOJ has agreed to represent the employee; or

d. The United States, where the agency determines that litigation is likely to affect the agency or any of its components is a party to litigation or has an interest in litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

17. To a court, administrative body, or adjudicative body before which the agency is authorized to appear, when:

a. The agency, or any component thereof;

b. Any employee of the agency in his or her official capacity;

c. Any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or

d. The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

18. To a Federal or State agency, judicial body, administrative body, adjudicative body, another party or their representative to a legal matter, or witness when (a) the Federal Government is a party or potential party to a judicial, administrative, or adjudicative proceeding and (b) the record is both necessary and relevant or potentially relevant to that proceeding.

19. To an arbiter, mediator, or another individual authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of, or party to, the record.

20. To any agency, entity, or individual when necessary to acquire information relevant to an investigation.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are stored in locked rooms, file cabinets, and desks. Electronic records and backups are stored on secure servers and encrypted media to include, but are not limited to, the computers and network drives used by OGC attorneys.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in the system may be retrieved by a variety of unique identifiers including case numbers, NSPID Numbers, names, CNCS email addresses, and SSNs.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

System records are retained and disposed according to CNCS records maintenance and disposition schedules and the legal records retention and disposal requirements of NARA. The records are retained for a minimum of five years and many records are retained indefinitely.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are maintained in locked rooms, file cabinets, and desks when not in use. Electronic records are maintained in accordance with National Institute of Standards and Technology Special Publication 800–53 Rev. 4, Security and Privacy Controls for Federal Information Systems and Organizations or the updated equivalent. Access to the records is limited to authorized personnel who require the information to complete their assigned tasks and have been trained how to properly handle and safeguard the records.

RECORD ACCESS PROCEDURES:

In accordance with 45 CFR part 2508—Implementation of the Privacy Act of 1974, as amended, individuals wishing to access their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer by sending (1) an email to *FOIA@cns.gov* or (2) a letter to the System Manager. Individuals may also go in-person to the System Location and ask to speak to the FOIA Officer/Privacy Act Officer within OGC. Individuals who make a request must include enough identifying information (*i.e.* full name, current address, date, and signature) to locate their records, indicate that they want to access their records, and be prepared to confirm their identity as required by 45 CFR part 2508.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer in writing via the contact information in the Record Access Procedures section. Individuals who make a request must include enough identifying information to locate their records, an explanation of why they think their records are incomplete or inaccurate, and be prepared to confirm their identity as required by 45 CFR part 2508.

NOTIFICATION PROCEDURES:

Individuals who wish to contest their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer via the contact information in the Record Access Procedures section. Individuals who make a request must include enough identifying information to locate their records, indicate that they want to be notified whether their records are included in the system, and be prepared to confirm their identity as required by 45 CFR part 2508.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to, and limited by, 5 U.S.C. 552a(d)(5) and 45 CFR 2508.19, the system is exempted from the provisions of 5 U.S.C. 552a(d)(5) and 45 CFR 2508.4 insofar as the system contains information compiled in reasonable anticipation of a civil action or proceeding.

HISTORY:

64 FR 10879, 10889, March 5, 1999; 65 FR 46890, 46901, August 1, 2000; 67 FR 4395, 4406, January 30, 2002.

Dated: August 22, 2019.

Ndiogou Cisse,

Senior Agency Official for Privacy and Chief Information Officer.

[FR Doc. 2019–18918 Filed 8–30–19; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974; System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Corporation for National and Community Service (CNCS) Chief of Program Operations Immediate Office proposes to operate a new system of records to manage, administer, and evaluate the AmeriCorps Child Care Benefit Program. The paper and electronic records in the system include, but are not limited to, the documents required to determine whether AmeriCorps Members are eligible and if their child care expenses should be reimbursed.

DATES: You may submit comments until October 3, 2019. This System of Records Notice (SORN) will be effective October 3, 2019 unless CNCS receives any timely comments which would result in a contrary determination.

ADDRESSES: You may submit comments, identified by system name and number, to CNCS via any of the following methods:

1. Electronically through *regulations.gov.*

Once you access *regulations.gov,* locate the web page for this SORN by searching for *CNCS–06–CPO–ACB–AmeriCorps Child Care Benefit System (ACB).* If you upload any files, please make sure they include your first name, last name, and the name of the proposed SORN.

2. By email at *privacy@cns.gov.*

3. *By mail:* Corporation for National and Community Service, Attn: Chief Privacy Officer, OIT, 250 E St. SW, Washington, DC 20525

4. By hand delivery or courier to CNCS at the address for mail between 9:00 a.m. and 4:00 p.m. Eastern Standard Time, Monday through Friday, except for Federal holidays.

Please note that all submissions received may be posted without change to *regulations.gov*, including any personal information.

FOR FURTHER INFORMATION CONTACT: If you have general questions about the system of record, you can email them to *privacy@cns.gov* or mail them to the address in the **ADDRESSES** section above. Please include the system of record's name and number.

SUPPLEMENTARY INFORMATION: The website for the AmeriCorps Child Care Benefits Program is located at *https://americorpschildcare.com* and the forms used to collect information into the system are located at *https://americorpschildcare.com/index.cfm?tab2*.

CNCS determined that a new notice is the most efficient, logical, taxpayer-friendly, and user-friendly method of complying with the publication requirements of the Privacy Act. The subject records reflect a common purpose, common functions, and common user community. This Notice of a New Systems of Records, as required by 5 U.S.C. 552a, also fully complies with all Office of Management and Budget policies.

SYSTEM NAME AND NUMBER:

CNCS–06–CPO–ACB–AmeriCorps Child Care Benefit System (ACB).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Chief of Program Operations Immediate Office, Corporation for National and Community Service, 250 E St. SW, Washington, DC 20525.

SYSTEM MANAGER(S):

ACB Information Owner, Chief of Program Operations Immediate Office, Corporation for National and Community Service, 250 E St. SW, Washington, DC 20525.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National and Community Service Act of 1990, as amended (42 U.S.C. 12501 *et seq.*), the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4950 *et seq.*), and Executive Order 9397, as amended.

PURPOSE(S) OF THE SYSTEM:

The Corporation for National and Community Service (CNCS) uses the system to manage, administer, and evaluate the child care benefits program offered to eligible AmeriCorps Service Members (Members).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains information about Members who have applied for, or received, child care benefits, plus their AmeriCorps supervisors, children who required child care, spouses, and other household members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system may include names, genders, dates of birth, ages, phone numbers, email addresses, physical addresses, National Service Participation Identification (ID) numbers, Social Security Numbers, Tax ID Numbers, Driver's License numbers and information, State issued ID card information, information on income including tax documents, employment information (*e.g.,* roles and dates of service), information on businesses (*e.g.,* licenses and tax documents), academic enrollment information, child custody agreements, court orders, birth certificates, information on family relationships, and information about child care services.

RECORD SOURCE CATEGORIES:

The sources of records in the system can include, but are not limited to, Members and their representatives, child care providers and their representatives, other CNCS systems of records, and public sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, (Privacy Act) all or a portion of the records or information contained in the system may be disclosed to authorized entities, as is determined to

be relevant and necessary, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Office of the President, a Member of Congress, or their personnel in response to a request made on behalf of, and at the request of, the individual who is the subject of the record. These advocates will receive the same records that individuals would have received if they filed their own request.

2. To the Department of Justice (DOJ) when:

a. The agency, or any component thereof;

b. Any employee of the agency in his or her official capacity;

c. Any employee of the agency in his or her individual capacity where DOJ has agreed to represent the employee; or

d. The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

3. To a court, administrative body, or adjudicative body before which the agency is authorized to appear, when:

a. The agency, or any component thereof;

b. Any employee of the agency in his or her official capacity;

c. Any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or

d. The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in litigation, and the use of such records by the DOJ is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

4. To a Federal or State agency, judicial body, administrative body, adjudicative body, another party or their representative to a legal matter, or witness when (a) the Federal Government is a party or potential party to a judicial, administrative, or adjudicative proceeding and (b) the record is both necessary and relevant or potentially relevant to that proceeding.

5. To prospective claimants and their attorneys to negotiate the settlement of an actual or prospective claim against CNCS or its current or former employees, in advance of the initiation of formal litigation or proceedings.

6. To an arbiter, mediator, or another individual authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of, or party to, the record.

7. To any agency, entity, or individual when necessary to acquire information relevant to an investigation.

8. To an appropriate Federal, State, local, tribal, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of civil or criminal law or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

9. To appropriate agencies, entities, and persons when:

a. CNCS suspects or has confirmed that there has been a breach of the system of records;

b. CNCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CNCS (including its information systems, programs, and operations), the Federal Government, or national security; and

c. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CNCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

10. To another Federal agency or Federal entity, when CNCS determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in:

a. Responding to a suspected or confirmed breach or

b. Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

11. To the National Archives and Records Administration (NARA) as needed to assist CNCS with records management, conduct inspections of CNCS's records management practices, and carry out other activities required by 44 U.S.C. 2904 and 2906.

12. To NARA's Office of Government Information Services so that it may review agency compliance with the Freedom of Information Act of 1967, as amended, (FOIA) provide mediation services to resolve FOIA disputes, and identify policies and procedures for improving FOIA compliance, and to the extent necessary to fulfill its responsibilities as required by 5 U.S.C. 552(h)(2)(A–B) and (3).

13. To respond to a FOIA request per the processes established in 45 CFR part 2507 or a Privacy Act request per the requirements in 45 CFR part 2508.

14. To a Federal agency in connection with hiring or retaining an employee, vetting a Member or employee in response to the issuance of a security clearance, conducting a background check for suitability or security investigation of an individual, classifying jobs, the letting of a contract, or the issuance of a license, contract, grant, or other benefit by the requesting agency, and to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

15. To agency contractors, grantees, interns, and other authorized individuals engaged to assist the agency in the performance of a project, contract, service, grant, cooperative agreement, or other activity and require access to the records to accomplish an agency function, task, or assignment. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to CNCS employees.

16. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

17. To an agency or organization to audit or oversee operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

18. To any official or designee charged with the responsibility to conduct qualitative assessments at a designated statistical agency and other well established and trusted public or private research organizations, academic institutions, or agencies for an evaluation, study, research, or other analytical or statistical purpose.

19. To a contractor, grantee, or other recipient of Federal funds when the

record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record permits the recipient to effect corrective action in the Federal Government's best interests.

20. To a contractor, grantee, or other recipient of Federal funds indebted to the Federal Government through its receipt of Federal funds if release of the record would allow the debtor to collect from a third party.

21. To *consumer reporting agencies* (as defined in the Fair Credit Reporting Act, 14 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury, other Federal agencies maintaining debt servicing centers, and private collection contractors to collect a debt owed to the Federal Government as provided in regulations promulgated by CNCS.

22. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of CNCS, or when disclosure is necessary to demonstrate the accountability of CNCS' officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are stored in locked rooms, file cabinets, and desks. Electronic records and backups are stored on secure servers and encrypted media to include computers and network drives.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in the system about a Member may be retrieved by their name and email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records in the system will be retained until their retention and disposal schedule is approved by NARA, then retained and disposed according to the applicable schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are maintained in locked rooms, file cabinets, and desks when not in use. Electronic records are maintained in accordance with National Institute of Standards and Technology Special Publication 800–53 Rev. 4, Security and Privacy Controls for Federal Information Systems and Organizations or the updated equivalent. Access to the records is limited to authorized personnel who require the information to complete their assigned tasks and have been trained how to properly handle and safeguard the records.

RECORD ACCESS PROCEDURES:

In accordance with 45 CFR part 2508, Implementation of the Privacy Act, individuals wishing to access their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer by sending (1) an email to *FOIA@cns.gov* or (2) a letter to the System Manager. Individuals may also go in-person to the System Location and ask to speak to the FOIA Officer/Privacy Act Officer within the Office of General Counsel. Individuals who make a request must include enough identifying information (*i.e.* full name, current address, date, and signature) to locate their records, indicate that they want to access their records, and be prepared to confirm their identity as required by 45 CFR part 2508.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer in writing via the contact information in the Record Access Procedures section. Individuals who make a request must include enough identifying information to locate their records, an explanation of why they think their records are incomplete or inaccurate, and be prepared to confirm their identity as required by 45 CFR part 2508.

NOTIFICATION PROCEDURES:

Individuals who wish to contest their own records as stored within the system of records may contact the FOIA Officer/Privacy Act Officer via the contact information in the Record Access Procedures section. Individuals who make a request must include enough identifying information to locate their records, indicate that they want to be notified whether their records are included in the system, and be prepared to confirm their identity as required by 45 CFR part 2508.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: August 22, 2019.

Ndiogou Cisse,

Senior Agency Official for Privacy and Chief Information Officer.

[FR Doc. 2019–18917 Filed 8–30–19; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4044–023; ER11–4046–022; ER10–2136–015; ER16–1720–009.

Applicants: Gratiot County Wind LLC, Gratiot County Wind II LLC, Invenergy Cannon Falls LLC, Invenergy Energy Management LLC.

Description: Notice of Change in Facts of Gratiot County Wind LLC, et al.

Filed Date: 8/27/19.

Accession Number: 20190827–5021.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2595–000.

Applicants: SR Hazlehurst III, LLC.

Description: Errata to August 13, 2019 SR Hazlehurst III, LLC tariff filing.

Filed Date: 8/23/19.

Accession Number: 20190823–5181.

Comments Due: 5 p.m. ET 9/13/19.

Docket Numbers: ER19–2683–000.

Applicants: EFS Parlin Holdings, LLC.

Description: § 205(d) Rate Filing: Reactive Power Rate Schedule to be effective 8/27/2019.

Filed Date: 8/26/19.

Accession Number: 20190826–5156.

Comments Due: 5 p.m. ET 9/16/19.

Docket Numbers: ER19–2684–000.

Applicants: Palmer Solar, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 10/26/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5064.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2685–000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: Ministerial Filing to Conform Section I.2 of ISO–NE Tariff Effective 9/17/19 to be effective 9/17/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5081.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2686–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–27 Transferred Frequency Response Agreement with Tucson Electric Power to be effective 12/1/2019.

Filed Date: 8/27/19.
Accession Number: 20190827–5093.
Comments Due: 5 p.m. ET 9/17/19.

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: August 27, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18924 Filed 8–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–1484–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Amended NRAs for Total Contracts 911051 and 911252 to be effective 8/24/2019.
Filed Date: 8/23/19.
Accession Number: 20190823–5056.
Comments Due: 5 p.m. ET 9/4/19.

Docket Numbers: RP19–1485–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: 2019 Penalties Assessed Compliance Filing of Colorado Interstate Gas Company, L.L.C. under RP19–1485.
Filed Date: 8/26/19.
Accession Number: 20190826–5074.
Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: RP19–863–001.
Applicants: Granite State Gas Transmission, Inc.
Description: Compliance filing NAESB Compliance filing for July 29th Order to be effective 8/1/2019.
Filed Date: 8/26/19.
Accession Number: 20190826–5060.
Comments Due: 5 p.m. ET 9/9/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 27, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18921 Filed 8–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ19–16–000]

Hoosier Energy Rural Electric Cooperative; Notice of Filing

Take notice that on August 21, 2019, the Hoosier Energy Rural Electric Cooperative submitted its tariff filing: Specification of Cost-Based Revenue Requirement to be effective August 21, 2019.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 11, 2019.

Dated: August 27, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18923 Filed 8–30–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–33–000]

Commission Information Collection Activities (FERC–539) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–539 (Gas Pipeline Certificates: Import & Export Related Applications).

DATES: Comments on the collections of information are due November 4, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–33–000) 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–539 (Gas Pipeline Certificates: Import & Export Related Applications).

OMB Control No.: 1902–0062.

Type of Request: Three-year extension of the FERC–539 with no changes to the current reporting requirements.

Abstract: Section 3 of the Natural Gas Act (NGA) (15 U.S.C. 717–717w) provides, in part, that '' . . . no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured and order from the Commission authorizing it to do so.'' The 1992 amendments to Section 3 of the NGA concern importation or exportation from/to a nation which has a free trade agreement with the United States, and requires that such importation or exportation: (1) Shall be deemed to be a ''first sale'', *i.e.,* not a sale for a resale, and (2) Shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.

With the ratification of the North American Free Trade Agreement and the Canadian Free Trade Agreement, the Federal regulatory focus on construction, operation, and siting of import and export facilities increased significantly.

Estimate of Annual Burden.[1] The Commission estimates the annual public reporting burden for the information collection as:

FERC–539, GAS PIPELINE CERTIFICATES: IMPORT & EXPORT RELATED APPLICATIONS

Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost[2] per response ($)	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1) = (6)
6	2	12	15 hours; $1,200	180 hours; $14,400	$2,400

[2] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2019 average cost (for wages plus benefits), $80.00/hour is used.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 27, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–18922 Filed 8–30–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2019–0316; FRL–9997–91–OAR]

Notice of Public Meeting and Proposed List of Potential Peer Reviewers; Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting comment on the proposed list of candidate peer reviewers for the independent, contractor-managed, external peer review of the draft document titled ''Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations.'' This notice provides the names and professional affiliations of the proposed peer reviewers. The public is requested to provide relevant information or documentation on the candidates who are being evaluated by the external peer review contractor, ICF. ICF will consider the public comments on the proposed list of peer reviewers and will select the final peer reviewers who, collectively, best provide expertise spanning the multiple subject matter areas covered by the draft document and, to the extent feasible, best provide a balance of perspectives according to EPA peer review guidance. This notice also provides the public peer review meeting date as well as EPA's website that will provide details about the meeting location and how to register to attend the meeting either in person or remotely.

DATES: *Comments:* The comment period on the proposed peer reviewers begins on September 3, 2019 and ends on September 24, 2019.

Meeting: A one-day panel meeting will be held on October 21, 2019, from approximately 9:00 a.m. to 5:00 p.m. Eastern Time at the U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the panel meeting.

ADDRESSES: Submit your comments, identified by docket ID number EPA–HQ–OAR–2019–0316, by any of the following methods:

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

• *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
• *Email: a-and-r-Docket@epa.gov.* Include the Docket ID No. EPA–HQ–OAR–2019–0316 in the subject line of the message.
• *Fax:* (202) 566–9744. Include the Docket ID No. EPA–HQ–OAR–2019–0316 in the subject line of the message.
• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue 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 comments received must include the Docket ID No. for this notice. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

A one-day panel meeting will be held on October 21, 2019, at the U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27711. Specific details regarding the meeting and registration for in-person or remote attendance will be posted on EPA's website (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*).

Because the panel meeting is being held at a U.S. government facility, individuals planning to attend the meeting should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. For purposes of the REAL ID Act, EPA will accept government-issued IDs, including drivers' licenses, from the District of Columbia and all states and territories except from American Samoa. If your identification is issued by American Samoa, you must present an additional form of identification to enter the federal building where the meeting will be held. Acceptable alternative forms of identification include: federal employee badges, passports, enhanced driver's licenses, and military identification cards. For additional information for the status of your state regarding REAL ID, go to: *https://www.dhs.gov/real-id-enforcement-brieffrequently-asked-questions.* Any objects brought into the building need to fit through the security screening system, such as a purse, laptop bag, or small backpack. Demonstrations will not be allowed on federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: Neal Fann, Health and Environmental Impacts, Office of Air Quality Planning and Standards (C–439–02), U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Phone: (919) 541–0209, Fax: (919) 541–5315, Email: *Fann.Neal@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2019–0316, 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 submission 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 submission. The written submission is considered the official submission and should include discussion of all points you wish to make. The EPA will generally not consider submissions or submission content 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.*

II. Background

The EPA uses evidence from long-term exposure cohort studies to estimate the number of $PM_{2.5}$-related premature deaths and morbidity effects in its air pollution benefits analyses. Generally, EPA quantifies effects for the full distribution of ambient $PM_{2.5}$ concentrations, including at concentrations below the lowest measured levels (LML) of these studies; this reflects the current scientific evidence, which does not find a threshold in the concentration-response relationship. However, because of the absence of data at such low concentrations, there is greater uncertainty about the likelihood of health effects, including premature death. The degree of uncertainty associated with premature deaths estimated at these lower levels has over time taken on greater prominence, due in part to decreasing ambient $PM_{2.5}$ concentrations, the public health importance of $PM_{2.5}$-associated mortality, and the magnitude of the economic value of the effect. As a means of improving its methods for quantifying and characterizing effects estimated at these lower $PM_{2.5}$ levels, the Agency is developing and evaluating potential alternative approaches for estimating these effects. Potential approaches are described in the EPA draft report that will be made available at *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*. This report details new techniques for deriving information regarding uncertainty at low $PM_{2.5}$ concentrations using data available from the peer-reviewed published epidemiology literature; demonstrates the application of these techniques in an example $PM_{2.5}$ air pollution benefits assessment; discusses the strengths and weaknesses of each technique; and compares these techniques against alternatives including the use of lowest measured level cut-points or the use of meta-analytic approaches designed to characterize the magnitude of the PM mortality effect across a broader array of concentrations.

The EPA identified the ''Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations'' as a Highly Influential Scientific Assessment, and according to the Agency's *Science and Technology Policy Council, Peer Review Handbook* (Fourth Edition, EPA/100/B–15/001, 2015) (Agency's *Peer Review Handbook*), is required to conduct an external peer review of that report and supplemental files. The reviewers are asked to assess the accuracy, content, and interpretation of findings ensuring that they are factual and scientifically sound. The review shall generate comments from the individual expert reviewers.

The draft report will be made available on the project website approximately 30 days prior to the meeting (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty).* The Agency will periodically update this website to include details on the public meeting and peer reviewer comments on the technical report.

III. Process of Obtaining Candidate Reviewers

Consistent with guidelines for the peer review of Highly Influential Scientific Assessments, EPA tasked ICF to assemble approximately nine scientific experts to evaluate the draft report cited in this notice. As part of the peer-review process, a public nomination period was held from June 13, 2019, to July 5, 2019, during which members of the public were able to nominate scientific experts with knowledge and expertise in one or more of the following areas:

A. Epidemiology
B. Biostatistics
C. Risk Assessment
D. Decision and Uncertainty
E. Economics

ICF also conducted an independent search for scientific experts to augment the list of publically nominated candidates. In total, ICF evaluated the 58 candidates nominated during the public nomination period and ICF identified 12 additional candidates.

- *Selection process.* ICF considered and screened all candidates against the selection criteria described in the **Federal Register** notice of June 13, 2019 (84 FR 27632) (FRL–9995–4–OAR) (*https://www.regulations.gov/document?D=EPA-HQ-OAR-2019-0316-0001*), which included having demonstrated expertise in the areas described, being free of any conflict of interest, being free of appearance of bias, and being available to participate in-person in a one-day peer review meeting in Research Triangle Park, NC, on October 21, 2019. Following the screening process, ICF narrowed the list of potential reviewers to 16 proposed candidates. This notice solicits comments on the proposed list of 16 candidates. The public is requested to provide relevant information or documentation on the candidates who are being evaluated by ICF. ICF will consider the public comments on the proposed list of peer reviewers and will post the final list of peer reviewers on EPA's website (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*).
- *Responsibilities of Peer Reviewers.* Peer reviewers will be charged with evaluating and preparing written comments on the draft report. Specifically, reviewers will provide general comments, their overall impressions of the draft report, and respond to the peer review charge questions.

Following the peer review meeting, ICF will provide a peer review summary report to EPA containing the comments and recommendations from the peer reviewers. The final peer review report will also be made available to the public on EPA's website (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*). In preparing the final analytical support document, EPA will consider ICF's peer review report, which will include comments and recommendations from the external peer review meeting.

IV. Registration for Public Panel Meeting

Registration can be made via EPA's website (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*) for the one-day panel meeting to be held on October 21, 2019, at the U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Specific details regarding the meeting location and registration for in-person or remote attendance will be posted on EPA's website (*https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty*).

Special Accommodations: For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

V. Proposed List of Peer Reviewers

The EPA asks that no individual or organization contact in any way its contractor (ICF) or the subcontractor panel members regarding the subject of the peer review meeting, send contractor written materials regarding the subject of the meeting, or make any offers or requests to any of them that appear to be linked to their participation in the peer review. The contractor will direct the panel members to report any such contacts, who will take appropriate action in consultation with EPA to ensure the independence and impartiality of the peer review.

Following are the names and professional affiliations of the current candidates being considered for the external peer review of the draft report. A biosketch or current curriculum vitae for the proposed peer reviewers will be posted in the docket (docket ID number EPA–HQ–OAR–2019–0316). ICF will select peer reviewers who, collectively, best provide expertise spanning the multiple required areas of expertise listed in Section III and, to the extent feasible, best provide a balance of perspectives.

A. Mark Dickie, Ph.D., Professor, Department of Economics, University of Central Florida
B. James Hammitt, Ph.D., Professor, Economics and Decision Sciences, Harvard University; Director of Harvard Center for Risk Analysis
C. Max Henrion, Ph.D., CEO and Co-founder, Lumina Decision Systems, Inc.
D. Marianthi-Anna Kioumourtzoglou, Sc.D., Assistant Professor, Department of Environmental Health Sciences, Columbia University School of Public Health
E. Jenna R. Krall, Ph.D., Assistant Professor, Department of Global and Community Health, George Mason University
F. Alan Krupnick, Ph.D., Senior Fellow, Resources for the Future
G. Jonathan I. Levy, Sc.D., Professor, School of Public Health, Boston University
H. Maria C. Mirabelli, Ph.D., Adjunct Associate Professor, Emory University
I. John Molitor, Ph.D., Associate Professor, College of Public Health and Human Sciences, Oregon State University
J. Lorenz R. Rhomberg, Ph.D., A.T.S., Principal, Gradient
K. V. Kerry Smith, Ph.D., Emeritus Regents Professor and Emeritus University Professor of Economics, Department of Economics, W. P. Carey School of Business, Arizona State University
L. George Thurston, Sc.D., Professsor, Department of Environmental Medicine, New York University School of Medicine
M. Roel Vermeulen, Ph.D., Associate Professor, Environmental Epidemiology, Institute for Risk Assessment Sciences (IRAS), Utrecht University, The Netherlands
N. Thomas Wallsten, Ph.D., Emeritus Professor, Department of Psychology, University of Maryland
O. J. Jason West, Ph.D., Professor, Department of Environmental Sciences and Engineering, UNC Chapel Hill School of Global Public Health
P. Corwin Zigler, Ph.D., Associate Professor, Department of Statistics and Data Science, University of Texas

Dated: August 23, 2019.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2019–18945 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0039; FRL–9998–17]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients (July 2019)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol 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 *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (RD) (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. 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

A. New Active Ingredients

File Symbols: 71512–GA, 71512–GL, 71512–GT. *Docket ID number:* EPA–HQ–OPP–2019–0413. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A., Concord, OH 44077. *Product names:* Tiafenacil 70WG Herbicide, Technical Tiafenacil Herbicide, Tiafenacil 339SC Herbicide. *Active ingredient:* Herbicide—Tiafenacil at 70%, 98.2%, 30%. *Proposed uses:* Corn (field corn and popcorn), cotton, grapes, soybeans and wheat. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 9, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–18872 Filed 8–30–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1094]

Information Collection Requirement Being Submitted to the Office of Management and Budget for Emergency Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 3, 2019.

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 Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The Commission is requesting emergency OMB processing of the information collection requirement(s) contained in this notice and has requested OMB approval no later than 35 days after the collection is received at OMB. 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.

OMB Control Number: 3060–1094.

Title: Transforming the 2.5 GHz Band.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local, or tribal Government.

Number of Respondents and Responses: 26 respondents; 266 responses.

Estimated Time per Response: 0.5 hour–10 hours.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation to Respond: The statutory authority for the Commission to carry out these collections are contained in 47 U.S.C. 151, 152, 153, 154, 155, 157, 301, 302, 303, 307, 308, 309, 310, and 316.

Total Annual Burden: 221 hours.

Total Annual Cost: $72,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection is being revised because, the Commission adopted service rules, Construction Requirements (47 CFR 27.14(u)), and a Tribal Priority Filing Window (47 CFR 27.1204). This collection includes Part 27 rules that govern reporting, and third-party disclosure requirements related to 2500–2690 MHz Band. The following information collected for the service rules are: Section 27.14(u) requires Educational Broadband Service (EBS) licensees to file construction notifications and certify that they have met the applicable performance benchmarks; Section 27.1204 requires an EBS applicant applying for a license in the Tribal Priority Filing Window to demonstrate that they are: (1) A federally recognized American Indian tribe or Alaska Native Village; or an entity that is owned and controlled by a federally-recognized Tribe or a consortium of federally-recognized Tribes; (2) requesting a license on Tribal land; (3) requesting a license in a rural area; and (4) have a local presence on the Tribal land for which they are applying; and Section 27.1221(f) requires Broadband Radio Service (BRS) and EBS licensees to provide the geographic coordinates, the height above ground level of the center of radiation for each transmit and receive antenna, and the date transmissions commenced if requested by a co-channel licensee.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–18916 Filed 8–30–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Privacy Act of 1974; System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to modify an existing system of records entitled, BGFRS–38, ''FRB—Transportation Subsidy Records.'' The Board uses BGFRS–38 to track and monitor employees participation in the transportation subsidy program.

DATES: Comments must be received on or before October 3, 2019. This modified system of records will become effective October 3, 2019, without further notice, unless comments dictate otherwise.

The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 30-day period prior to publication in the **Federal Register** in which to review the system and to provide any comments to the agency. The public is then given a 30-day period in which to comment, in accordance with 5 U.S.C. 552a(e)(4) and (11).

ADDRESSES: You may submit comments, identified by *BGFRS–38* ''*FRB—Transportation Subsidy Records,*'' by any of the following methods:

- *Agency website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include SORN name and number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove sensitive personally identifiable information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: David B. Husband, Senior Attorney, (202) 530–6270, or *david.b.husband@frb.gov;* Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board is modifying this system of records to reflect that the Board no longer collects the last four digits of the employee's social security number and is utilizing only electronic records in the system. In addition, the records are now retained two years (rather than three years) after the employee revalidates their participation in the program or ceases participation. To reflect these changes, the Board has updated the authority section, the categories of records in the system, the practices for retention and disposal, and the practices for storage and retrieval. The Board is also updating the system manager information, adding a link to the Board's general routine uses, and updating the

administrative, physical, and technical safeguards. The Board is not amending any existing routine uses nor establishing any new routine uses.

The Board is also making technical changes to BGFRS–38 consistent with the template laid out in OMB Circular No. A–108. Accordingly, the Board has made technical corrections and non-substantive language revisions to the following categories: ''Policies and Practices for Storage of Records,'' ''Policies and Practices for Retrieval of Records,'' ''Policies and Practices for Retention and Disposal of Records,'' ''Administrative, Technical and Physical Safeguards,'' ''Record Access Procedures,'' ''Contesting Record Procedures,'' and ''Notification Procedures.'' The Board has also created the following new fields: ''Security Classification'' and ''History.''

SYSTEM NAME AND NUMBER:

BGFRS–38 ''FRB—Transportation Subsidy Records''

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue NW, Washington, DC 20551.

SYSTEM MANAGER(S):

Craig Delaney, Sr. Manager, Accounting, Division of Financial Management, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551, (202) 452–2041, or *craig.j.delaney@frb.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. 244 and 248).

PURPOSE(S) OF THE SYSTEM:

These records are collected and maintained by the Board in order to administer the Board's transportation subsidy program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees who apply for a transportation subsidy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications submitted by employees for transportation subsidies, which may include name, employee ID number, home address, current commuting pattern and estimated commuting cost, and other information related to carrying out activities under the transportation subsidy program.

RECORD SOURCE CATEGORIES:

Information is provided by the employee to whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and J apply to this system. These general routine uses are located at *https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf* and are published in the **Federal Register** at 83 FR 43872 at 43873–74 (August 28, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are stored on a secure server with access limited to staff with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records can be retrieved by employee name or ID number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Transportation subsidy records are destroyed two years after the employee revalidates their participation or no longer participates in the program.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system has the ability to track individual user actions within the system. The audit and accountability controls are based on NIST and Board standards, which, in turn, are based on applicable laws and regulations. The controls assist in detecting security violations and performance or other issues in the system. Access to the system is restricted to authorized users who require access for official business purposes. Users are classified into different roles and common access and usage rights are established for each role. User roles are used to delineate between the different types of access requirements such that users are restricted to data that is required in the performance of their duties. Periodic assessments and reviews are conducted to determine whether users still require access, have the appropriate role, and whether there have been any unauthorized changes.

RECORD ACCESS PROCEDURES:

The Privacy Act allows individuals the right to access records maintained about them in a Board system of records. Your request for access must: (1) Contain a statement that the request is made pursuant to the Privacy Act of 1974; (2) provide either the name of the Board system of records expected to contain the record requested or a concise description of the system of records; (3) provide the information necessary to verify your identity; and (4) provide any other information that may assist in the rapid identification of the record you seek.

Current or former Board employees may make a request for access by contacting the Board office that maintains the record. The Board handles all Privacy Act requests as both a Privacy Act request and as a Freedom of Information Act request. The Board does not charge fees to a requestor seeking to access or amend his/her Privacy Act records.

You may submit your Privacy Act request to the—

Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

You may also submit your Privacy Act request electronically through the Board's FOIA ''Electronic Request Form'' located here: *https://www.federalreserve.gov/secure/forms/efoiaform.aspx.*

CONTESTING RECORD PROCEDURES:

The Privacy Act allows individuals to seek amendment of information that is erroneous, irrelevant, untimely, or incomplete and is maintained in a system of records that pertains to them. To request an amendment to your record, you should clearly mark the request as a ''Privacy Act Amendment Request.'' You have the burden of proof for demonstrating the appropriateness of the requested amendment and you must provide relevant and convincing evidence in support of your request.

Your request for amendment must: (1) Provide the name of the specific Board system of records containing the record you seek to amend; (2) identify the specific portion of the record you seek to amend; (3) describe the nature of and reasons for each requested amendment; (4) explain why you believe the record is not accurate, relevant, timely, or complete; and (5) unless you have already done so in a related Privacy Act request for access or amendment, provide the necessary information to verify your identity.

NOTIFICATION PROCEDURES:

Same as ''Access procedures'' above. You may also follow this procedure in order to request an accounting of previous disclosures of records pertaining to you as provided for by 5 U.S.C. 552a(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This SORN was previously published in the **Federal Register** at 73 FR 54595 at 54977 (September 22, 2008). The SORN was amended to incorporate two new routine uses required by OMB at 83 FR 43872 (August 28, 2018).

Board of Governors of the Federal Reserve System, August 27, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–18890 Filed 8–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0074; Docket No. 2019–0003; Sequence No. 14]

Submission for OMB Review; Contract Funding—Limitation of Costs/Funds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement concerning limitation of costs/funds.

DATES: Submit comments on or before October 3, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503 or at *Oira_submission@omb.eop.gov.* Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0074, Contract Funding—Limitation of Costs/Funds.

Instructions: All items submitted must cite Information Collection 9000–0074, Contract Funding—Limitation of Costs/Funds. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA at 202–357–5805 or *kevin.funk@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0074, Contract Funding—Limitation of Costs/Funds.

B. Needs and Uses

In accordance with FAR 52.232–20 and 52.232–22, firms performing under fully funded or incrementally funded cost-reimbursement Federal contracts are required to notify the contracting officer in writing whenever they have reason to believe—

(1) The costs the contractors expect to incur under the contracts in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or (2) The total cost for the performance of the contracts will be greater or substantially less than estimated.

As a part of the notification, the contractors must provide a revised estimate of total cost. The frequency of this collection of information is variable, contingent upon both funding and spending patterns.

C. Annual Reporting Burden

Respondents: 1,928.
Total Annual Responses: 11,568.
Total Burden Hours: 3,817.

D. Public Comment

A 60-day notice published in the **Federal Register** at 84 FR 29208, on June 21, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0074, Contract Funding—Limitation of Costs/Funds, in all correspondence.

Dated: August 27, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–18905 Filed 8–30–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0077; Docket No. 2019–0003; Sequence No. 11]

Submission for OMB Review; Quality Assurance Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a request to review and approve a revision and renewal of a previously approved information collection requirement concerning quality assurance requirements.

DATES: Submit comments on or before October 3, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503 or at *Oira_submission@omb.eop.gov.* Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0077, Quality Assurance Requirements.

Instructions: All items submitted must cite Information Collection 9000–

0077, Quality Assurance Requirements, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Chambers, Procurement Analyst, at 202–285–7380 or email *marilyn.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB control number, Title, and any Associated Form(s)

9000–0077, Quality Assurance Requirements.

B. Needs and Uses

Supplies and services acquired under Government contracts must conform to the contract's quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard inspection clauses require the contractor to provide and maintain an inspection system that is acceptable to the Government; give the Government the right to make inspections and test while work is in process; and require the contractor to keep complete, and make available to the Government, records of its inspection work. FAR clause 52.246–15, Certificate of Conformance, is not an inspection clause, but a requirement for the contractor to certify that supplies or services furnished are of the quality specified and conform in all respects with the contract requirements.

C. Annual Burden

1. Inspection Clauses

The FAR inspection clauses are used for quality assurance depending on the type of contract and the type of product or service being provided. The corresponding quality/inspection systems the contractors are required to implement have requirements for record keeping and in some cases documenting the quality or inspection system. These clauses do not require the transmittal or sending of documentation to the Government. Instead, the Government may review these records to confirm the contract quality requirements are being met. Definitive information was not available on how often the Government requests to see these records. The time required to provide the records is estimated as follows:

Respondents: 1,590.
Total Annual Responses: 1,590.
Total Burden hours: 1,590.

2. Certificate of Conformance

FAR clause 52.246–15 is used in solicitations and contracts for supplies or services at the discretion of the contracting officer when it is in the Government's interest, small losses would be incurred in the event of a defect; or because of the contractor's reputation or past performance, it is likely that the supplies or services furnished will be acceptable and any defective work would be replaced, corrected, or repaired without contest. The clause requires the contractor to submit a prescribed certificate. The time required to submit the certificate is estimated as follows:

Respondents: 639.
Total Annual Responses: 639.
Total Burden hours: 320.

D. Public Comment

A 60-day notice published in the **Federal Register** at 84 FR 28813 on June 20, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements, in all correspondence.

Dated: August 27, 2019.

Janet Fry,

Director, Federal Acquisition Policy, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–18906 Filed 8–30–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of Five AHRQ subcommittee meetings.

SUMMARY: The subcommittees listed below are part of AHRQ's Health Services Research Initial Review Group Committee. Grant applications are to be reviewed and discussed at these meetings. Each subcommittee meeting will commence in open session before closing to the public for the duration of the meeting.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates of the individual subcommittees.

ADDRESSES: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: (to obtain a roster of members, agenda or minutes of the non-confidential portions of the meetings.) Heather Phelps, Acting Committee Management Officer, Office of Extramural Research Education and Priority Populations, Agency for Healthcare Research and Quality (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 427–1128.

SUPPLEMENTARY INFORMATION: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), AHRQ announces meetings of the above-listed scientific peer review groups, which are subcommittees of AHRQ's Health Services Research Initial Review Group Committees. Each subcommittee meeting will commence in open session before closing to the public for the duration of the meeting. The subcommittee meetings will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2 section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting dates for the subcommittees are:

1. *Healthcare Effectiveness and Outcomes Research (HEOR)*
   Date: October 9th, 2019 (Open from 8:00 a.m. to 8:30 a.m. on October 9th and closed for remainder of the meeting)
2. *Health System and Value Research (HSVR)*
   Date: October 16th, 2019 (Open from 8:00 a.m. to 8:30 a.m. on October 16th and closed for remainder of the meeting)
3. *Health Care Research and Training (HCRT)*
   Date: October 17–18th, 2019 (Open from 8:00 a.m. to 8:30 a.m. on October 17th and closed for remainder of the meeting)

4. *Healthcare Safety and Quality Improvement Research (HSQR)*
   Date: October 10–11th, 2019 (Open from 7:30 a.m. to 8:00 a.m. on October 10th and closed for remainder of the meeting)
5. *Healthcare Information Technology Research (HITR)*
   Date: October 24th, 2019 (Open from 8:00 a.m. to 8:30 a.m. on October 24th and closed for remainder of the meeting)

Agenda items for these meetings are subject to change as priorities dictate.

Virginia L. Mackay-Smith,

Associate Director, AHRQ.

[FR Doc. 2019–18928 Filed 8–30–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0077]

Draft Guideline for Prevention and Control of Infections in Neonatal Intensive Care Unit Patients: Draft Recommendations for the Prevention and Control of Staphylococcus aureus in Neonatal Intensive Care Unit Patients

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC), in the Department of Health and Human Services (HHS), announces the opening of a docket to obtain comment on the *Draft Guideline for Prevention and Control of Infections in Neonatal Intensive Care Unit Patients: Draft Recommendations for the Prevention and Control of* Staphylococcus aureus *in Neonatal Intensive Care Unit Patients* (''*Draft Guideline*''). The *Draft Guideline* provides new, evidence-based recommendations specific to the prevention and control of *Staphylococcus aureus* (*S. aureus*), including methicillin-resistant *S. aureus* (MRSA) and methicillin-sensitive *S. aureus* (MSSA), in neonatal intensive care unit (NICU) patients.

DATES: Written comments must be received on or before November 4, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0077, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Healthcare Quality Promotion, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, Attn: Docket No. CDC–2019–0077, HICPAC Secretariat, 1600 Clifton Rd. NE, Mailstop A07, Atlanta, Georgia 30329.

Instructions: Submissions via *http://regulations.gov* are preferred. All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kendra Cox, Division of Healthcare Quality Promotion, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop A–07, Atlanta, Georgia 30329; Telephone: (404) 639–4000.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted in preparation of the final *Guideline for Prevention and Control of Infections in Neonatal Intensive Care Unit Patients* and may revise the final document as appropriate.

Background

The *Draft Guideline,* located in the ''Supporting & Related Material'' tab of the docket, provides new, evidence-based recommendations specific to the prevention and control of *S. aureus,* including MRSA and MSSA, in NICU patients, including active surveillance testing and decolonization.

The *Draft Guideline* is intended for use by infection prevention staff, healthcare epidemiologists, healthcare administrators, nurses, neonatologists, other healthcare providers, and persons responsible for developing, implementing, and evaluating infection prevention and control programs for NICUs. The guideline can also serve as a resource for societies or organizations to develop more detailed implementation guidance for the prevention of infection in NICU patients.

The Healthcare Infection Control Practices Advisory Committee (HICPAC) worked with national partners, academicians, public health professionals, healthcare providers, and other partners to develop this *Draft Guideline.* HICPAC includes representatives from public health, infectious diseases, regulatory and other federal agencies, professional societies, and other stakeholders.

The draft recommendations in this *Draft Guideline* are informed by a systematic review of the best available literature through February 2017 and of relevant references published since February 2017 suggested by subject matter experts. The Appendix, located in the ''Supporting & Related Material'' tab of the docket, contains search strategies, Evidence Tables containing study-level data examined, and GRADE Tables which aggregate the overall strength and direction of the evidence.

This *Draft Guideline* will not be a federal rule or regulation.

Dated: August 28, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–18907 Filed 8–30–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3240]

List of Bulk Drug Substances for Which There is a Clinical Need Under Section 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is

developing a list of bulk drug substances (active pharmaceutical ingredients) for which there is a clinical need (the 503B Bulks List). Drug products that outsourcing facilities compound using bulk drug substances on the 503B Bulks List can qualify for certain exemptions from the Federal Food, Drug, and Cosmetic Act (FD&C Act) provided certain conditions are met. This notice identifies nine bulk drug substances that FDA has considered and is proposing not to include on the list: Dipyridamole, ephedrine sulfate, famotidine, hydralazine hydrochloride, methacholine chloride, sodium bicarbonate, sodium tetradecyl sulfate, trypan blue, and vecuronium bromide. Additional bulk drug substances nominated by the public for inclusion on this list are currently under consideration and will be the subject of future notices.

DATES: Submit either electronic or written comments on the notice by November 4, 2019 to ensure that the Agency considers your comment on this notice before it begins work on a notice reflecting the Agency's final decision about whether to include these substances on the 503B Bulks List.

ADDRESSES: You may submit comments at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2018–N–3240 for ''List of Bulk Drug Substances For Which There Is a Clinical Need Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Hankla, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5216, Silver Spring, MD 20993, 301–796–3110.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

Section 503B of the FD&C Act (21 U.S.C. 353b) describes the conditions that must be satisfied for drug products compounded by an outsourcing facility to be exempt from section 505 (21 U.S.C. 355) (concerning the approval of drugs under new drug applications (NDAs) or abbreviated new drug applications (ANDAs)); section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and section 582 (21 U.S.C. 360eee–1) (concerning drug supply chain security requirements).[1]

Drug products compounded under the conditions in section 503B are not exempt from current good manufacturing practice (CGMP) requirements in section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B)).[2] Outsourcing facilities are also subject to FDA inspections according to a risk-based schedule, specific adverse event reporting requirements, and other conditions that help to mitigate the risks of the drug products they compound.[3] Outsourcing facilities may or may not obtain prescriptions for identified individual patients and can, therefore, distribute compounded drugs to healthcare practitioners for ''office stock,'' to hold in their offices in advance of patient need.[4]

One of the conditions that must be met for a drug product compounded by an outsourcing facility to qualify for exemptions under section 503B of the FD&C Act is that the outsourcing facility may not compound a drug using a bulk drug substance unless: (1) The bulk drug substance appears on a list established

[1] Section 503B(a) of the FD&C Act.

[2] Compare section 503A(a) of the FD&C Act (exempting drugs compounded in accordance with that section) with section 503B(a) of the FD&C Act (not providing the exemption from CGMP requirements).

[3] Section 503B(b)(4) and (5) of the FD&C Act.

[4] Section 503B(d)(4)(C) of the FD&C Act.

by the Secretary of Health and Human Services identifying bulk drug substances for which there is a clinical need (the 503B Bulks List) or (2) the drug compounded from such bulk drug substances appears on the drug shortage list in effect under section 506E of the FD&C Act (FDA's drug shortage list) (21 U.S.C. 356e) at the time of compounding, distribution, and dispensing.[5]

Section 503B of the FD&C Act directs FDA to establish the 503B Bulks List by: (1) Publishing a notice in the **Federal Register** proposing bulk drug substances to be included on the list, including the rationale for such proposal; (2) providing a period of not less than 60 calendar days for comment on the notice; and (3) publishing a notice in the **Federal Register** designating bulk drug substances for inclusion on the list.[6]

In March 2019, FDA published a notice that identified two bulk drug substances, nicardipine hydrochloride and vasopressin, that were nominated for inclusion on the 503B Bulks List, and that, after consideration, FDA did not include on that list (84 FR 7383). The March 2019 notice stated that additional bulk drug substances were under evaluation, and that additional substances would be the subject of future notices. This notice identifies nine nominated substances that FDA has evaluated and proposes not to include on the 503B Bulks List.

For purposes of section 503B, *bulk drug substance* means an active pharmaceutical ingredient as defined in 21 CFR 207.1.[7] *Active pharmaceutical ingredient* means any substance that is intended for incorporation into a finished drug product and is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body, but the term does not include intermediates used in the synthesis of the substance.[8] [9]

For further information about drug compounding and the background for the 503B Bulks List, see 83 FR 43877 (August 28, 2018).

II. Methodology for Developing the 503B Bulks List

A. Process for Developing the List

FDA requested nominations for specific bulk drug substances for the Agency to consider for inclusion on the 503B Bulks List in the **Federal Register** of December 4, 2013 (78 FR 72838). FDA reopened the nomination process in the **Federal Register** of July 2, 2014 (79 FR 37750), and provided more detailed information on what FDA needs to evaluate nominations for the list. On October 27, 2015 (80 FR 65770), the Agency opened a new docket, FDA–2015–N–3469, to provide an opportunity for interested persons to submit new nominations of bulk drug substances or to renominate substances with sufficient information.

As FDA evaluates bulk drug substances, it intends to publish notices for public comment in the **Federal Register** that describe the FDA's proposed position on each substance along with the rationale for that position.[10] After considering any comments on FDA's proposals regarding whether to include nominated substances on the 503B Bulks List, FDA intends to consider whether input from the Pharmacy Compounding Advisory Committee (PCAC) on the nominations would be helpful to the Agency in making its determination, and if so, it will seek PCAC input.[11] Depending on its review of the docket comments and other relevant information before the Agency, FDA may finalize its proposed determination without change, or it may finalize a modification to its proposal to reflect new evidence or analysis regarding clinical need. FDA will then publish in the **Federal Register** a list identifying the bulk drug substances for which it has determined there is a clinical need and FDA's rationale in making that final determination. FDA will also publish in the **Federal Register** a list of those substances it considered but found that there is no clinical need to use in compounding and FDA's rationale in making this decision.

FDA intends to maintain a current list of all bulk drug substances it has evaluated on its website, and separately identify bulk drug substances it has placed on the 503B Bulks List and those it has decided not to place on the 503B Bulks List. FDA will only place a bulk drug substance on the 503B Bulks List where it has determined there is a clinical need for outsourcing facilities to compound drug products using the bulk drug substance. If a clinical need to compound drug products using the bulk drug substance has not been demonstrated, based on the information submitted by the nominator and any other information considered by the Agency, FDA will not place a bulk drug substance on the 503B Bulks List.

FDA intends to evaluate the bulk drug substances nominated for the 503B Bulks List on a rolling basis. FDA will evaluate and publish in the **Federal Register** its proposed and final determinations in groups of bulk drug substances until all nominated substances that were sufficiently supported have been evaluated and either placed on the 503B Bulks List or identified as bulk drug substances that were considered but determined not to be appropriate for inclusion on the 503B Bulks List.[12]

B. Analysis of Substances Nominated for the List

As noted above, the 503B Bulks List will include bulk drug substances for which there is a clinical need. The Agency is beginning its evaluation of some of the bulk drug substances that were nominated for inclusion on the 503B Bulks List, proceeding case by case, under the clinical need standard provided by the statute.[13] In applying this standard to develop the proposals in this notice, FDA is interpreting the phrase ''bulk drug substances for which there is a clinical need'' to mean that the 503B Bulks List may include a bulk

[5] Section 503B(a)(2)(A) of the FD&C Act.

[6] Section 503B(a)(2)(A)(i)(I) to (III) of the FD&C Act.

[7] 21 CFR 207.3.

[8] Section 503B(a)(2) of the FD&C Act and 21 CFR 207.1.

[9] Inactive ingredients are not subject to section 503B(a)(2) of the FD&C Act and will not be included in the 503B Bulks List because they are not included within the definition of a bulk drug substance. Pursuant to section 503B(a)(3), inactive ingredients used in compounding must comply with the standards of an applicable United States Pharmacopeia or National Formulary monograph, if a monograph exists.

[10] This is consistent with procedure set forth in section 503B(a)(2)(A)(i) of the FD&C Act. Although the statute only directs FDA to issue a **Federal Register** notice and seek public comment when it proposes to include bulk drug substances on the 503B Bulks List, we intend to seek comment when the Agency has evaluated a nominated substance and proposes either to include or not to include the substance on the list.

[11] Section 503B of the FD&C Act does not require FDA to consult the PCAC before developing a 503B Bulks List.

[12] On January 13, 2017, FDA announced the availability of a revised final guidance for industry that provides additional information regarding FDA's policies for bulk drug substances nominated for the 503B Bulks List pending our review of nominated substances under the ''clinical need'' standard entitled ''Interim Policy on Compounding Using Bulk Drug Substances Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (81 FR 37502); available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM469122.pdf.*

[13] On March 4, 2019, FDA announced the availability of a final guidance entitled ''Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (503B Bulks Evaluation Guidance) (84 FR 7390); available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM602276.pdf.* This guidance describes FDA policies for developing the 503B Bulks List, including the Agency's interpretation of the phrase ''bulk drug substances for which there is a clinical need,'' as it is used in section 503B of the FD&C Act.

drug substance if: (1) There is a clinical need for an outsourcing facility to compound the drug product and (2) the drug product must be compounded using the bulk drug substance. FDA is not interpreting supply issues, such as backorders, to be within the meaning of ''clinical need'' for compounding with a bulk drug substance. Section 503B separately provides for compounding from bulk drug substances under the exemptions from the FD&C Act discussed above if the drug product compounded from the bulk drug substance is on the FDA drug shortage list at the time of compounding, distribution, and dispensing. Additionally, we are not considering cost of the compounded drug product as compared with an FDA-approved drug product to be within the meaning of ''clinical need.''

The bulk drug substances that we are addressing in this notice are components of FDA-approved drug products, and we therefore began our evaluation by asking the following questions:

1. Is there a basis to conclude, for each FDA-approved product that includes the nominated bulk drug substance, that: (a) An attribute of the FDA-approved drug product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation and (b) the drug product proposed to be compounded is intended to address that attribute?

2. Is there a basis to conclude that the drug product proposed to be compounded must be produced from a bulk drug substance rather than from an FDA-approved drug product?

The reason for question 1 is that unless an attribute of the FDA-approved drug is medically unsuitable for certain patients, and a drug product compounded using a bulk drug substance that is a component of the approved drug is intended to address that attribute, there is no clinical need to compound a drug product using that bulk drug substance. Rather, such compounding would unnecessarily expose patients to the risks associated with drug products that do not meet the standards applicable to FDA-approved drug products for safety, effectiveness, quality, and labeling and would undermine the drug approval process. The reason for question 2 is that to place a bulk drug substance on the 503B Bulks List, FDA must determine that there is a clinical need for outsourcing facilities to compound a drug product *using the bulk drug substance* rather than starting with an FDA-approved drug product.

If the answer to both of these questions is ''yes,'' there may be a clinical need for outsourcing facilities to compound using the bulk drug substance, and we would analyze the question further.[14] If the answer to either of these questions is ''no,'' we generally would not include the bulk drug substance on the 503B Bulks List, because there would not be a basis to conclude that there may be a clinical need to compound drug products using the bulk drug substance instead of administering or starting with an approved drug product.

III. Substances Proposed for the 503B Bulks List

Because the substances in this notice are components of FDA-approved drug products, we considered whether: (1) There is a basis to conclude that an attribute of each FDA-approved drug product containing the bulk drug substance makes each one medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation, and the drug product proposed to be compounded is intended to address that attribute and (2) whether the drug product proposed to be compounded must be compounded using a bulk drug substance.

The nine bulk drug substances that have been evaluated and that FDA is proposing not to place on the list are as follows: dipyridamole, ephedrine sulfate, famotidine, hydralazine hydrochloride, methacholine chloride, sodium bicarbonate, sodium tetradecyl sulfate, trypan blue, and vecuronium bromide. The reasons for FDA's proposals are included below.

A. Dipyridamole

Dipyridamole has been nominated for inclusion on the 503B Bulks List to compound drug products that are used for thallium myocardial perfusion imaging for the evaluation of coronary artery disease in patients who cannot exercise adequately.[15] The proposed route of administration is intravenous, the proposed dosage form is an injection, and the proposed strength is 1 milligram per milliliter (mg/mL) in a 50 mL and 60 mL syringe. The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDAs 074521 and 074939). FDA-approved dipyridamole is available as a 5 mg/mL injection for intravenous administration.[16] [17] Per its labeling, it should be diluted to a final concentration of less than or equal to 2.5 mg/mL.[18]

1. Suitability of FDA-Approved Drug Product

The nomination does not identify an attribute of the FDA-approved drug products that makes them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nomination does not explain why the 5 mg/mL injection (for dilution) is medically unsuitable for certain patients. Accordingly, with respect to the dipyridamole drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nomination does not take the position or provide support for the position that drug products containing dipyridamole must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the dipyridamole drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

B. Ephedrine Sulfate

Ephedrine sulfate has been nominated for inclusion on the 503B Bulks List to compound drug products that treat acute bronchospasm, drug induced hypotension due to anesthesia, and nasal congestion.[19] The proposed route of administration is intravenous, the proposed dosage form is a preservative-

[14] FDA's 503B Bulks Evaluation Guidance sets forth four additional factors that the Agency generally intends to consider in such an analysis. Because we did not answer ''yes'' to both of the threshold questions for dipyridamole, ephedrine sulfate, famotidine, hydralazine hydrochloride, methacholine chloride, sodium bicarbonate, sodium tetradecyl sulfate, trypan blue, or vecuronium bromide, we did not consider these four additional factors in this proposal.

[15] See Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0031.

[16] See, *e.g.,* ANDA 074521 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/baa2cb6d-2b97-4ad3-a5fc-bad3b8bc6175/baa2cb6d-2b97-4ad3-a5fc-bad3b8bc6175.xml.*

[17] Dipyridamole is also approved as an oral tablet and in combination with aspirin as an extended release capsule.

[18] According to the label for ANDA 074521, dipyridamole injection should be diluted in at least a 1:2 ratio with with sodium chloride injection 0.45%, sodium chloride injection 0.9% or dextrose injection 5% for a total volume of approximately 20 to 50 mL.

[19] See Docket No. FDA–2013–N–1524, document nos. FDA–2013–N–1524–2292 and FDA–2013–N–1524–2298.

free solution, and the proposed strengths are 5 mg/mL and 10 mg/mL.[20] The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* NDAs 208943 and 208289). FDA-approved ephedrine sulfate is available as a single-dose, preservative-free 50 mg/mL solution for intravenous administration.[21] [22] Per its labeling, ephedrine sulfate must be diluted before administration to achieve the desired concentration as an intravenous bolus or intravenous infusion. The labeling includes preparation instructions for making a solution containing a final concentration of 5 mg/mL of ephedrine sulfate injection for bolus intravenous administration.

1. Suitability of FDA-Approved Drug Product

The nominations do not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nominations do not explain why the single-dose, preservative-free 50 mg/mL solution (for dilution) is medically unsuitable for certain patients. Accordingly, with respect to the ephedrine sulfate drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nominations do not take the position or provide support for the position that drug products containing ephedrine sulfate must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the ephedrine sulfate drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

[20] Nominator(s) proposed to compound a preservative-free solution. However, they failed to acknowledge that there is a preservative-free formulation of ephedrine sulfate that is marketed or explain why that formulation would be medically unsuitable for certain patients.

[21] See, *e.g.,* NDA 208943 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/6df5e5f1-6375-45ff-9905-f19927e92ee2/6df5e5f1-6375-45ff-9905-f19927e92ee2.xml.*

[22] Per the label for NDA 208943, each mL contains ephedrine sulfate 50 mg in water for injection as a single-dose product.

C. Famotidine

Famotidine has been nominated for inclusion on the 503B Bulks List to compound drug products that treat duodenal ulcer disease, esophagitis, gastrointestinal reflux disease, and gastric ulcer disease, among other conditions.[23] The proposed route of administration is intravenous, the proposed dosage form is a preservative-free solution and a diluted injection solution, and the proposed strengths range from 2 mg/mL to 10 mg/mL.[24] The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDAs 078641 and 078642). FDA-approved famotidine is available as a single-dose, preservative-free 10 mg/mL solution for intravenous administration.[25] [26] [27] Per its labeling, famotidine may be diluted to a final concentration of 4 mg/mL or 2 mg/mL for bolus administration.[28]

1. Suitability of FDA-Approved Drug Product

The nominations do not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nominations do not explain why the single-dose, preservative-free 10 mg/mL solution (for dilution) is medically unsuitable for certain patients. Accordingly, with respect to the famotidine drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nominations do not take the position or provide support for the position that drug products containing famotidine must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the famotidine drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

[23] See Docket No. FDA–2013–N–1524, document nos. FDA–2013–N–1524–2292 and FDA–2013–N–1524–2298.

[24] Nominator(s) proposed to compound a preservative-free solution. However, they failed to acknowledge that there is a preservative-free formulation of famotidine that is marketed or explain why that formulation would be medically unsuitable for certain patients.

[25] See, *e.g.,* ANDAs 079641 and 079641 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/99bd2efa-ef75-4daf-ae24-ab574adf1a1e/99bd2efa-ef75-4daf-ae24-ab574adf1a1e.xml.*

[26] Per the label for ANDA 079641, famotine injection is available in a non-preserved single-dose vial.

[27] Famotidine is also approved as an oral tablet and a powder for suspension for oral administration.

[28] According to the label for ANDA 078642, to prepare famotidine intravenous solutions, aseptically dilute 2 mL of famotidine injection, USP (solution containing 10 mg/mL) with 0.9% Sodium Chloride Injection or other compatible intravenous solution (see Stability, Famotidine Injection, USP) to a total volume of either 5 mL or 10 mL and inject over a period of not less than 2 minutes. In addition, to prepare famotidine intravenous infusion solutions, aseptically dilute 2 mL of famotidine injection, USP with 100 mL of 5% dextrose or other compatible solution (see Stability, Famotidine Injection, USP), and infuse over a 15- to 30-minute period.

D. Hydralazine Hydrochloride (HCl)

Hydralazine HCl has been nominated for inclusion on the 503B Bulks List to compound drug products that treat essential hypertension.[29] The proposed routes of administration are intravenous and intramuscular, the proposed dosage form is a preservative-free solution, and the proposed strengths are 0.2 mg/mL and 20 mg/mL.[30] The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDAs 204680 and 040730). FDA-approved hydralazine HCl is available as a preservative-free 20 mg/mL solution for intravenous and intramuscular administration.[31] [32] [33]

1. Suitability of FDA-Approved Drug Product

The nominations do not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nominations do not explain why the preservative-free 20 mg/mL solution is medically unsuitable for certain patients. Accordingly, with respect to the hydralazine HCl drug

[29] See Docket No. FDA–2013–N–1524, document nos. FDA–2013–N–1524–2292 and FDA–2013–N–1524–2298.

[30] Nominator(s) proposed to compound a preservative-free solution. However, they failed to acknowledge that there is a preservative-free formulation of hydralazine HCl that is marketed or explain why that formulation would be medically unsuitable for certain patients.

[31] See, *e.g.,* ANDA 204680 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/92e234dc-d44e-4e81-b305-4a47b1cfe2c3/92e234dc-d44e-4e81-b305-4a47b1cfe2c3.xml.*

[32] Per the label for ANDA 204680, hydralazine HCl is available in a preservative-free, single-dose vial.

[33] Hydralazine HCl is also approved as an oral tablet, as an oral capsule in combination with hydrochlorothiazide, and as an oral tablet in combination with isosorbide dinitrate.

products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nominations do not take the position or provide support for the position that drug products containing hydralazine HCl must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that hydralazine HCl drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

E. Methacholine Chloride

Methacholine chloride has been nominated for inclusion on the 503B Bulks List to compound drug products that aid in the diagnosis of bronchial airway hyperactivity.[34] The proposed route of administration is inhalation tapering dose kits, the proposed dosage form is an inhalant, and the proposed strengths are as follows: 8 dilutions (0.125 mg/mL, 0.25 mg/mL, 0.5 mg/mL, 1 mg/mL, 2 mg/mL, 4 mg/mL, 8 mg/mL, 16 mg/mL) and 10 dilutions (0.031 mg/mL, 0.0625 mg/mL, 0.125 mg/mL, 0.25 mg/mL, 0.5 mg/mL, 1 mg/mL, 2 mg/mL, 4 mg/mL, 8 mg/mL, 16 mg/mL). The nominated bulk drug substance is a component of an FDA-approved drug product (NDA 019193). FDA-approved methacholine chloride is available as a 100 mg/vial powder for solution to be administered only by inhalation.[35] Per its labeling, methacholine chloride is reconstituted and diluted to the following concentrations with 0.9% sodium chloride injection or 0.9% sodium chloride injection containing 0.4% phenol (pH 7.0): 0.025 mg/mL, 0.25 mg/mL, 2.5 mg/mL, 10 mg/mL, and 25 mg/mL.

1. Suitability of FDA-Approved Drug Product

The nomination does not identify an attribute of the FDA-approved drug product that makes it medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nomination does not explain why the 100 mg/vial powder for solution (for reconstitution) is medically unsuitable for certain patients. Accordingly, with respect to the methacholine chloride drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nomination does not take the position or provide support for the position that drug products containing methacholine chloride must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the methacholine chloride drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

F. Sodium Bicarbonate

Sodium bicarbonate has been nominated for inclusion on the 503B Bulks List to compound drug products that treat various conditions, including metabolic acidosis, certain drug intoxications, severe diarrhea, and indigestion.[36] The proposed route of administration is intravenous, the proposed dosage forms are an injectable, preservative-free solution, and injection solutions, and the proposed strengths range from 4.2% to 8.4%, as well as unspecified higher concentrations.[37] The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDAs 203449 and 202494). FDA-approved sodium bicarbonate is available as a single-dose, preservative-free 1 milliequivalent (mEq/mL) (8.4%) solution for intravenous administration.[38] [39] [40]

1. Suitability of FDA-Approved Drug Product

The nominations do not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nominations do not explain why the single-dose, preservative-free 1 mEq/mL (8.4%) solution is medically unsuitable for certain patients. A nomination submitted by the Outsourcing Facilities Association states that it may be necessary to compound a product with greater concentration than is commercially available, but the nomination does not identify specific higher concentrations that the nominator proposes to compound or provide any data or information supporting the need for a higher concentration. Accordingly, with respect to the sodium bicarbonate drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nominations do not take the position or provide support for the position that the proposed sodium bicarbonate products with concentrations at or below 8.4% (1 mEQ/mL) must be compounded from bulk drug substances rather than by diluting the approved drug product. In light of the analysis in section III.6.a. above, we do not consider whether a bulk drug substance must be used to compound a sodium bicarbonate drug product at concentrations higher than 8.4%. FDA finds no basis to conclude that the sodium bicarbonate drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

G. Sodium Tetradecyl Sulfate

Sodium tetradecyl sulfate has been nominated for inclusion on the 503B Bulks List to compound drug products that treat varicose veins.[41] The proposed route of administration is intravenous, the proposed dosage form is an injection solution, and the proposed strengths range from 0.1% to 3%. The nominated

[34] See Docket No. FDA–2013–N–1524, document no. FDA–2013–N–1524–2292.

[35] See, *e.g.,* NDA 208943 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/7f538d73-80e2-4c00-911a-df2637e5a4d1/7f538d73-80e2-4c00-911a-df2637e5a4d1.xml.*

[36] See Docket No. FDA–2013–N–1524, document nos. FDA–2013–N–1524–2292 and FDA–2013–N–1524–2298. Also, see Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0095.

[37] Nominator(s) proposed to compound a preservative-free solution. However, they failed to acknowledge that there is a preservative-free formulation of sodium bicarbonate that is marketed or explain why that formulation would be medically unsuitable for certain patients.

[38] See, *e.g.,* ANDA 203449 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/0e955d36-928c-4f09-9b34-0cc954e5b1f4/0e955d36-928c-4f09-9b34-0cc954e5b1f4.xml.*

[39] Per the label for ANDA 203449, the solutions contain no bacteriostat, antimicrobial agent, or added buffer and are intended only for use as a single-dose injection.

[40] Sodium bicarbonate is also approved in combination with other ingredients as an injectable, solution for irrigation, and various oral formulations.

[41] See Docket No. FDA–2013–N–1524, document no. FDA–2013–N–1524–2292.

bulk drug substance is a component of an FDA-approved drug product (ANDA 040541). FDA-approved sodium tetradecyl sulfate is available as a 20 mg/2 mL (10 mg/mL; 1%) and 60 mg/2 mL (30 mg/mL; 3%) solution for intravenous administration.[42]

1. Suitability of FDA-Approved Drug Product

The nomination does not identify an attribute of the FDA-approved drug product that makes it medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nomination does not explain why the 20 mg/2 mL (10 mg/mL; 1%) and 60 mg/2 mL (30 mg/mL; 3%) solutions are medically unsuitable for certain patients. Accordingly, with respect to the sodium tetradecyl sulfate drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nomination does not take the position or provide support for the position that drug products containing sodium tetradecyl sulfate must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the sodium tetradecyl sulfate drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

H. Trypan Blue

Trypan blue has been nominated for inclusion on the 503B Bulks List to compound drug products that aid in staining the eye for cataract surgery and vitrectomy.[43] The proposed route of administration is intraocular,[44] the proposed dosage form is a preservative-free solution, and the proposed strengths are 0.05%, 0.06%, and 0.15%.[45] The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* NDAs 021670 and 022278). FDA-approved trypan blue is available as a single-dose, preservative-free 0.06% and 0.15% solution for intraocular administration.[46] [47]

1. Suitability of FDA-Approved Drug Product

The nominations do not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nominations do not explain why the single-dose, preservative-free 0.06% and 0.15% solutions are medically unsuitable for certain patients. Accordingly, with respect to trypan blue drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nominations do not take the position or provide support for the position that drug product containing trypan blue must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the trypan blue drug products proposed in the nominations must be compounded using a bulk drug substance rather than the approved drug product.

I. Vecuronium Bromide

Vecuronium bromide has been nominated for inclusion on the 503B Bulks List to compound drug products that facilitate endotracheal intubation.[48] The proposed route of administration is rapid intravenous injection or by intravenous infusion using an infusion control device, the proposed dosage form is an injection, and the propose strengths are 10 mg/10 mL (1 mg/mL) in sterile water for injection and 100 mg/100 mL (1 mg/mL) in 0.9% sodium chloride solution. The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDAs 079001 and 206670). FDA-approved vecuronium bromide is available as a 10 mg/vial and 20 mg/vial lyophilized powder for solution for intravenous administration (bolus dosing or continuous infusion).[49] Per its labeling, vecuronium bromide is 1 mg/mL after reconstitution with either 10 mL (10 mg/vial) or 20 mL (20 mg/vial) of diluent.[50]

1. Suitability of FDA-Approved Drug Product

The nomination does not identify an attribute of the FDA-approved drug products that make them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Specifically, the nomination does not explain why the 10 mg/vial and 20 mg/vial lyophilized powders for solution (for reconstitution) are medically unsuitable for certain patients. Accordingly, with respect to the vecuronium bromide drug products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

The nomination does not take the position or provide support for the position that drug products containing vecuronium bromide must be compounded from bulk drug substances rather than by diluting the approved drug product. FDA finds no basis to conclude that the vecuronium bromide drug products proposed in the

[42] See, *e.g.,* ANDA 040541 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/5450f902-fb17-44b8-8c4b-4fefeed1908e/5450f902-fb17-44b8-8c4b-4fefeed1908e.xml.*

[43] See Docket No. FDA–2013–N–1524, document nos. FDA–2013–N–1524–2292 and FDA–2013–N–1524–2298.

[44] One nominator proposed the following route of administration and dosage form: Ophthalmic solution; injection. Thus, FDA determined that the proposed route of administration is intraocular.

[45] Nominator(s) proposed to compound a preservative-free solution. However, they failed to acknowledge that there is a preservative-free formulation of trypan blue that is marketed or explain why that formulation would be medically unsuitable for certain patients.

[46] See, *e.g.,* NDA 021670 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/7c57aaf4-e1a1-d191-e053-2a91aa0a757a/7c57aaf4-e1a1-d191-e053-2a91aa0a757a.xml* and NDA 022278 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/7c57f83d-da8f-2499-e053-2a91aa0afe8e/7c57f83d-da8f-2499-e053-2a91aa0afe8e.xml.*

[47] Per the label for NDA 021670, each mL contains: 0.6 mg trypan blue, 1.9 mg sodium mono-hydrogen orthophosphate, 0.3 mg sodium di-hydrogen orthophosphate, 8.2 mg sodium chloride, and water for injection. Per the label for NDA 022278, each mL contains: 1.5 mg trypan blue, 1.9 mg sodium mono-hydrogen orthophosphate, 0.3 mg sodium di-hydrogen orthophosphate, 8.2 mg sodium chloride, and water for injection.

[48] See Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0011.

[49] See, *e.g.,* ANDA 079001 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/82d6bc45-04a5-409a-9223-da1884b2468f/82d6bc45-04a5-409a-9223-da1884b2468f.xml.*

[50] In addition, the labeling contains infusion rate information for two separate strength solutions: 0.1 mg/mL (10 mg of vecuronium bromide in 100 mL solution) and 0.2 mg/mL (20 mg of vecuronium bromide in 100 mL solution).

nominations must be compounded using a bulk drug substance rather than the approved drug product.

IV. Other Issues Raised in Nominations

Some of the bulk drug substance nominations included in this notice state that there could be a benefit gained from providing drug products containing each of these bulk drug substances that do not require dilution or reconstitution prior to administration. More broadly, as explained above, when a bulk drug substance is a component of an approved drug, FDA asks whether there is a basis to conclude that an attribute of each approved drug product makes each one medically unsuitable to treat certain patients for their condition, an interpretation that protects patients and the integrity of the drug approval process. The nominations do not show that the approved drug product, when not manufactured in the ready-to-use form, is medically unsuitable for certain patients. Nor do the nominations establish that drug products in the relevant concentrations, including ready-to-use products, cannot be prepared from the approved drug products. Rather, they propose to compound a ready-to-use product from bulk drug substances to seek improved efficiency for prescribers or healthcare providers, or to address the possibility that the approved drug might be mishandled by a medical professional, neither of which falls within the meaning of clinical need to compound a drug product using a bulk drug substance.

Some of the nominations for the substances in this notice include statements that these substances should be added to the 503B Bulks List because compounding from the bulk drug substance could help outsourcing facilities address drug shortages and supply disruptions of approved drugs. As noted above, section 503B of the FD&C Act contains a separate provision for compounding from bulk drug substances to address a drug shortage, and we do not interpret the other price- and supply-related issues advanced by the nominations to be within the meaning of ''clinical need'' for compounding with a bulk drug substance.[51]

Some of the nominations for the substances in this notice assert that it would be preferable to compound a drug product using a bulk drug substance rather than using an approved drug product; however, they do not take the position or provide support for the position that a bulk drug substance must be used to prepare these concentrations.[52]

V. Conclusion

For the reasons stated above, we find no basis to conclude that there is a clinical need for outsourcing facilities to compound drug products using the bulk drug substances dipyridamole, ephedrine sulfate, famotidine, hydralazine hydrochloride, methacholine chloride, sodium bicarbonate, sodium tetradecyl sulfate, trypan blue, and vecuronium bromide. We therefore propose to not include dipyridamole, ephedrine sulfate, famotidine, hydralazine hydrochloride, methacholine chloride, sodium bicarbonate, sodium tetradecyl sulfate, trypan blue, and vecuronium bromide on the 503B Bulks List.

Dated: August 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18932 Filed 8–30–19; 8:45 am]

BILLING CODE 4164–01–P

[51] Please see the final guidance entitled ''Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (503B Bulks Evaluation Guidance) (84 FR 7390); available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM602276.pdf* and the **Federal Register** notice entitled ''List of Bulk Drug Substances for Which There Is a Clinical Need Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' available at *https://www.federalregister.gov/documents/2019/03/04/2019-03810/list-of-bulk-drug-substances-for-which-there-is-a-clinical-need-under-section-503b-of-the-federal.*

[52] For example, the nominations do not take the position or provide support for the position that a drug product prepared by starting with the approved drug would be unsuitable for administration.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0717]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Evaluation of the Food and Drug Administration's General Market Youth Tobacco Prevention Campaigns

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 3, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0753. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Evaluation of the Food and Drug Administration's General Market Youth Tobacco Prevention Campaigns

OMB Control Number 0910–0753—Extension

Overview of the Evaluation Studies

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to grant FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health and to reduce tobacco use by minors. Section 1003(d)(2)(D) of the FD&C Act (21 U.S.C. 393(d)(2)(D)) supports the development and implementation of FDA public education campaigns related to tobacco use. Accordingly, FDA is currently developing and implementing youth-targeted public education campaigns to help prevent tobacco use among youth and thereby reduce the public health burden of tobacco. The campaigns feature televised advertisements along with complementary ads on radio, on the internet, in print, and through other forms of media.

Evaluation is an essential organizational practice in public health and a systematic way to account for and improve public health actions. Comprehensive evaluation of FDA's

public education campaigns will be used to document whether the intended audience is aware of and understands campaign messages; and whether campaign exposure influences beliefs about tobacco, susceptibility to tobacco use, and tobacco use behavior. All the information collected is integral to that evaluation.

FDA conducted three studies to evaluate the effectiveness of its youth tobacco prevention campaigns: (1) An outcome evaluation study of its General Market Youth Tobacco Prevention Campaign, (2) an outcome evaluation of the Rural Male Youth Smokeless Tobacco Campaign, and (3) a media tracking survey. The timing of these studies follows the multiple, discrete waves of media advertising planned for the campaigns. The outcome evaluation of the smokeless tobacco campaign and the media tracking survey are now complete, while evaluation of the General Market Youth Tobacco Prevention campaign is ongoing.

The General Market Youth Tobacco Prevention Campaign

The General Market Youth Tobacco Prevention Campaign targets youth who are at risk for smoking, or who have experimented with smoking but not progressed to regular smoking. The campaign evaluation consists of surveys conducted with two cohorts of youth and their parents or guardians. Each cohort consists of an initial baseline survey of youth aged 11 to 16, and followup surveys of the same youth at approximate 8-month intervals. At baseline, surveys are also conducted with the parent or legal guardian of each youth to collect data on household characteristics and media use. Because youth age over the study period, the age range of youth and young adults among whom we collect data over the study period are aged 11 to 18.

Data collection associated with the first cohort, including a baseline survey and four followup surveys, is complete. We have also completed baseline and first followup data collection for the second cohort. We are planning two additional followup surveys of youth in the second cohort.

Methods Used for the Evaluation Study

All information for the General Market campaign evaluation is being collected through in-person and web-based questionnaires. Youth respondents were recruited from a probability sample drawn from 90 U.S. media markets gathered using an address-based postal mail sampling of U.S. households. Participation in the study is voluntary.

Purpose of the Evaluation Studies

The studies are being conducted in support of the provisions of the Tobacco Control Act, which require FDA to protect the public health and reduce tobacco use by minors. The information being collected is necessary to inform FDA's efforts towards those goals and to measure the effectiveness and public health impact of the campaigns. Data from the outcome evaluation of the General Market and Rural Male Youth Smokeless campaigns are being used to examine statistical associations between exposure to the campaigns and subsequent changes in specific outcomes of interest, which include knowledge, attitudes, beliefs, and intentions related to tobacco use, as well as behavioral outcomes including tobacco use. Data from the media tracking survey are being used to estimate awareness of and exposure to the campaigns among youth nationally as well as among youth in geographic areas targeted by the campaign.

In the **Federal Register** of May 17, 2019 (84 FR 22499), FDA published a 60-day notice requesting public comment on the proposed collection of information. Four comments were received that were not PRA related.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
General Population	Screener and Consent Process (Parent Permission).	6,270	1	6,270	.125 (7.5 minutes)	784
Parent of Youth Baseline Survey.	Telephone Verification Survey	627	1	627	.1333 (8 minutes)	84
Participants	Recruitment Materials—Panel Maintenance Letter, Lead Letter, Survey Invitation Email, Q&As; Study Description; Email Reminders, Reminder Letter, Notifications.	6,270	1	6,270	.20 (12 minutes)	1,254
Cohort 2 Youth Assent	Youth Assent under 18	5,874	1	5,874	.08 (5 minutes)	470
Cohort 2—Youth Aged 11 to 18.	Youth Consent 18 and up	396	1	396	.08 (5 minutes)	32
	Cohort 2—Youth 1st, 2nd, 3rd Followup Questionnaire.	6,270	1	6,270	0.75 (45 minutes)	4,703
Totals				25,707		7,327

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA has revised the burden since publication of the 60-day notice due to the decision to complete data collection for the Media Tracking Survey earlier than originally planned. Therefore, the estimated burden hours for the: (1) Screener and Consent Process, (2) Parent Baseline Questionnaire, (3) Media Tracking Screener, and (4) three waves of Media Tracking Questionnaires are no longer needed or requested. In addition, we have completed the baseline and first wave of followup data collection for Cohort 2 of the General Market campaign evaluation.

The new estimated burden for this collection is 25,707 responses and 7,327 hours. This is a decrease of 117,120 responses and 21,010 hours from the current approved information collection.

Dated: August 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18938 Filed 8–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–2837]

Testing and Labeling Medical Devices for Safety in the Magnetic Resonance Environment; Draft Guidance for Industry and Food and Drug Administration Staff; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice of availability that appeared in the **Federal Register** of August 2, 2019. In the notice of availability, FDA requested comments on draft guidance for industry and FDA staff entitled ''Testing and Labeling Medical Devices for Safety in the Magnetic Resonance (MR) Environment.'' The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the document published August 2, 2019 (84 FR 37886). Submit either electronic or written comments on the draft guidance by October 31, 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–2837 for ''Testing and Labeling Medical Devices for Safety in the Magnetic Resonance (MR) Environment; Draft Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Testing and Labeling Medical Devices for Safety in the Magnetic Resonance (MR) Environment'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Terry Woods, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Rm. 2116, Silver Spring, MD 20993–0002, 301–796–2503.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 2, 2019, FDA published a notice of availability with a 60-day comment period to request comments on the draft guidance for industry and FDA staff entitled ''Testing and Labeling Medical Devices for Safety in the Magnetic Resonance (MR) Environment.''

The Agency has received a request for a 30-day extension of the comment period. The request conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful or thoughtful response.

FDA has considered the request and is extending the comment period for the notice of availability for 30 days, until October 31, 2019. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying guidance on these important issues.

II. Significance of Guidance

FDA is issuing this draft guidance 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 this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Testing and Labeling Medical Devices for Safety in the Magnetic Resonance (MR) Environment'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500059 to identify the guidance you are requesting.

Dated: August 28, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18929 Filed 8–30–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Mental Health Services Research Committee, November 7, 2019, 8:00 a.m. to November 7, 2019 p.m., 05:00 p.m., The Dupont Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036 which was published in the **Federal Register** on August 201, 2019, 84 FR 43150.

This notice is to amend the date of the Mental Health Service Research Committee (SERV) meeting from November 7, 2019 to November 8, 2019. The meeting times and location remain the same. The meeting is closed to the public.

Dated: August 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18901 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Council of Councils, September 6, 2019, 08:15 a.m. to 04:00 p.m., National Institutes of Health, The Natcher Building, Building 45, Room E, 45 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 08, 2019, 84 FR 2890.

The meeting notice is amended to change the open and closed session meeting times as follows: The morning open session will change from 8:15 a.m.–12:00 p.m. to 8:00 a.m.–12:00 p.m.; the closed session will change from 12:00 p.m.–1:30 p.m. to 12:00 p.m.–12:45 p.m.; and the afternoon open session will change from 1:30 p.m.–4:00 p.m. to 12:45 p.m.–4:15 p.m. The meeting is partially closed to the public.

Dated: August 27, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18902 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cures Acceleration Network Review Board, September 19, 2019, 11:00 a.m. to 4:30 p.m., PORTER NEUROSCIENCE RESEARCH CENTER, Building 35A, 35 Convent Drive, Bethesda, MD 20892 which was published in the **Federal Register** on June 27, 2019, 84 FR 30744 Pg. 30744.

This meeting notice is amended to change the start time from 11:00 a.m. to 10:00 a.m. The meeting is open to the public.

Dated: August 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18895 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated

Review Group; Biochemistry and Biophysics of Membranes Study Section.

Date: September 25, 2019.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Cellular Signaling and Regulatory Systems Study Section.

Date: September 26–27, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: September 30–October 1, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, Bethesda, MD 20892, 301–827–4417, *jianxinh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18894 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Biorepository of Human Induced Pluripotent Stem Cells.

Date: September 23, 2019.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Office of Scientific Review/DERA, National Heart, Lung and Blood Institute, 6701 Rockledge Drive, Bethesda, MD 20879 (Telephone Conference Call).

Contact Person: Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301–435–0297, *nagelinmh2@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 27, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18898 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Clinical Trials to Test the Effectiveness of Treatment, Preventive, and Services Interventions (R01).

Date: September 20, 2019.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NRSA Institutional Research Grant Training Review.

Date: September 27, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036.

Contact Person: Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSC 9606, 6001 Executive Boulevard, Bethesda, MD 20892–9606, 301–443–2742, *nick.gaiano@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Psychosocial Treatment Development.

Date: September 27, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18900 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: September 20, 2019.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Lee G. Klinkenberg, Ph.D., Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Bethesda, MD 20892–9834, 301–761–7749, *lee.klinkenberg@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 26, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18899 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Advisory Council, which was published in the **Federal Register** on February 11, 2019, 84 FR 01884.

This notice is amended to update the times of the meeting.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: September 10, 2019.

Open: 8:00 a.m. to 10:00 a.m.

Open: 11:30 a.m. to 2:30 p.m.

Open: 4:00 p.m. to 5:15 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 35A, Porter Building, Room 640, 35A Convent Drive, Bethesda, MD 20892.

The meeting is open to the public.

Dated: August 27, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18897 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, September 18, 2019, 8:00 a.m. to September 19, 2019, 3:00 p.m., Gaithersburg Washingtonian Marriott, 9751 Washingtonian Blvd., Gaithersburg, MD 20878 which was published in the **Federal Register** on August 12, 2019, 84 FR 39858.

The meeting notice is amended to change the meeting start time on September 18, 2019 from 8:00 a.m. to 4:00 p.m. and the meeting end time on September 19, 2019 from 3:00 p.m. to 4:30 p.m. The meeting is closed to the public.

Dated: August 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18896 Filed 8–30–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4435–DR; Docket ID FEMA–2019–0001]

Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–4435–DR), dated May 20, 2019, and related determinations.

DATES: This amendment was issued August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 20, 2019.

Cape Girardeau, Pike, and Scott Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18883 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4435–DR; Docket ID FEMA–2019–0001]

Missouri; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Missouri (FEMA–4435–DR), dated May 20, 2019, and related determinations.

DATES: This change occurred on August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Seamus K. Leary as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18882 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4429–DR; Docket ID FEMA–2019–0001]

Mississippi; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4429–DR), dated April 23, 2019, and related determinations.

DATES: This amendment was issued August 22, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 23, 2019.

Issaquena, Sharkey, Warren, and Yazoo Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18886 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4449–DR; Docket ID FEMA–2019–0001]

Kansas; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Kansas (FEMA–4449–DR), dated June 20, 2019, and related determinations.

DATES: This change occurred on August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dan Best, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Jon K. Huss as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18880 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4453–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4453–DR), dated July 12, 2019, and related determinations.

DATES: This amendment was issued August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 12, 2019.

Okfuskee County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18877 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4420–DR; Docket ID FEMA–2019–0001]

Nebraska; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nebraska (FEMA–4420–DR), dated March 21, 2019, and related determinations.

DATES: This amendment was issued August 7, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now March 9, 2019, through and including July 14, 2019.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18888 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4449–DR; Docket ID FEMA–2019–0001]

Kansas; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–4449–DR), dated June 20, 2019, and related determinations.

DATES: This amendment was issued August 14, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 20, 2019.

Miami County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18881 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4451–DR; Docket ID FEMA–2019–0001]

Missouri; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Missouri (FEMA–4451–DR), dated July 9, 2019, and related determinations.

DATES: This change occurred on August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Seamus K. Leary as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18879 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4438–DR; Docket ID FEMA–2019–0001]

Oklahoma; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–4438–DR), dated June 1, 2019, and related determinations.

DATES: This amendment was issued August 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of June 1, 2019.

Tillman County for Public Assistance [Categories A–G], including direct federal assistance, under the Public Assistance program.

Okmulgee and Ottawa Counties for Public Assistance [Categories A–G], including direct federal assistance, under the Public Assistance program (already designated for Individual Assistance).

Noble County for Public Assistance [Categories A–G] (already designated for Individual Assistance and assistance for emergency protective measures [Category B], limited to direct federal assistance under the Public assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18885 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4420–DR; Docket ID FEMA–2019–0001]

Nebraska; Amendment No. 10 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–4420–DR), dated March 21, 2019, and related determinations.

DATES: This amendment was issued August 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 21, 2019.

Dawson County for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–18887 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Rescission of Discretionary Parole Policies Relating to Nationals of the Russian Federation Seeking Entry Into Guam and/or the Commonwealth of the Northern Mariana Islands for a Temporary Visit for Business or Pleasure

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: Under discretionary parole policies, Department of Homeland Security (DHS) has granted parole on a case-by-case basis to nationals of the Russian Federation (Russia) to enter Guam and the Commonwealth of the Northern Mariana Islands (CNMI) for temporary visits for business or pleasure for up to 45 days provided the traveler meets certain conditions. DHS is publishing this notice to announce to the public that it plans to end this discretionary parole policy. This discretionary change in policy does not preclude affected individuals from applying for parole, which DHS will grant on a case-by-case basis only where the applicant demonstrates an urgent humanitarian or a significant public benefit reason for parole and the applicant merits a favorable exercise of discretion.

DATES: DHS will be ending these uses of its discretionary parole authority as of October 3, 2019.

FOR FURTHER INFORMATION CONTACT: Michael T. Dougherty, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528–0445.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2009, former Secretary of Homeland Security Janet Napolitano announced that, effective November 28, 2009, DHS would favorably consider, on a case-by-case basis, requests for discretionary parole into the CNMI from eligible nationals of Russia who are temporary visitors for business or pleasure. Effective January 15, 2012, this policy was extended to Russian visitors to Guam.

Secretary Napolitano justified this exercise of parole based on her discretionary parole authority and the authority to administer the Nation's immigration laws. *See* Immigration and Nationality Act, as amended (INA) secs. 103(a), 212(d)(5); 8 U.S.C. 1103(a), 1182(d)(5). Although parole is an authorized entry into the United States, it does not constitute an admission to the United States. INA secs. 101(a)(13)(B), 212(d)(5)(A); 8 U.S.C. 1101(a)(13)(B), 1182(d)(5)(A). Parole may be granted to an alien, regardless of her or his inadmissibility, as a matter of discretion ''on a case-by-case basis for urgent humanitarian reasons or significant public benefit.'' INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

Under the 2009 and 2012 discretionary parole policies, nationals of Russia may be allowed to enter Guam and the CNMI and to travel between Guam and the CNMI, visa-free for a period of stay up to 45 days, provided the traveler meets certain conditions. Pursuant to these policies, nationals of Russia seeking entry are required to: (i) Possess a valid, unexpired machine-readable passport; (ii) not have previously violated the terms of any prior travel to the United States; and (iii) present a valid completed CBP Form I–94, Arrival/Departure Record and Form I–736, Guam-CNMI Visa Waiver Information. Visitors who are paroled under this authority may not engage in local employment or labor for hire. Parole authorization is limited to Guam and the CNMI only and does not permit travel to another location within the United States.

After careful consideration, and consistent with the President's directive in Executive Order (E.O.) 13767 of January 25, 2017, *Border Security and Immigration Enforcement Improvements,* 82 FR 8793 (Jan. 30, 2017), as well as authorities under the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–229, which, among other things, established the Guam-CNMI Visa Waiver Program (GCVWP), the Secretary of Homeland Security has decided to terminate the 2009 and 2012 policies concerning the exercise of discretionary parole authority for Russian nationals.

In Executive Order 13767, the President directed the Secretary of Homeland Security to ''take appropriate action to ensure that parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole.''

Pursuant to E.O. 13767, the Secretary has reviewed this use of discretionary parole authority and concluded that the policy should be terminated, for numerous reasons, effective October 3, 2019. The previous announcement allowing for parole effectively has invited nationals of Russia to seek parole to visit Guam and the CNMI rather than having them obtain visas. The policy broadly announced to this population that a visitor visa would not be required to travel to Guam and the CNMI if the alien met the specified requirements. Under this policy, the parole authority effectively has been used as a substitute for the visa process.

Moreover, the Guam-CNMI parole policy for Russian nationals was designed as a temporary measure to support tourism in Guam and the CNMI while allowing for due consideration of Russia as a potential participating country under the GCVWP. *See* INA sec. 212(l)(3), 8 U.S.C. 1182(l)(3). In the nearly 10-year period since the parole policies were announced, Russia has not been considered eligible for the GCVWP.

And the parole authority has been exercised far too expansively than originally intended. For Guam, parole accounted for approximately 99 percent of all Russian visitors in 2012 and 85 percent of all Russian visitors in 2017. Similarly, parole accounted for approximately 90 percent of all Russian visitors to the CNMI in 2010 and 82 percent of all Russian visitors in 2017.

Since the 2012 expansion of the discretionary parole authority for Russian nationals seeking entry into Guam, overstays increased from 26 in FY 2012 to 147 in FY 2017, or by 465 percent. While this represents a relatively small percentage of overall Russian visitors in the CNMI and Guam, the increase in overstays is in and of itself a security concern for DHS.

Benefits of Requiring Nonimmigrant Visas

Discontinuing discretionary parole and requiring Russian nationals to obtain a visa to visit the United States for business or pleasure enhances U.S. safety and national security because it requires visa applicants to be screened by the U.S. Department of State. As a result, these visa applicants generally will undergo advance screening and recurrent vetting that includes an in-person visa interview. The perceived negative economic impact of discontinuing discretionary parole Russian nationals in the CNMI and Guam would be offset by admission of the availability of traditional B–1 visas for business and B–2 visas for pleasure. Currently, the vast majority of applications by Russian nationals for B–1/B–2 visas are approved. If admitted in B–1 or B–2 status, individuals generally will be afforded an authorized period of stay of approximately 180 days—four times longer than the current 45-day cap under the more restrictive parole authority.

DHS acknowledges that certain businesses in Guam and the CNMI may have been formed in reliance on commerce and tourism arising out of this parole policy and could be negatively impacted by its termination. Likewise, Russian nationals may have developed business or personal connections to Guam or the CNMI pursuant to the policy and may be inconvenienced by its termination. DHS believes, however, that any such impacts should be largely mitigated by the fact that bona fide visitors for business or pleasure from Russia generally would be able to obtain a visa to allow them to visit Guam or the CNMI. To the extent that travelers from Russia are deterred from travel to Guam and the CNMI due to the visa requirement, however, DHS believes that the security, immigration, and border management interests of the United States outweigh the potential economic or personal interests that may be adversely affected.

Notice of Rescission of Discretionary Parole Policy Relating to Nationals of Russia Seeking Entry Into Guam and/or the CNMI for a Temporary Visit for Business or Pleasure

This notice announces to the public that as of October 3, 2019, DHS rescinds its policy relating to the exercise of its discretionary parole authority for nationals of Russia who are seeking entry into Guam or the CNMI solely for a temporary visit for business or pleasure.

As of October 3, 2019, CBP will no longer give favorable consideration to parole requests simply because the individual is a national of Russia seeking to enter CNMI or Guam for tourism or a business visit. Individuals who have already been paroled into Guam and/or the CNMI will maintain parole until the expiration of that parole period unless there are other grounds for parole termination consistent with DHS regulations at 8 CFR 212.5(e).

As of October 3, 2019, nationals from Russia traveling to Guam and/or the CNMI for a temporary visit for business or pleasure should consider seeking a B–1 or B–2 nonimmigrant visa from a

U.S. Embassy or Consulate, prior to their travel to Guam.

This discretionary change in policy does not preclude affected individuals from applying for parole by filing USCIS Form I–131, Application for Travel Document, consistent with the instructions for that form. In accordance with section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)), parole will only be issued on a case-by-case basis and only where the applicant demonstrates an urgent humanitarian or a significant public benefit reason for parole and that applicant merits a favorable exercise of discretion. Any alien may request parole to travel to the United States, but an alien does not have a right to parole.

Kevin K. McAleenan,

Acting Secretary.

[FR Doc. 2019–18841 Filed 8–30–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N079; FXES11140800000–190–FF08ECAR00]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the San Bernardino Kangaroo Rat, City of Highland, San Bernardino County, CA; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from the City of Highland (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally endangered San Bernardino kangaroo rat incidental to construction in San Bernardino County, California. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, which is also available for review.

DATES: We must receive your written comments on or before October 3, 2019.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents by the following methods:

- *Internet: https://www.fws.gov/carlsbad/HCPs/HCP_Docs.html.*
- *Telephone:* 760–322–2070.
- *U.S. Mail:* Attn: Assistant Field Supervisor, Palm Springs Fish and Wildlife Office, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.
- *In-Person:* You may examine the documents by appointment during regular business hours at the Palm Springs Fish and Wildlife Office (address above). Please call to make an appointment (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: https://www.fws.gov/carlsbad/HCPs/HCP_Docs.html.*
- *Email: fw8cfwocomments@fws.gov.*
- *U.S. mail or hand-delivery:* Palm Springs Fish and Wildlife Office (address above).
- *Fax:* 760–322–4648.

FOR FURTHER INFORMATION CONTACT: Karin Cleary-Rose, by telephone at 760–322–2070, ext. 406, via email at *karin_cleary-rose@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from the City of Highland, California (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests an ITP to take the federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) incidental to the construction of a storm drain outlet (project) in San Bernardino County, California. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that the HCP qualifies as ''low-effect,'' categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, which is also available for public review.

Project

The applicant requests a 5-year ITP to take the San Bernardino kangaroo rat (SBKR) incidental to the temporary impact of 0.10 acres (ac) of occupied SBKR foraging and sheltering habitat for the construction of storm drain outlet located on a 21-ac parcel, Assessor's Parcel Numbers 1201–321–36 and 1201–311–01, in Sections 4, Township 1 South, Range 3 West, San Bernardino County, California. The applicant proposes to mitigate for take of the SBKR through (1) relocation of all SBKR captured on the project area by live-trapping and release into pre-established artificial burrows immediately outside of the project area and (2) restoration and/or enhancement of 0.14 ac of SBKR habitat on the project site.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, and the proposed mitigation and minimization measures, would individually and cumulatively have a minor or negligible effect on the SBKR and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46. 210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the permit to the City of Highland.

Authority

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

Scott Sobiech,

Acting Field Supervisor, Carlsbad Field Office, Pacific Southwest Region.

[FR Doc. 2019–18908 Filed 8–30–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N118; FXES11130800000–178–FF08E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before October 3, 2019.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TEXXXXXX).

- *Email: permitsr8es@fws.gov.*
- *U.S. Mail:* Daniel Marquez, Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, via phone at 760–431–9440, via email at *permitsr8es@fws.gov,* or via the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–42449D	Oregon State University, Corvallis, Oregon.	• Lost River sucker (*Deltistes luxatus*). • Shortnose sucker (*Chasmistes brevirostris*).	OR	Research	Capture, handle, insert PIT tags, clip fins, and release.	New.
TE–50094D	Ian Axsom, Atascadero, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).	CA	Survey	Capture, handle, release, and collect vouchers.	New.
TE–42833A	Ian Maunsell, San Diego, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Survey	Pursue	Amend.

Application No.	Applicant, city, state	Species	Location	Activity	Type of take	Permit action
TE–50992B	Antonette Gutierrez, Imperial Beach, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Quino checkerspot butterfly (*Euphydryas editha quino*). • Light-footed clapper rail (light-footed Ridgway's r.) (*Rallus longirostris levipes*) (*R. obsoletus l.*). • Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey	Capture, handle, and release.	Renew.
TE–56626B	Robin Dakin, San Jose, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*).	CA	Survey	Capture, handle, and release.	Renew.
TE–98574C	River Design Group, Corvallis, Oregon.	• Lost River sucker (*Deltistes luxatus*). • Shortnose sucker (*Chasmistes brevirostris*).	CA, OR	Survey and research	Electrofish, capture, handle, and release.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Peter Erickson,

Acting Chief, Ecological Services, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2019–18852 Filed 8–30–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2019–N104; FVHC98220410150–XXX–FF04H00000]

Deepwater Horizon Oil Spill Alabama Trustee Implementation Group Draft Restoration Plan III and Environmental Assessment: Birds and Provide and Enhance Recreational Opportunities

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement, Record of Decision, and Consent Decree, the Federal and State natural resource trustee agencies for the Alabama Trustee Implementation Group (AL TIG) have prepared a draft restoration plan and environmental assessment entitled *Alabama Trustee Implementation Group Draft Restoration Plan III/Environmental Assessment: Provide and Enhance Recreational Opportunities, and Birds* (RP III/EA), analyzing a reasonable range of alternatives to help restore natural resources and the services they provide that were injured in the Alabama Restoration Area as a result of the *Deepwater Horizon* oil spill. The alternatives considered in the draft RP III/EA include five preferred by the AL TIG for implementation to address lost recreational use, and two preferred for the restoration of birds. We invite public comment on the draft RP III/EA.

DATES: *Submitting Comments:* We will consider public comments on the draft RP III/EA received on or before October 3, 2019.

Public meeting: The AL TIG will host an open house public meeting on September 11, 2019, in conjunction with the AL TIG's annual meeting. The meeting will begin at 6 p.m. at the Five Rivers Tensaw Theater, located at 30945 Five Rivers Boulevard in Spanish Fort, Alabama.

ADDRESSES: *Obtaining Documents:* You may download the draft RP III/EA from either of the following websites:

- *https://www.doi.gov/deepwaterhorizon/adminrecord.*
- *https://www.gulfspillrestoration.noaa.gov/restoration-areas/alabama.*

Alternatively, you may request a CD of the draft RP III/EA (see **FOR FURTHER INFORMATION CONTACT**). Copies of the draft RP III/EA are also available for review during the public comment period at the following locations:

Location	Address	City	Zip
Dauphin Island Sea Laboratory, Admin Building	101 Bienville Boulevard	Dauphin Island	36528
Thomas B. Norton Public Library	221 West 19th Avenue	Gulf Shores	36542

Location	Address	City	Zip
Alabama Department of Conservation and Natural Resources, State Lands Division, Coastal Section Office.	31115 Five Rivers Boulevard	Spanish Fort	36527
Weeks Bay National Estuarine Research Reserve	11300 U.S. Highway 98	Fairhope	36532
Mobile Public Library, West Regional Library	5555 Grelot Road	Mobile	36609

Submitting Comments: You may submit comments on the draft RP III/EA by one of the following methods:

- *Via the Web: https://www.gulfspillrestoration.noaa.gov/restoration-areas/alabama.*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. In order to be considered, mailed comments must be postmarked on or before the comment deadline given in **DATES**.
- *During the public meeting:* Oral and written comments may be provided during the public meeting on September 11, 2019.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at nanciann_regalado@fws.gov, via telephone at 678–296–6805, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the completion of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred).

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

On April 4, 2016, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Alabama Restoration Area are now chosen and managed by the AL TIG. The AL TIG comprises the following Trustees: State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama; DOI; NOAA; EPA; and USDA.

Background

In preparation for the draft RP III/EA planning process, on December 19, 2018, the AL TIG posted a notice on two websites: the NOAA Gulf Spill web portal at *http://www.gulfspillrestoration.noaa.gov,* and the Alabama Department of Conservation and Natural Resources Project Portal at *http://www.alabamacoastalrestoration.org/.* The notice requested public input on restoration project ideas in the Alabama Restoration Area, asking the public to focus their input on ''Provide and Enhance Recreational Opportunities'' and ''Birds'' restoration types The AL TIG reviewed and considered these restoration project ideas.

Overview of the AL TIG Draft RP III/EA

The draft RP III/EA is being released in accordance with OPA NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA and its implementing regulations found at 40 CFR parts 1500–1508, the Final PDARP/PEIS, and the Consent Decree. The draft RP III/EA provides OPA and NEPA analyses for a reasonable range of alternatives, addressing two restoration types: ''Provide and Enhance Recreational Opportunities'' and ''Birds''. The draft RP III/EA evaluates a total of 10 alternatives, seven of which are preferred (see table below). The AL TIG proposes to implement the preferred alternatives using approximately $26.6 million in DWH settlement funds in accordance with the Consent Decree.

Alternatives	Preferred Y/N
Restoration Type—Provide and Enhance Recreational Opportunities	
Perdido River Land Acquisition (Molpus Tract)	Y
Bayfront Park Restoration and Improvement Phases IIa and IIb	Y

Alternatives	Preferred Y/N
Bayfront Park Restoration and Improvement Phase IIa	N
Gulf State Park Pier Renovation	Y
Perdido Beach Public Access Coastal Protection	Y
Bon Secour National Wildlife Refuge Recreation Enhancement—Mobile Street Boardwalk	Y
Bon Secour National Wildlife Refuge Recreation Enhancement—Centennial Trail Boardwalk	N
Restoration Type—Birds	
Stewardship of Coastal Alabama Beach Nesting Bird Habitat	Y
Stewardship of Coastal Alabama Beach Nesting Bird Habitat—Stewardship and Monitoring Only	N
Dauphin Island West End Acquisition	Y

Next Steps

As described above, the Trustees will hold a public meeting to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing a final RP III/EA.

Public Availability of Comments

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.

Administrative Record

The documents comprising the Administrative Record for the RP III/EA can be viewed electronically at *https://www.doi.gov/deepwaterhorizon/adminrecord*.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and its implementing regulations found at 40 CFR parts 1500–1508.

Mary Josie Blanchard,

Department of the Interior, Director, Gulf of Mexico Restoration.

[FR Doc. 2019–18920 Filed 8–30–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[19X.LLID957000.L14400000.BJ0000.241A.4500134614]

Filing of Plats of Survey: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Idaho State Office, Boise, Idaho, in 30 days from the date of this publication.

Boise Meridian, Idaho

T. 50 N, R. 4 W, accepted July 16, 2019
T. 48 N, R. 5 W, accepted July 17, 2019
T. 35 N, R. 2 E, accepted July 17, 2019
T. 2 S, R. 5 W, accepted July 17, 2019
T. 2 S, R. 6 W, accepted July 17, 2019

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT: Timothy A. Quincy, (208) 373–3981 Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657. 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 Mr. Quincy. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest one or more plats of survey identified above must file a written notice with the Chief Cadastral Surveyor for Idaho, Bureau of Land Management. The protest must identify the plat(s) of survey that the person or party wishes to protest and contain all reasons and evidence in support of the protest. The protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any protest filed after the scheduled date of official filing will be untimely and will not be considered. A protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Idaho during regular business hours; if received after regular business hours, a protest will be considered filed the next business day. If a protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Timothy A. Quincy,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2019–18985 Filed 8–30–19; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028647; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Shoshone National Forest, Cody, WY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (USDA), Forest Service, Shoshone National Forest has completed an inventory of human remains 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 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 should submit a written request to the USDA, Forest Service, Shoshone National Forest. If no additional requestors come forward, transfer of control of the human remains 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 should submit a written request with information in support of the request to the USDA, Forest Service, Shoshone National Forest at the address in this notice by October 3, 2019.

ADDRESSES: Lisa Timchak, Forest Supervisor, Shoshone National Forest, 808 Meadow Lane Avenue, Cody, WY 82414, telephone (307) 578–5187, email *latimchak@fs.fed.us.*

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 U.S. Department of Agriculture, Forest Service, Shoshone National Forest, Cody, WY. The human remains were removed from Park County, WY.

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. 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 USDA, Shoshone National Forest professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Tribe of Montana; Eastern Shoshone Tribe of the Wind River Reservation, Wyoming (previously listed as the Shoshone Tribe of the Wind River Reservation, Wyoming); Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho); Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; and the Shoshone-Bannock Tribes of the Fort Hall Reservation.

The Arapaho Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota); and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota were invited to consult but did not participate.

Hereafter, all Tribes listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

On August 10, 1969, human remains representing, at minimum, two individuals were removed by Dr. George C. Frison from 48PA551, the Dead Indian site, which is located near the Dead Indian Campground in the Shoshone National Forest, Park County, WY. At the time, Frison was the Wyoming State Archeologist and Head of the Department of Anthropology at the University of Wyoming. The fragmentary human remains are those of a child eight—nine years old and an adult (represented by a chipped and worn tooth). The burial was reported as probably a secondary internment with no associated funerary objects. No known individuals were identified.

The Dead Indian site was first visited by avocational archeologists in 1967. Subsequently the Wyoming Archaeological Society (WAS) conducted excavations there in 1969, 1971, and 1972. The major excavation of the site, in 1972, was supervised by George C. Frison of the University of Wyoming. Based on three radiocarbon tests and obsidian hydration tests, the site is McKean complex, Middle Archaic (3800+/-110 to 4430+/-250 B.P.).

Determinations Made by the U.S. Department of Agriculture, Forest Service, Shoshone National Forest

Officials of the U.S. Department of Agriculture, Forest Service, Shoshone National Forest have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the archeological context, dental morphology, and features of the skeletal elements.
- 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(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains 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 were removed is the aboriginal land of the Crow Tribe of Montana.
- Treaties, Acts of Congress, or Executive Orders indicate that the land from which the Native American human remains were removed is the aboriginal land of the Crow Tribe of Montana.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Crow Tribe of Montana.

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 should submit a written request with information in support of the request to Lisa Timchak, Forest Supervisor, Shoshone National Forest, 808 Meadow Lane Avenue, Cody, WY 82414, telephone (307) 578–5187, email *latimchak@fs.fed.us,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Crow Tribe of Montana may proceed.

The U.S. Department of Agriculture, Forest Service, Shoshone National Forest is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18858 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028705; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, University of Alaska Anchorage, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, University of Alaska

Anchorage 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 Department of Anthropology, University of Alaska Anchorage. 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 Department of Anthropology, University of Alaska Anchorage at the address in this notice by October 3, 2019.

ADDRESSES: Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.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 under the control of the Department of Anthropology, University of Alaska Anchorage, Anchorage, AK. The human remains were removed from Point Barrow area, North Slope Borough, AK.

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 Alaska Native 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 Department of Anthropology, University of Alaska Anchorage professional staff in consultation with representatives of the Native Village of Barrow Inupiat Traditional Government.

History and Description of the Remains

At an unknown time, human remains representing, at minimum, one individual were removed from Utqiaġvik (Point Barrow) North Slope Borough, AK. The skull was collected from the ground by a bush pilot and donated in 1983 to the Department of Anthropology by the pilot's daughter. At the time of donation the skull was described as bleached and moss-covered. Dr. Harrod examined the skull and noted it is consistent with Inupiaq crania. No known individuals were identified. No associated funerary objects are present.

The Iñupiat are descendants of the original people of Point Barrow, and still occupy their original territory. They are represented at Point Barrow by the present-day Native Village of Barrow Inupiat Traditional Government.

Determinations Made by the Department of Anthropology, University of Alaska Anchorage

Officials of the Department of Anthropology, University of Alaska Anchorage 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 Alaska Native ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Alaska Native human remains and the Native Village of Barrow Inupiat Traditional Government.

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 Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to Native Village of Barrow Inupiat Traditional Government may proceed.

The Department of Anthropology, University of Alaska Anchorage is responsible for notifying the Native Village of Barrow Inupiat Traditional Government that this notice has been published.

Dated: August 13, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18854 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028652; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Robert S. Peabody Institute of Archaeology, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Institute of Archaeology (Peabody) 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 Robert S. Peabody Institute of Archaeology. 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 Robert S. Peabody Institute of Archaeology at the address in this notice by October 3, 2019.

ADDRESSES: Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.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 under the control of the Robert S. Peabody Institute of Archaeology, Andover, MA. The human remains were removed from four unknown sites in eastern Massachusetts.

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 Robert S. Peabody Institute of Archaeology professional staff in consultation with representatives of the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Tribal Council, Inc.) and the Wampanoag Tribe of Gay Head (Aquinnah). The Assonet Band of the Wampanoag Nation, a non-federally recognized Indian group, also participated.

Hereafter, all Indian Tribes and groups are referred to as ''The Consulted Indian Tribes and Groups''.

History and Description of the Remains

In 1992, human remains representing, at minimum, one individual were removed by archeologist Douglas Jordan from Unknown Massachusetts Site #1 and transferred to the Robert S. Peabody Institute of Archaeology (Cat. No. 90.116.1). The only information available was that the human remains were from eastern Massachusetts. Jordan (1925–2006) conducted archeological research in Massachusetts, Florida, and Connecticut, and served as Connecticut's state archeologist. The human remains from this site and Unknown Massachusetts Site #2, described below, were transferred to the Robert S. Peabody Institute of Archaeology to facilitate repatriation. Examination by physical anthropologist Michael Gibbons found that the human remains belong to an adult male. No known individuals were identified. No associated funerary objects were present. Gibbons estimated that 600 years or more had elapsed since death.

In 1992, human remains representing, at minimum, one individual were removed by archeologist Douglas Jordan from Unknown Massachusetts Site #2 and transferred to the Robert S. Peabody Institute of Archaeology (Cat. No. 90.116.2). A note in the associated files written by the late Eugene Winter, long-time volunteer at the Robert S. Peabody Institute of Archaeology, states that the human remains originated with Ernest E. Tyzzer, who passed them on to Jordan with other human remains from Maine. Tyzzer (1875–1965) was a physician, pathologist, and parasitologist at Harvard University and an avocational archeologist; he conducted archeological research in Massachusetts and Maine. In the 1990s, Peabody staff determined that the individual was most likely from eastern Massachusetts. Examination by physical anthropologist Michael Gibbons found that the human remains belong to a juvenile of indeterminate sex. No known individuals were identified. No associated funerary objects were present.

On an unknown date, human remains representing, at minimum, one individual were removed by Ernest E. Tyzzer from Unknown Massachusetts Site #3. The human remains were transferred to the Robert S. Peabody Institute of Archaeology (Cat. No. 262/492) on May 5, 1968 by the estate of Ernest E. Tyzzer. The only information known about the human remains is that they are from eastern Massachusetts. Examination by physical anthropologist Michael Gibbons found that the human remains belong to an adult male. No known individuals were identified. No associated funerary objects were present. Gibbons estimated that 400 years or more had elapsed since death.

On an unknown date, human remains representing, at minimum, one individual were removed by Ernest E. Tyzzer from Unknown Massachusetts Site #4. The human remains were transferred to the Robert S. Peabody Institute of Archaeology (Cat. No. 262/2663 and 262/2664) on May 5, 1968 by the estate of Ernest E. Tyzzer. The only information known about the human remains is that they are from eastern Massachusetts. Examination by physical anthropologist Michael Gibbons found that the human remains belong to an adult male, 20–25 years old. No known individuals were identified. No associated funerary objects were present. Gibbons estimated that 500 years or more had elapsed since death.

Sites in eastern Massachusetts lie within the historically documented territory of the Wampanoag (see Frank Gouldsmith Speck's 1928 monograph, ''Territorial Subdivisions and Boundaries of the Wampanoag, Massachusett, and Nauset Indians,'' *Indian Notes and Monographs* No. 44, 1928). Linguistically, this area is within the so-called n-dialect shared by Massachusett, Wampanoag, and Pokanoket speakers (see map and discussion in Kathleen J. Bragdon's 2009 book, *Native Peoples of Southern New England, 1650–1775,* pages 22–23). Sociopolitical and economic patterns in the coastal area of Rhode Island and Massachusetts were established by the late Woodland period circa A.D. 1000, and the coastal groups in this area are likely the ancestors of the Wampanoag people encountered by the English in the seventeenth century. Archeology, ethno-history, linguistics, and oral history provide multiple lines of evidence that demonstrate longstanding ties between the Wampanoag and archeological sites in eastern Massachusetts, and affirm affiliation with the human remains described here.

Determinations Made by the Robert S. Peabody Institute of Archaeology

Officials of the Robert S. Peabody Institute of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals 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 Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Tribal Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah), and, if joined, the Assonet Band of the Wampanoag Nation, a non-federally recognized Indian group.

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 Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted Indian Tribes and Groups (if the Indian group is joined to the request of one or both of the Consulted Indian Tribes) may proceed.

The Robert S. Peabody Institute of Archaeology is responsible for notifying The Consulted Indian Tribes and Groups that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18861 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028707; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, University of Alaska Anchorage, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, University of Alaska Anchorage has completed an inventory of human remains and associated funerary object, 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 associated funerary object 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 and associated funerary object should submit a written request to the Department of Anthropology, University of Alaska Anchorage. If no additional requestors come forward, transfer of control of the human remains and associated funerary object 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 and associated funerary object should submit a written request with information in support of the request to the Department of Anthropology, University of Alaska Anchorage at the address in this notice by October 3, 2019.

ADDRESSES: Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.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 object under the control of the Department of Anthropology, University of Alaska Anchorage, Anchorage, AK. The human remains and associated funerary object were removed from Point Hope, North Slope Borough, AK.

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 Alaska Native 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 Department of Anthropology, University of Alaska Anchorage professional staff in consultation with representatives of the Native Village of Point Hope.

History and Description of the Remains

In 1972, human remains representing, at minimum, one individual were removed from Point Hope in the North Slope Borough, AK. The human remains, consisting of nine bones, were collected from the surface of the ground near the airstrip in Point Hope, AK. No known individuals were identified. The one associated funerary object is a caribou metapodial (caribou lower leg bone).

Point Hope, or Tikigaq, has been occupied for at least 2000 years, recent dates extend the occupation even earlier. This spit of land includes the sites of Tikigaq, Ipiutak, and Jabbertown, and the modern town of Point Hope. Because the ground is frozen much of the year, and the spit is a gravel bar, the dead were placed on the ground surface. Human elements frequently appear on the surface in the old town of Tikigaq, at the end of the airport runway. Oral tradition and archeological evidence identify the human remains as Inupiat.

The Inupiat are descendants of the original people of Point Hope (Tikiġaq), and still live there today. They are represented by the present-day Native Village of Point Hope.

Determinations Made by the Department of Anthropology, University of Alaska Anchorage

Officials of the Department of Anthropology, University of Alaska Anchorage 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 Alaska Native 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), there is a relationship of shared group identity that can be reasonably traced between the Alaska Native human remains and associated funerary objects and the Native Village of Point Hope.

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 and associated funerary object, should submit a written request with information in support of the request to Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to the Native Village of Point Hope may proceed.

The Department of Anthropology, University of Alaska Anchorage is responsible for notifying the Native Village of Point Hope that this notice has been published.

Dated: August 13, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18855 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028648; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Kootenai National Forest, Lincoln County, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The US. Department of Agriculture, Forest Service, Kootenai National Forest with assistance from the Army Corps of Engineers Mandatory Center of Expertise for the Curation and Management of Archeological Collections, 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 Kootenai National Forest. 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 Kootenai National Forest at the address in this notice by October 3, 2019.

ADDRESSES: Cami Winslow, Kootenai National Forest Supervisory Public Services, 31374 US Highway 2, Libby, MT 59923–3022, telephone (406) 293–6211, email *cami.winslow@usda.gov.*

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 U.S. Department of Agriculture, Forest Service, Kootenai National Forest, Lincoln County, MT. The human remains were removed from Section 20 T29N R33W, Lincoln 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). The determinations in this notice are the sole responsibility of the Federal agencies that have 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 Army Corps of Engineers Mandatory Center of Expertise for the Curation and Management of Archeological Collections professional staff for the Kootenai National Forest in consultations with representatives of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

History and Description of the Remains

In 1974, human remains representing, at minimum, one individual were removed from site 24LN1024 in Lincoln County, MT. The Army Corps of Engineers Seattle District archeologist located an adult human left parietal cranial fragment (3cm x 5cm) on site. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Army Corps of Engineers Mandatory Center of Expertise for the Curation and Management of Archaeological Collections and Kootenai National Forest

Officials of the Army Corps of Engineers Mandatory Center of Expertise for the Curation and Management of Archaeological Collections and the Kootenai National Forest 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 human remains and the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

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 Cami Winslow, Kootenai National Forest Supervisory Public Services, 31374 US Highway 2, Libby, MT 59923–3022, telephone (406) 293–6211, email *cami.winslow@usda.gov,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Confederated Salish and Kootenai Tribes of the Flathead Reservation may proceed.

The U.S. Department of Agriculture, Forest Service, Kootenai National Forest is responsible for notifying the Confederated Salish and Kootenai Tribes of the Flathead Reservation that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18862 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028709; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, University of Alaska Anchorage, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, University of Alaska Anchorage 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 Department of Anthropology, University of Alaska Anchorage. 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 Department of Anthropology, University of Alaska Anchorage at the address in this notice by October 3, 2019.

ADDRESSES: Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.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 under the control of the Department of Anthropology, University of Alaska Anchorage, Anchorage, AK. The human remains were removed from Reese Bay Site (UNL–063), Unalaska Island, Aleutians West Borough, AK.

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 Alaska Native 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 Department of Anthropology, University of Alaska

Anchorage professional staff in consultation with representatives of the Qawalangin Tribe of Unalaska.

History and Description of the Remains

Between 1986 and 1990, human remains representing, at minimum, four individuals were removed from the Reese Bay site (UNL–063) in Reese Bay, Unalaska Island, Aleutians West Borough, AK, by Douglas W. Veltre and colleagues with permission of the Ounalashka Corporation. The human remains belong to one female of indeterminate age; one individual of indeterminate age and sex, represented by an arm bone, two femurs, and one thoracic vertebra; one individual of indeterminate age and sex, represented by approximately 15 teeth; and one individual of indeterminate age and sex, represented by three cranial fragments and one mandible. Interviews with Unalaska Aleut elders were undertaken from 1986 to 1990 to determine the cultural affiliation of the human remains. No known individuals were identified. No associated funerary objects are present.

Reese Bay is a Late Prehistoric/Early Historic site on Unalaska Island in the Aleutian Archipelago. Archeological, ethnohistoric, and oral tradition data all place the Reese Bay site within the traditional territory of the Unangan (Eastern Aleuts) of Unalaska village. The Unangax (Aleut) people have lived in this area for at least 9,000 years, and are the only indigenous people of the Aleutian Archipelago.

Determinations Made by the Department of Anthropology, University of Alaska Anchorage

Officials of the Department of Anthropology, University of Alaska Anchorage have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Alaska Native ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Alaska Native human remains and the Qawalangin Tribe of Unalaska.

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 Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Qawalangin Tribe of Unalaska may proceed.

The Department of Anthropology, University of Alaska Anchorage is responsible for notifying the Qawalangin Tribe of Unalaska that this notice has been published.

Dated: August 13, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18857 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028649; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The Field Museum, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Field Museum. If no additional claimants come forward, transfer of control of the cultural items 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 claim these cultural items should submit a written request with information in support of the claim to the Field Museum at the address in this notice by October 3, 2019.

ADDRESSES: Helen Robbins, The Field Museum of Natural History, 1400 Lakeshore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Field Museum, Chicago, IL that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

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 cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In December 1899, two unassociated funerary objects were removed from graves at the Chevelon site in Navajo County, AZ. The items were removed by J.A. Burt, an employee of the Field Museum, in the winter of 1899–1900 as part of an excavation sponsored by the Museum. The two unassociated funerary objects are one painted, corrugated ceramic jar and one painted ceramic bowl.

Chevelon was occupied from around A.D. 1250 until A.D. 1450. Based on archeological research, scholarly research, oral histories, consultation, and museum records, Chevelon is affiliated with the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico. The items described above were determined to be unassociated funerary objects based on J.A. Burt's own notes, which indicate the grave from which he removed each item.

Determinations Made by the Field Museum

Officials of the Field Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the two cultural items described above 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 and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items

should submit a written request with information in support of the claim to Helen Robbins, The Field Museum of Natural History, 1400 Lakeshore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by October 3, 2019. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Field Museum is responsible for notifying the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18864 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028630; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Russell Cave National Monument, Bridgeport, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Russell Cave National Monument 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 Russell Cave National Monument. 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 Russell Cave National Monument at the address in this notice by October 3, 2019.

ADDRESSES: Stephen Black, Superintendent, Russell Cave National Monument, 3729 County Road 98, Bridgeport, AL 35740, telephone (256) 495–2672, email *steve_black@nps.gov.*

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 U.S. Department of the Interior, National Park Service, Russell Cave National Monument, Bridgeport, AL. The human remains and associated funerary objects were removed from Russell Cave, Jackson County, AL.

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 Superintendent, Russell Cave National Monument.

Consultation

A detailed assessment of the human remains was made by Russell Cave National Monument professional staff in consultation with representatives of the Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma. The Cherokee Nation was invited to consult, but did not participate.

History and Description of the Remains

In 1962, human remains representing, at minimum, 10 individuals were removed from the Russell Cave site in Jackson County, AL, during an archeological excavation by the National Park Service in preparation for an interpretive exhibit within the cave. No known individuals were identified. The one associated funerary object is a projectile point.

Determinations Made by the U.S. Department of the Interior, National Park Service, Russell Cave National Monument

Officials of the U.S. Department of the Interior, National Park Service, Russell Cave National Monument have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 10 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. The National Park Service intends to convey the associated funerary object to the Tribes pursuant to 54 U.S.C. 102503 (g) through (i) and 54 U.S.C. 102504.
- 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; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- 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 Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

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 Stephen Black, Superintendent, Russell Cave National Monument, 3729 County Road 98, Bridgeport, AL 35740, telephone (256) 495–2672, email *steve_black@nps.gov,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The U.S. Department of the Interior, National Park Service, Russell Cave National Monument is responsible for notifying the Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: July 31, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18867 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028650; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The Field Museum, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Field Museum. If no additional claimants come forward, transfer of control of the cultural items 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 claim these cultural items should submit a written request with information in support of the claim to the Field Museum at the address in this notice by October 3, 2019.

ADDRESSES: Helen Robbins, The Field Museum of Natural History, 1400 Lakeshore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Field Museum, Chicago, IL, that meet the definition of sacred objects under 25 U.S.C. 3001.

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 cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

At an unknown date, three cultural items identified as Salish in the Field Museum's records were removed from an unknown location and sold to H. Stadhagen, a purveyor of indigenous material culture. In December of 1902, Charles Newcombe purchased the three items from H. Stadhagen's Indian Curio store in Victoria, B.C. for the Field Museum of Natural History. The items were accessioned into the Museum on October 6, 1905. These three items are masks.

Based on consultation with the Samish Indian Nation, the Field Museum has determined that these masks are an integral part of rituals and ceremonies performed by Coast Salish traditional religious leaders. The items were identified as belonging to the Coast Salish by the original collectors, academic experts in the study of Coast Salish culture, and traditional Coast Salish religious leaders.

Determinations Made by the Field Museum of Natural History

Officials of the Field Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Helen Robbins, The Field Museum, 1400 Lakeshore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by October 3, 2019. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington) may proceed.

The Field Museum of Natural History is responsible for notifying the Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington) that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18866 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028680; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Texas Archeological Research Laboratory, University of Texas at Austin, Austin, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Texas Archeological Research Laboratory, University of Texas at Austin 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 Texas Archeological Research Laboratory, University of

Texas at Austin. If no additional requestors come forward, transfer of control of these 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 Texas Archeological Research Laboratory, University of Texas at Austin at the address in this notice by October 3, 2019.

ADDRESSES: Marybeth Tomka, Head of Collections, Texas Archeological Research Laboratory, University of Texas at Austin, 1 University Station, R7500, Austin, TX 78712–0100, telephone (512) 475–6853, email *marybeth.tomka@austin.utexas.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 under the control of the Texas Archeological Research Laboratory, University of Texas at Austin, Austin, TX. The human remains were removed from Loco Bottom site (41NA23), located within the Bayou Loco Reservoir, now known as Lake Nacogdoches, Nacogdoches County, TX.

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 Texas Archeological Research Laboratory, University of Texas at Austin professional staff in consultation with representatives of the Caddo Nation of Oklahoma.

History and Description of the Remains

In 1972, human remains representing, at minimum, one individual were removed from the Loco Bottom site (41NA23) in Nacogdoches, TX, during a testing project, following the survey of the middle reaches of Bayou Loco, prior to the proposed creation of Lake Nacogdoches. The site was first recorded in July by the Texas Archeological Survey (a contracting arm of the Texas Archeological Research Lab [TARL]). The Nacogdoches Archeological Society (NAS), led by Thomas Mayhew, conducted test excavations at the central part of the Loco Bottom site, during which 15 five-by-five foot units in an L-shaped trench were excavated. The ancestral human remains were found commingled with faunal remains from the disturbed plow zone in one unit labeled Lot 12.

In the absence of a previous detailed assessment, a new effort to document the site included a faunal analysis in 2019 by Kristin Corl, an independent contractor, at which time an inferior fragment of a juvenile mastoid process was identified among the faunal material. No sex or additional aspects of the biological profile could be determined. The human remains were segregated from the faunal material and reported to TARL collections staff. The human remains have been assigned an HO# 4156 for the Bayou Loco Reservoir Project (Acc# TARL 1975.0003). No known individuals were identified. No associated funerary objects are present.

Originally recorded in 1930, The Loco Bottom site (41NA23) is an ancestral Caddo settlement that was principally lived in year-round by Caddo farming peoples in the late 17th century, during the Allen phase. This site along Bayou Loco had one to several ancestral Caddo houses with associated trash midden deposits. Settlements of this type were probably occupied by Caddo families for, at most, 1–2 generations, before farmsteads moved to another location in the valley or they were abandoned. Due to plowing, the attribution of the reported ancestral human remains to the Allen phase is based on the preponderance of the archeological evidence. The determination of cultural affiliation was based on the geographical location of the human remains within the ancestral Caddo settlement, as well as the character of the recovered archeological materials from the site.

Determinations Made by the Texas Archeological Research Laboratory, University of Texas at Austin

Officials of the Texas Archeological Research Laboratory, University of Texas at Austin 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 Caddo Nation of Oklahoma.

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 Marybeth Tomka, Head of Collections, Texas Archeological Research Laboratory, The University of Texas at Austin, 1 University Station, R7500, Austin, TX 78712–0100, telephone (512) 475–6853, email *marybeth.tomka@austin.utexas.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Caddo Nation of Oklahoma may proceed.

The Texas Archeological Research Laboratory, University of Texas at Austin is responsible for notifying the Caddo Nation of Oklahoma that this notice has been published.

Dated: August 8, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18863 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028629; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Florida Department of State/Division of Historical Resources, Tallahassee, FL; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Florida Department of State, Division of Historical Resources has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on March 7, 2017. This notice corrects the number of associated funerary objects and affiliation. 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 and associated funerary object should submit a written request to the Florida Department of State, Division of Historical Resources. If no additional requestors come forward, transfer of control of the human remains and associated funerary object 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 and associated funerary object should submit a written request with information in support of the request to the Florida Department of State, Division of Historical Resources at the address in this notice by October 3, 2019.

ADDRESSES: Kathryn Miyar, Florida Department of State, Division of Historical Resources, Mission San Luis State Archaeological Collections, 2100 West Tennessee Street, Tallahassee, FL 32304, telephone (850) 245–6301, email *kathryn.miyar@dos.myflorida.com.*

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 correction of an inventory of human remains and associated funerary object under the control of the Florida Department of State, Division of Historical Resources, Tallahassee, FL. The human remains and associated funerary object were removed from the McClamory Key site (8LV288), Levy County, FL.

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 and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects and the listing of Indian Tribes that are recognized as aboriginal to the area from which the human remains and associated funerary objects were removed published in a Notice of Inventory Completion in the **Federal Register** (82 FR 12836–12839, March 7, 2017). Four hafted bifaces were found initially in association with human burials eroding from site 8LV288, however, three of these bifaces were recorded in the field and then reburied in the vicinity of the burials. When the archeological crew returned to the site to prepare for recovery operations of the burials, due to looting activity at the site, these bifaces could not be relocated and are presumed to have been looted by the same individual or individuals who had disturbed the burials earlier that year. Therefore, there is only one biface in the Florida Department of State, Division of Historical Resources Archaeological Collections.

There are three Indian Tribes that are recognized as aboriginal to the area from which the human remains were removed, not one. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (82 FR 12838, March 7, 2017), column 2, paragraph 3, sentence 12 is corrected by substituting the following sentence:

Associated funerary objects include one hafted lithic biface.

In the **Federal Register** (82 FR 12838, March 7, 2017), column 3, paragraph 1, sentence 3 is corrected by substituting the following sentence:

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.

In the **Federal Register** (82 FR 12838, March 7, 2017), column 3, paragraph 1, sentence 5 is corrected by substituting the following sentence:

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 Miccosukee Tribe of Indians; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); and The Seminole Nation of Oklahoma.

In the **Federal Register** (82 FR 12838, March 7, 2017), column 3, paragraph 1, sentence 6 is corrected by substituting the following sentence:

Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Miccosukee Tribe of Indians; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); and The Seminole Nation of Oklahoma.

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 and associated funerary object should submit a written request with information in support of the request to Kathryn Miyar, Florida Department of State, Division of Historical Resources, Mission San Luis State Archaeological Collections, 2100 West Tennessee Street, Tallahassee, FL 32304, telephone (850) 245–6301, email *kathryn.miyar@dos.myflorida.com,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to the Miccosukee Tribe of Indians; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); and The Seminole Nation of Oklahoma may proceed.

The Florida Department of State Division of Historical Resources is responsible for notifying the Miccosukee Tribe of Indians; Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); and The Seminole Nation of Oklahoma that this notice has been published.

Dated: July 31, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18860 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028708; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, University of Alaska Anchorage, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, University of Alaska Anchorage 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 Department of Anthropology, University of Alaska Anchorage. 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 Department of Anthropology, University of Alaska Anchorage at the address in this notice by October 3, 2019.

ADDRESSES: Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.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 under the control of the Department of Anthropology, University of Alaska Anchorage, Anchorage, AK. The human remains were removed from Korovinski site (UNL–020), Atka Island, Aleutians West Borough, AK.

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 Alaska Native 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 Department of Anthropology, University of Alaska Anchorage professional staff in consultation with representatives of the Native Village of Atka.

History and Description of the Remains

In 1975 or 1976, human remains representing, at minimum, four individuals were removed from the Korovinski Site (UNL–063), Atka Island, Aleutians West Borough, AK. Human remains of three individuals and isolated human skeletal elements pertaining at a minimum to one additional individual were excavated by Douglas W. Veltre and colleagues with the permission of the Atxam Corporation under the Federal Antiquities Act permit #74–AK–024. Extensive interviews with Atka village elders were undertaken from 1974 to 1979. No known individuals were identified. No associated funerary objects are present.

Archeological, ethnohistoric, and oral tradition data all place this individual within the traditional territory of the Unangas (Western Aleuts) of Atka village. The Korovinski site is ancestral to the contemporary village of Atka, which was founded in the 1870s. The Aleut people have lived in this area for at least 6000 years, and are the only people associated with the Korovinski area.

Determinations Made by the Department of Anthropology, University of Alaska Anchorage

Officials of the Department of Anthropology, University of Alaska Anchorage have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Alaska Native ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Alaska Native human remains and the Native Village of Atka.

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 Dr. John Stalvey, Interim Provost, University of Alaska Anchorage, 3211 Providence Drive, Anchorage, AK 99508, telephone (907) 786–1050, email *Jstalvey@alaska.edu,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Native Village of Atka may proceed.

The Department of Anthropology, University of Alaska Anchorage is responsible for notifying the Native Village of Atka that this notice has been published.

Dated: August 13, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18856 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0028653; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Historic Westville, Inc., Columbus, GA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: Historic Westville, Inc. has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on November 13, 2018. This notice corrects the number of associated funerary objects. 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 and associated funerary objects should submit a written request to the Historic Westville, Inc. 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: 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 and associated funerary objects should submit a written request with information in support of the request to the Historic Westville, Inc. at the address in this notice by October 3, 2019.

ADDRESSES: Terra Martinez, Historic Westville, Inc., 1130 Martin Luther King Jr. Boulevard, Columbus, GA 31906, telephone (706) 940–0057, email *office@westville.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 correction of an inventory of human remains and associated funerary objects under the control of the Historic Westville, Inc. The human remains and associated funerary objects were removed from unknown parts of northern Georgia and southern Tennessee.

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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (83 FR 56375–56376, November 13, 2018). Upon beginning the move of museum collections to a new site from the current warehouse, boxes containing funerary objects were discovered. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (83 FR 56375, November 13, 2018), column 3, paragraph 3, sentence 6 is corrected by substituting the following sentence:

The 376 associated funerary objects are 255 beads, 29 gorgets and possible gorgets, 35 celts and possible celts, 19 turtle and mollusk shells, 21 clay pots that may be reproduction, two intact pottery bowls, one intact pottery vessel, one sandstone hawk effigy, five flutes that are possible reproductions, five large decorated sherds, one pipe, one mask that is a possible reproduction, and one unknown ceramic.

In the **Federal Register** 83 FR 56376, November 13, 2018, column 1, paragraph 2, sentence 3 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(A), the 376 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.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization 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 Terra Martinez, Historic Westville, Inc., 1130 Martin Luther King Jr. Boulevard, Columbus, GA 31906, telephone (706) 940–0057, email *office@westville.org,* by October 3, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Muscogee (Creek) Nation may proceed.

The Historic Westville, Inc. is responsible for notifying the Indian Tribes listed in the original notice that this notice has been published.

Dated: August 6, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–18859 Filed 8–30–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1022 (Third Review)]

Refined Brown Aluminum Oxide from China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on refined brown aluminum oxide from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted September 3, 2019. To be assured of consideration, the deadline for responses is October 3, 2019. Comments on the adequacy of responses may be filed with the Commission by November 18, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.— On November 19, 2003, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of refined brown aluminum oxide from China (68 FR 65249). Following the first five-year reviews by Commerce and the Commission, effective March 13, 2009, Commerce issued a continuation of the antidumping duty order on imports of refined brown aluminum oxide from China (74 FR 10884). Following the second five-year reviews by Commerce and the Commission, effective October 14, 2014, Commerce issued a continuation of the antidumping duty order on imports of refined brown aluminum oxide from China (79 FR 61606). The Commission is now conducting a third review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first and second five-year review determinations, the Commission defined the *Domestic Like Product* as all merchandise corresponding to Commerce's scope, as well as any refined brown aluminum oxide where particles with a diameter greater than ⅜ inch constitute at least 50 percent of the total weight of the entire batch, as long as the product has been crushed, screened, and sorted into consistent sizes.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all U.S. producers of refined brown aluminum oxide, with the exception of Great Lakes Minerals, which was excluded from the domestic industry as a related party. In its expedited first and second five-year review determinations, the Commission defined one *Domestic Industry* as consisting of all domestic producers of refined brown aluminum oxide.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding 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 proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 3, 2019. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 18, 2019. 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. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 19–5–439, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of

imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2013.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2018, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2018 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2018 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2013, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: August 26, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–18765 Filed 8–30–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On August 27, 2019, the Department of Justice lodged a proposed Consent

Decree with the United States District Court for the Southern of Texas in the lawsuit entitled *United States and State of Texas* v. *City of Houston, Texas,* Civil Action No. 4:18–cv–03368.

The United States and the State of Texas filed a joint Complaint against the City, pursuant to Section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d) and provisions of the Texas Water Code. The Complaint seeks, inter alia, injunctive relief to address and eliminate illegal discharges, namely sanitary sewer overflows, occurring from the City's wastewater collection and transmission system and (b) discharges of pollutants from wastewater treatment plants that exceed effluent limits established in state-issued permits. Under the proposed Consent Decree, the City will implement comprehensive injunctive relief measures to eliminate both SSOs and effluent violations, as well as measures to prevent such violations. The City will pay a civil penalty of $4.4 million, which amount will be shared equally by the United States and the State.

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 and State of Texas* v. *City of Houston, Texas,* D.J. Ref. No. 90–5–1–1–08687/1. 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 $39.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $20.50.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–18889 Filed 8–30–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

198th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 198th meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held as a teleconference on September 25, 2019.

The meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 in C5515 Room 2. The meeting will run from 10:00 a.m. to approximately 4:00 p.m. The purpose of the open meeting is to discuss reports/recommendations for the Secretary of Labor on the issues of: (1) Beyond Plan Audit Compliance: Improving the Financial Statement Audit Process and (2) Permissive Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Funds. Descriptions of these topics are available on the Advisory Council page of the Employee Benefits Security Administration website, at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 20 copies on or before September 18, 2019, to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW, Washington, DC 20210. Statements also may be submitted as email attachments in word processing or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of the email. Statements deemed relevant by the Advisory Council and received on or before September 18 will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by September 18, 2019 at the address indicated.

Signed at Washington, DC, this 28th day of August, 2019.

Preston Rutledge,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2019–18967 Filed 8–30–19; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (19–048)]

Notice of Intent To Grant Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant a partially exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Number 7,381,186 B2, titled ''Method and Apparatus to Assess Compartment Syndrome,'' NASA Case Number LAR–16854–1, to Aspire MedTech Inc. having its principal place of business in Tampa Bay, Florida. The fields of use may be limited to devices to assess compartment syndrome and/or similar field(s) of use thereto. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective partially exclusive patent license may be granted unless NASA receives written objections, including evidence and argument, no later than September 18, 2019 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dohl Act and implementing regulations. Competing applications

completed and received by NASA no later than September 18, 2019 will also be treated as objections to the grant of the contemplated partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, Virginia 23681. Phone (757) 864–3221. Facsimile (757) 864–9190.

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, Virginia 23681. Phone (757) 864–3221. Facsimile (757) 864–9190.

SUPPLEMENTARY INFORMATION: This notice of intent to grant a partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these invention(s) have been partially assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

William T. McMurry,

Deputy General Counsel.

[FR Doc. 2019–18909 Filed 8–30–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Records Preservation

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before November 4, 2019 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Mackie Malaka, National Credit Union Administration, 1775 Duke Street, Suite 6018, Alexandria, Virginia 22314; Fax No. 703–519–8579; or email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to Mackie Malaka at the address above or telephone 703–548–2704.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0032.

Title: Records Preservation, 12 CFR part 749.

Form: None.

Type of Review: Extension of a currently approved collection.

Abstract: Part 749 requires all federally insured credit unions (FICUs) to maintain a records preservation program. The program must be in writing and include a schedule for the storage and destruction of records and emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records. The collection of information is authorized by sections 120, 203, and 209 of the Federal Credit Union (FCU) Act; 12 U.S.C. 1766, 1783, and 1789. The records preservation program requirement enables FICUs to reconstruct their vital records in the event records are destroyed by a catastrophe and facilitates restoration of vital member services.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 6,021.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Responses: 6,021.

Estimated Burden Hours per Response: 2.

Estimated Total Annual Burden Hours: 12,074.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on August 28, 2019.

Dated: August 28, 2019.

Mackie I. Malaka,

NCUA PRA Clearance Officer.

[FR Doc. 2019–18943 Filed 8–30–19; 8:45 am]

BILLING CODE 7535–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86773; File No. SR–CboeBZX–2019–077]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the Innovator S&P 500 Total Buffer ETF Series Under the Innovator ETFs Trust, Under Rule 14.11(i)

August 27, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to list and trade shares of the Innovator S&P 500 Total Buffer ETF Series under the Innovator ETFs Trust (the ''Trust''), under Rule 14.11(i) (''Managed Fund Shares'').

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of up to thirty-six Innovator S&P 500 Total Buffer ETF Series (each a ''Fund'' and, collectively, the ''Funds'') under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[5] Each Fund will be an actively managed exchange traded fund.

The Exchange submits this proposal in order to allow each Fund to hold listed derivatives in a manner that does not comply with Rule 14.11(i)(4)(C)(iv)(b), as further described below. The Exchange notes that this proposal and the statements or representations herein regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules are substantively identical to those statements and representations included in a proposal previously approved by the Commission.[6]

The Shares will be offered by Innovator ETFs Trust (formerly Academy Funds Trust) (the ''Trust''), which was established as a Delaware statutory trust on October 17, 2007. The Trust is registered with the Commission as an investment company and has filed, for the first Innovator S&P 500 Total Buffer ETF Series, a registration statement on Form N–1A (''Registration Statement'') with the Commission.[7] Each Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[8] Innovator Capital Management, LLC (the ''Adviser'') is the investment adviser to the Funds and Milliman Financial Risk Management LLC (the ''Sub-Adviser'') is the sub-adviser. Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[9] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Neither the Adviser nor the Sub-Adviser is a registered broker-dealer, and neither the Adviser nor the Sub-Adviser are affiliated with broker-dealers. In addition, Adviser and Sub-Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. Similarly, to the extent that a Fund is based on a benchmark index, in the event that the index provider of the benchmark index (the ''Index Provider'') becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The investment objective of the Funds is to provide investors with returns that match those of the S&P 500 Price Return Index (the ''S&P 500 Index'') up to an upside cap over a period of approximately three years, while providing a buffer from S&P 500 Index losses.

The Funds are each actively managed funds that employ a ''defined outcome strategy'' that seeks to provide investment returns that match the gains of the S&P 500 Index, up to a

[5] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[6] *See* Securities Exchange Act Release No. 83679 (July 26, 2018), 83 FR 35505 (July 26, 2018) (SR–BatsBZX–2017–72) (the ''Original Approval''). The only difference between this proposal and the Original Approval is that the defined outcome period is three years as opposed to one year in the Original Approval and the buffer level that the Funds intend to achieve, neither of which the Exchange believes to be substantive. The representations related to the Funds, each Fund's underlying portfolio, the limitations on portfolio holdings, and the applicability of Exchange rules are identical to the corresponding funds from the Original Approval (the ''Corresponding Funds'').

[7] *See* Post-Effective Amendment No. 237 to Registration Statement on Form N–1A for the Trust, which was filed with the Commission on July 12, 2018 (File Nos. 333–146827 and 811–22135). The description of the Funds and the Shares contained herein are based on information in the Registration Statement. There are no permissible holdings for the Funds that are not described in this proposal. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 32854 (October 6, 2017) (File No. 812–14781).

[8] 26 U.S.C. 851.

[9] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

maximized return (the ''Cap Level''), while guarding against a decline in the S&P 500 Index, before fees and expenses (the ''Total Buffer Strategy''). Pursuant to this strategy, each Fund will invest primarily in exchange-traded options contracts that reference either the S&P 500 Index or ETFs that track the S&P 500 Index. Defined outcome strategies are designed to participate in market gains and losses within pre-determined ranges over a specified period (*i.e.* point to point). These outcomes are predicated on the assumption that an investment vehicle employing the strategy is held for the designated outcome periods. The designated outcome period for the Funds is three years. As such, the Exchange is proposing to list up to thirty-six monthly series of the Funds.

The Exchange submits this proposal in order to allow each Fund to hold listed derivatives, in particular FLexible EXchange Options (''FLEX Options'') on the S&P 500 Index, in a manner that does not comply with Rule 14.11(i)(4)(C)(iv)(b).[10] Otherwise, the Funds will comply with all other listing requirements of the Generic Listing Standards [11] for Managed Fund Shares on an initial and continued listing basis under Rule 14.11(i).

Innovator S&P 500 Total Buffer ETFs

Under Normal Market Conditions,[12] each Fund will attempt to achieve its investment objective by employing a Total Buffer Strategy that will seek to provide investment returns during the outcome period that match the gains of the S&P 500 Index, up to the Cap Level, while shielding investors from S&P 500 Index losses, before fees and expenses. Pursuant to the Total Buffer Strategy, each Fund will invest primarily in FLEX Options or standardized options contracts listed on a U.S. exchange that reference either the S&P 500 Index or exchange traded funds (''ETFs'') that track the S&P 500 Index.

The portfolio managers will invest in a portfolio of FLEX Options linked to an underlying asset, the S&P 500 Index, that, when held for the specified period, seeks to produce returns that, over the outcome period, match the positive returns of the S&P 500 Index up to the Cap Level. Pursuant to the Total Buffer Strategy, each Fund's portfolio managers will seek to produce the following outcomes during the outcome period:

- *If the S&P 500 Index appreciates over the outcome period:* The Fund will seek to provide shareholders with a return that increases by the percentage increase of the S&P 500 Index over the outcome period, up to the Cap Level before fees and expenses; and
- *If the S&P 500 Index decreases by any amount over the outcome period:* The Fund will seek to provide a total return of zero before fees and expenses.

The Funds will produce these outcomes by layering purchased and written FLEX Options. The customizable nature of FLEX Options allows for the creation of a strategy that sets desired target outcome parameters. The FLEX Options comprising a Fund's portfolio have terms that, when layered upon each other, are designed to buffer against losses or match the gains of the S&P 500 Index. However, another effect of the layering of FLEX Options with these terms is a cap on the level of possible gains.

Any FLEX Options that are written by a Fund that create an obligation to sell or buy an asset will be offset with a position in FLEX Options purchased by the Fund to create the right to buy or sell the same asset such that the Fund will always be in a net long position. That is, any obligations of a Fund created by its writing of FLEX Options will be covered by offsetting positions in other purchased FLEX Options. As the FLEX Options mature at the end of each outcome period, they are replaced. By replacing FLEX Options at the end of an outcome period, each Fund seeks to ensure that investments made at the commencement of any given outcome period will buffer against negative returns of the S&P 500 Index, before fees and expenses.

The FLEX Options owned by each of the Funds will have the same terms (*i.e.* same strike price and expiration) for all investors of a Fund within an outcome period. The Cap Level will be determined with respect to each Fund on the inception date of the Fund and at the beginning of each outcome period and is determined based on the price of the FLEX Options acquired by the Fund at that time.

Investment Methodology for the Funds

Under Normal Market Conditions, each Fund will invest primarily in U.S. exchange-listed FLEX Options on the S&P 500 Index. Each of the Funds may invest its net assets (in the aggregate) in other investments which the Adviser or Sub-Adviser believes will help each Fund to meet its investment objective and that will be disclosed at the end of each trading day (''Other Assets''). Other Assets include only the following: Cash or cash equivalents, as defined in Rule 14.11(i)(4)(C)(iii) [13] and standardized options contracts listed on a U.S. securities exchange that reference either the S&P 500 Index or that reference ETFs that track the S&P 500 Index (''Reference ETFs'').

S&P 500 Index FLEX Options

The market for options contracts on the S&P 500 Index traded on Cboe Exchange, Inc. (''Cboe Options'') is among the most liquid markets in the world. In 2018, more than 1.48 million options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than $350 billion in notional volume traded on a daily basis. While FLEX Options are traded differently than standardized options contracts, the Exchange believes that this liquidity bolsters the market for FLEX Options, as described below. Every FLEX Option order submitted to an exchange is exposed to a competitive auction process for price discovery. The process begins with a request for quote (''RFQ'') in which the interested party establishes the terms of the FLEX

[10] Rule 14.11(i)(4)(C)(iv)(b) provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' The Funds do not meet the generic listing standards because they fail to meet the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures) and the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

[11] For purposes of this proposal, the term ''Generic Listing Standards'' shall mean the generic listing rules for Managed Fund Shares under Rule 14.11(i)(4)(C).

[12] As defined in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[13] As defined in Rule 14.11(i)(4)(C)(iii), cash equivalents include short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

Options contract. The RFQ solicits interested market participants, including on-floor market makers, remote market makers trading electronically, and member firm traders, to respond to the RFQ with bids or offers through a competitive process. This solicitation contains all of the contract specifications-underlying, size, type of option, expiration date, strike price, exercise style and settlement basis. During a specified amount of time, responses to the RFQ are received and at the end of that time period, the initiator can decide whether to accept the best bid or offer. The process occurs under the rules of the applicable listing exchange which means that customer transactions are effected according to the principles of a fair and orderly market following trading procedures and policies developed by the applicable self-regulatory organization.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Funds' Shares and S&P 500 FLEX Options for several reasons: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; (ii) the competitive quoting process for FLEX Options; (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options, other U.S. options exchanges, and the Financial Industry Regulatory Authority (''FINRA'') designed to detect violations of the federal securities laws and self-regulatory organization (''SRO'') rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of S&P 500 FLEX Options, will be acquired in extremely liquid and highly regulated markets,[14] the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the related Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the related Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, options on the S&P 500 Index are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, options on the S&P 500 Index, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the Funds' Shares price. The Exchange also believes that such liquidity is sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Funds' Shares would present manipulation concerns.

The Exchange represents that, except for the limitations on listed derivatives in BZX Rule 14.11(i)(4)(C)(iv)(b), the Funds' proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i). The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Funds. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of the Funds will comply with all other requirements applicable to Managed Fund Shares, which includes the dissemination of key information such as the Disclosed Portfolio,[15] Net Asset Value,[16] and the Intraday Indicative Value,[17] suspension of trading or removal,[18] trading halts,[19] surveillance,[20] minimum price variation for quoting and order entry,[21] and the information circular,[22] as set forth in Exchange rules applicable to Managed Fund Shares. Further, all statements or representations regarding the description of the portfolio or reference

[14] All exchange-listed securities that the Funds may hold will trade on a market that is a member of the Intermarket Surveillance Group (''ISG'') and the Funds will not hold any non-exchange-listed equities or options, however, not all of the components of the portfolio for the Funds may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see *www.isgportal.org.*

[15] *See* Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[16] *See* Rule 14.11(i)(4)(A)(ii).

[17] *See* Rule 14.11(i)(4)(B)(i).

[18] *See* Rule 14.11(i)(4)(B)(iii).

[19] *See* Rule 14.11(i)(4)(B)(iv).

[20] *See* Rule 14.11(i)(2)(C).

[21] *See* Rule 14.11(i)(2)(B).

[22] *See* Rule 14.11(i)(6).

assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules shall constitute continued listing requirements for the Funds. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. RFQ information for FLEX Options will be available directly from the applicable options exchange. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.

Lastly, the issuer represents that it will provide and maintain a publicly available web tool for each of the Funds on its website that provides existing and prospective shareholders with important information to help inform investment decisions. The information provided includes the start and end dates of the current outcome period, the time remaining in the outcome period, the Fund's current net asset value, the Fund's cap for the outcome period and the maximum investment gain available up to the cap for a shareholder purchasing Shares at the current net asset value. For each of the Funds, the web tool also provides information regarding each Fund's buffer. This information includes the remaining buffer available for a shareholder purchasing Shares at the current net asset value or the amount of losses that a shareholder purchasing Shares at the current net asset value would incur before benefitting from the protection of the buffer. The cover of each Fund's prospectus, as well as the disclosure contained in ''Principal Investment Strategies,'' provides the specific web address for each Fund's web tool.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [23] in general and Section 6(b)(5) of the Act [24] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, because, as noted above, the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) with the exception of Rule 14.11(i)(4)(C)(iv)(b), which requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).[25] Rule 14.11(i)(4)(C)(iv)(b) is intended to ensure that a fund is not subject to manipulation by virtue of significant exposure to a manipulable underlying reference asset by establishing concentration limits among the underlying reference assets for listed derivatives held by a particular fund.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Funds' Shares and S&P 500 FLEX Options for several reasons: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; (ii) the competitive quoting process for FLEX Options; (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options, other U.S. options exchanges, and FINRA designed to detect violations of the federal securities laws and SRO rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of S&P 500 FLEX Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the related Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the related Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and

[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(5).

[25] As noted above, the Exchange is submitting this proposal because the Funds would not meet the requirements of Rule 14.11(i)(4)(C)(iv)(b) which prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures) and the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets from exceeding 65% of the weight of the portfolio (including gross notional exposures).

exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. As noted above, options on the S&P 500 Index are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, options on the S&P 500 Index, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the Funds' Shares price. The Exchange also believes that such liquidity is sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Funds' Shares would present manipulation concerns.

The Exchange represents that, except as described above, the Funds will meet and be subject to all other requirements of the Generic Listing Standards and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the Disclosed Portfolio,[26] Intraday Indicative Value,[27] suspension of trading or removal,[28] trading halts,[29] disclosure,[30] and firewalls.[31] The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of each Fund. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Finally, this proposal and the statements or representations herein regarding the limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange listing rules are substantively identical to those statements and representations included in the Original Approval and the descriptions of the portfolio or reference assets are substantially similar to those included in the Original Approval. The only difference between this proposal and the Original Approval is that the defined outcome period is three years as opposed to one year in the Original Approval and the buffer level that the Funds intend to achieve, neither of which the Exchange believes to be substantive because they relate only to the investment objective of the Funds. As such, the Exchange believes the proposed rule change will not significantly affect the protection of investors or the public interest because the proposal contains no new issues that the Commission has not previously contemplated.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[32] and Rule 19b–4(f)(6) thereunder.[33]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[34] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[35] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange represents that the statements or representations made in the proposed rule change regarding the limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange listing rules are substantively identical to the statements and representations included in the Original Approval, and the descriptions of the portfolio or reference assets are substantially similar to those included in the Original Approval. Further, waiver of the operative delay would allow the Exchange to facilitate the Adviser's ability to list the product on the Exchange as soon as possible, which may enhance competition among market participants, to the benefit of investors and the marketplace. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[36]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

[26] *See* Rule 14.11(i)(4)(B)(ii).

[27] *See* Rule 14.11(i)(4)(B)(i).

[28] *See* Rule 14.11(i)(4)(B)(iii).

[29] *See* Rule 14.11(i)(4)(B)(iv).

[30] *See* Rule 14.11(i)(6).

[31] *See* Rule 14.11(i)(7).

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–077 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–077. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–077, and should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18869 Filed 8–30–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86776; File No. SR–CboeEDGX–2019–053]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 21.20 and 21.22 in Connection With Stock-Options Orders

August 27, 2019.

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 August 22, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend Rules 21.20 and 21.22 in connection with stock-options orders. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 26, 2019, the Exchange filed a rule filing, SR–CboeEDGX–2019–028, which was approved by the Securities and Exchange Commission (the ''Commission'') on July 26, 2019, which permits use of it Automated Improvement Process (''AIM'') for complex orders.[5] Specifically, the filing describes how complex orders may be submitted to and will be processed in an AIM Auction (''C–AIM'' or ''C–AIM Auction''). Also, on June 27, 2019, the Exchange filed SR–CboeEDGX–2019–039, which adopts stock-option order functionality on the Exchange.[6] The Exchange notes that it implemented the proposed changes under SR–CboeEDGX–2019–039 on August 16, 2019 as part of Feature Pack 9[7] in with the migration of Cboe Exchange, Inc. (''Cboe Options'') technology to the same trading platform used by the

[37] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 85831 (May 10, 2019), 84 FR 22178 (May 16, 2019) (Notice of Filing of a Proposed Rule Change To Adopt Rule 21.22 (Complex Automated Improvement Mechanism)) (SR–CboeEDGX–2019–028); Securities Exchange Act Release No. 86493 (July 26, 2019) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Adopt Rule 21.22 (Complex Automated Improvement Mechanism)).

[6] *See* Securities Exchange Act Release No. 86353 (July 11, 2019), 84 FR 34230 (July 17, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Stock-Option Order Functionality and Complex Qualified Contingent Cross (''QCC'') Order With Stock Functionality, and To Make Other Changes to its Rules) (SR–CboeEDGX–2019–039).

[7] The Exchange notes that implementation of these changes as a part of Feature Pack 9 was recently postponed via Exchange notice from a roll-out of August 5, 2019 to August 16, 2019. *See* Exchange Notice No. C2019080200 (Updated August 02, 2019). The changes under SR–CboeEDGX–2019–028 have been postponed and are planned to be implemented soon after August 16, 2019.

Exchange, Cboe C2 Exchange, Inc. (''C2''), and Cboe BZX Exchange, Inc. (''BZX Options'') in the fourth quarter of 2019. The Exchange now proposes an additional amendment under the rules proposed by SR–CboeEDGX–2019–028 and under the rules proposed by SR–CboeEDGX–2019–039. Specifically, the Exchange proposes to add an additional event under Rule 21.22(d)(1) (as proposed under SR–CboeEDGX–2019–028) that would cause a C–AIM Auction to conclude early. The Exchange also proposes to amend Rule 21.20(f)(2) (as proposed under SR–CboeEDGX–2019–039) to provide for how the Exchange will handle a stock-option order with one or multiple options legs when different minimum trading increments are allowed for the stock and options legs of such trades. The Exchange intends to implement these amendments to the proposed rules under SR–CboeEDGX–2019–028 and SR–CboeEDGX–2019–039 to be effective on August 22, 2019, or as close in time as possible to the Feature Pack 9 implementation date of August 16, 2019, so that the proposed changes may seamlessly coincide with the implementation of the rule changes under the two rule filings.

Currently, under Rule 21.22(d)(1) C–AIM Auction concludes at the earliest to occur of the following times:

(a) The end of the C–AIM Auction period;

(b) upon receipt by the System of an unrelated non-Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price better than the stop price;

(c) upon receipt by the System of an unrelated Priority Customer complex order on the same side as the Agency Order that would post to the COB at a price equal to or better than the stop price;

(d) upon receipt by the System of an unrelated non-Priority Customer order or quote that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be better than the stop price;

(e) upon receipt by the System of an unrelated Priority Customer order in any component of the complex strategy that would post to the Simple Book and cause the SBBO on the same side as the Agency Order to be equal to or better than the stop price;

(f) upon receipt by the System of a simple non-Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be better than the stop price, or a Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be equal to or better than the stop price;

(g) the market close; and

(h) any time the Exchange halts trading in the complex strategy or any component of the complex strategy, provided, however, that in such instance, the C–AIM Auction concludes without execution.

The Exchange now proposes to add an event under Rule 21.22(g)[8] that would conclude a C–AIM Auction in response to an incoming order that would cause the SBBO to be at a price not permissible under the Limit Up-Limit Down Plan or Regulation SHO,[9] and would conclude the C–AIM Auction without execution. This will ensure that the stock leg of a stock-option order submitted into a C–AIM Auction does not execute at a price not permissible under that plan or regulation. This is consistent with current C–AIM functionality to ensure that stock legs do not trade at prices not permissible under the Limit Up-Limit Down Plan or Regulation SHO.[10]

The Exchange proposes to amend Rule 21.20(f)(2) to provide for how the Exchange will handle a stock-option order with one or multiple options legs when different minimum trading increments are allowed for the stock and options legs of such trades. Pursuant to SR–CboeEDGX–2019–039, Rule 21.20(f)(1)(B) provides that the option leg(s) of a stock-option order may be executed in $0.01 increments, regardless of the minimum increments otherwise applicable to the option leg(s), and the stock leg of a stock-option order may be executed in any decimal price permitted in the equity market. In a small subset of cases, generally as a result of unusual leg ratios, in calculating the total notional value a stock leg may result in a price outside of the NBBO, thus cannot execute pursuant to Rule 21.20(f)(2)(B).[11] In order to allow for the strategy to execute, the proposed rule change would offer functionality that allows the legs of the stock option order to trade outside of their expected notional value by a specified amount determined by the Exchange.[12] Therefore, the System could ensure that options legs and stock leg were priced in in line with Rule 21.20, which includes ensuring that: (1) The option leg of a stock-option order with one option leg does not trade at a price worse than the individual component price on the Simple Book or at the same price as a Priority Customer Order on the Simple Book; (2) that the option leg(s) of a stock-option order with more than one option leg trades does not execute at a net price (i) that would cause a leg to execute at a price of zero, (ii) worse than the SBBO or equal to the SBBO when there is a Priority Customer Order at the SBBO, except AON complex orders may only execute at prices better than the SBBO, (ii) that would cause a leg to be executed at a price worse than the individual component prices on the Simple Book, (iv) worse than the price that would be available if the complex order Legged into the Simple Book, or (v) that would cause any component of the complex strategy to be executed at a price ahead of a Priority Customer Order on the Simple Book without improving the BBO of at least one component of the complex strategy; and (3) that a stock leg does not execute above (below) the buffer amount that is above (below) the NBBO.[13] Although this would result in a negligible difference (*i.e.* residual amount) between the expected notional value of the trade and the actual trade value, Users generally prefer not to forgo an execution for their stock-option strategies when the residual amount is miniscule compared to the total value of the trade. The value allowance would work, for example, as follows:

- Assume the Exchange has determined a trade value allowance of $0.50 from the expected trade value.
- Assume also that:

(Equity) NBBO: 10.00×11.00
(Option) NBBO: 1.00×1.05, BBO: 1.00×1.05
SNBBO: 7.70×8.32 (*i.e.,* bid = $(47 \times 10.00 / 100) + (3 \times 1.00) = 7.70$, and

[8] And subsequently re-letter the subparagraphs, changing current subparagraph (g) to (h), and current (h) to (i).

[9] *See* Rule 21.20(j)(3).

[10] *Id.*

[11] Pursuant to Rule 21.20(f)(2)(B), the System will only execute the stock leg of a stock-option order up to a buffer amount outside of the stock leg NBBO and that the execution price of the buy (sell) stock leg of a QCC with Stock Order may be any price (including outside the NBBO for the stock leg). While the QCT exemption permits a stock leg to execute outside of the NBBO, the Exchange still offers price protections to prevent execution too far away from the NBBO, which it understands is consistent with market participants' desire. Currently on EDGX, the buffer referenced in Rule 21.20(f)(2)(B) is set to zero, so the Exchange does not permit execution of the stock leg of a stock-option order outside of the NBBO (other than a QCC with stock order, which will execute immediately without exposure and thus is unlikely to trade too far outside of the NBBO). Current rules of other exchanges (such as Cboe Options) prevent execution of the stock component from being too far away from the NBBO, as do the rules of stock exchanges.

[12] Pursuant to Rule 16.3, the Exchange announces to Options Members all determinations it makes pursuant to the Rules via specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which will be posted on the Exchange's website, or electronic message.

[13] *See supra* note 11.

offer = (47 × 11.00 / 100) + (3 × 1.05) = 8.32)

• A User enters a stock-option order to Buy 47 shares of XYZ stock and Buy 3 June 10 XYZ calls with a net price of 8.30 and a quantity of 3.

• The order matches with corresponding contra order on the complex order book.

• The expected trade value based on the order's limit price, quantity and a contract multiplier of 100 is $2,490.00 (*i.e.,* 8.30 × 3 × 100).

• The calculated options match price is 1.00 based on market prices and the stock match price is 11.2766 (rounded four decimals), therefore, outside of the NBBO.

• The trade value allowance then calculates the stock match price that results in a total notional trade value of $2489.9934:

Options leg notional = $1.05 × 100 × 3 × 3 = $945

Stock Leg notional = $10.9574 × 47 × 3 = $1,544.9934

Notional trade value = $2,489.9934, which is within the $0.50 trade value allowance.

The Exchange notes that a valid trade price within the NBBO for the stock leg with the smallest residual between the difference in actual trade value and expected notional trade value is $10.9574. Therefore, in this example, the corresponding options leg match price would be $1.05 because it is the options match price that could be paired with a valid stock trade price that would also allow for the smallest residual between the difference in actual trade value and expected notional trade value. If, for example, the next allowable options increment [14] within the BBO ($1.04) was used, the stock leg notional trade value matched to meet the notional value closest to the expected trade value would be $11.0213, and therefore still outside of the NBBO.[15] The Exchange also notes that $1.05 is consistent with the BBO in this example.

Under the proposed rule, the System will not apply the trade value allowance to orders with a ''C'' capacity code (for the account of a Priority Customer).[16] This limitation is intended to function as an additional protection for customers who may not have the same levels of trading sophistication or technological and informational advantages as that of Professionals or broker-dealers. Therefore, customers may not have measures in place to assume any level of risk that may be associated with trading outside of the expected trade value (which risk the Exchange believes is de minimis given that the Exchange will impose a reasonable cap, as described below, on the amount by which the actual trade value may differ from the expected trade level). As a result, the Exchange believes that not applying the trade value allowance to customer orders will further protect customers from assuming this potential risk for which they may not have calculated.

Overall, this proposed functionality is a helpful feature which will allow Users to receive an expeditious execution, and trade the stock and options components of a stock-option strategy in a moving market without introducing legging risk. Without this functionality members would be forced to resubmit their orders and potentially receive a much worse price or miss an execution. The Exchange will announce to all market participants the determined trade value allowance amount pursuant to Rule 1.5. The Exchange would determine an allowance amount that would reasonably account for the average differences in notional trade values as well as the cost benefit to market participants between the differences in actual trade value versus expected notional trade value and the imposition of resubmitting their orders and potentially receiving a much worse price or missing an execution.[17] The Exchange notes that, if, however, a User determines that the trade value allowance is more attractive or favorable on another venue, Users are free to execute on other such venues. The proposed Exchange determination of a value allowance outside of the expected notional value is currently in place on other exchanges.[18]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed additional event that will conclude a C–AIM Auction is reasonable and promotes a fair and orderly market and national market system, because it will ensure that executions at the conclusion of a C–AIM Auction occur at permissible prices, specifically, that the stock leg of a stock-option order submitted into a C–AIM Auction does not execute at a price not permissible under the Limit Up-Limit Down Plan or Regulation SHO. Moreover, the Exchanges notes that this is consistent with current C–AIM functionality to ensure that stock legs do not trade at prices not permissible under the Limit Up-Limit Down Plan or Regulation SHO, therefore, the Exchange believes it is appropriate to conclude a C–AIM Auction if the proposed circumstance occurs.[22] The proposed rule change will also benefit investors by providing additional clarity regarding what will cause C–AIM Auction to conclude.

The proposed Exchange determination to set an allowable value outside of the expected notional trade value for the legs of a stock-option order removes impediments to and perfects the mechanism of a free and open market and a national market system because it provides Users with functionality that allows a User's stock-option strategies to trade outside of their specified net prices when the executable stock match price results in a small difference between the expected notional value of the trade and the

[14] *See* Rule 21.20(f)(1)(B), which states that the option leg(s) of a stock-option order may be executed in $0.01 increments.

[15] The notional trade value would be: ($1.04 × 100 × 3 × 3) + ($11.0213 × 47 × 3) = $2,490.0033.

[16] *See* Rule 16.1, which states that a Priority Customer means any person or entity that is not a broker or dealer in securities or a Professional. *See also* Securities Exchange Act Release No. 86415 (July 19, 2019), 84 FR 35905 (July 25, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Update Rule 16.1 To Include the Definition of Capacity, as well as Amend Its Fee Schedule To Reflect This Update) (SR–CboeEDGX–2019–046).

[17] The Exchange expects this value to be initially set at $0.50 as represented in the example above.

[18] *See* Nasdaq ISE Rules, Supplementary Material .03 to Options 3, Section 14; and Nasdaq MRX Rules, Supplementary Material .03 to Options 3, Section 14.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *See supra* note 6.

actual trade value. Users generally prefer not to forgo an execution for their stock-option strategies when this occurs, as the residual amount is miniscule compared to the value of the trade. As a result of the proposed rule, Users will be able to receive an expeditious execution, and trade the stock and options components of a stock-option strategy in a moving market without introducing legging risk, instead of resubmitting their orders and potentially receiving a much worse price or missing an execution. In addition to this, the Exchange also believes that not permitting the trade value allowance to apply to customer orders will remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general protect investors, in that it prevents customers from assuming potential risk (which the Exchange believes is de minimis given that the Exchange will impose a reasonable variance, as reiterated below). The Exchange believes the proposed rule will protect customers because customers may not have the same levels of trading sophistication or technological and informational advantages as that of Professionals or broker-dealers and, thus, may not have the measures in place to assume any level of risk that may be associated with trading outside of the expected trade value.

As stated above, the proposed Exchange determination of a value allowance outside of the expected notional value is currently in place on other exchanges.[23] The Exchange believes that the differences between the proposed rule and the rules of other exchanges will remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, protect investors. The other exchanges' rules allow for a notional variance based on a percentage, while the proposed rule will allow for a specific dollar amount which the exchange believes is more straightforward and less confusing for investors than the calculation of a percentage. The other exchanges' rules allow for Member determination or a default to Exchange determination of the notional variance, while the proposed rule will allow only for Exchange determination, which the Exchange believes will also simplify the implementation of this functionality and mitigate any potential investor confusion by setting just one Exchange-determined notional variance. The other exchanges rules also do not differentiate between the trade value application to customer and non-customer orders, however, as described herein this filing, the Exchange believes this implements an additional protection for customer orders. Finally, unlike other exchanges' rules, the proposed rule does not provide for a User opt-out function. Because the difference between the expected notional value of the trade and the actual trade value is inconsequential, especially as compared to the overall benefit to investors of an expeditious execution, this proposed difference will not have any significant impact on the Exchange's participants and, instead, will benefit participants overall. As stated, the Exchange would determine an allowance amount that would reasonably account for the average differences in notional trade values as well as the cost benefit to market participants between the differences in actual trade value versus expected notional trade value and the imposition of resubmitting their orders and potentially receiving a much worse price or missing an execution. The Exchange notes that, if, however, a User determines that the trade value allowance is more attractive or favorable on another venue, Users are free to execute on other such venues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change to add an additional event that would conclude a C–AIM Auction will impose any burden on intramarket competition, as this event, if it is the earliest to occur of the list of events that would conclude a C–AIM Auction, will conclude a C–AIM Auction in the manner which already occurs for the other events currently listed under the rule, and a manner which is consistent with current C–AIM functionality that ensures stock legs do not trade at prices not permissible under the Limit Up-Limit Down Plan or Regulation SHO. The subsequent conclusion of a C–AIM Auction applies in the same manner to all Users. The Exchange does not believe the proposed change to allow option legs of a stock-option strategy to trade outside of their expected notional value by a specified amount determined by the Exchange and communicated to Members via specifications and/or Regulatory Circular will impose any burden on intramarket competition because the amount will apply to all User's non-customer stock-option strategies equally. As described above, the Exchange does not believe that excluding customer orders from the trade value allowance functionality would impose any significant burden on completion as customers generally do not have the same levels of trading sophistication or technological and informational advantages as that of Professionals or broker-dealers in order to take on any level of risk associated with trading outside the expected trade value. Rather, the proposed rule benefits customers by ensuring that customers will not assume potential risk for which they have not calculated.

The Exchange does not believe the proposed rule change to add an additional event that would conclude a C–AIM Auction will impose any burden on intermarket competition because the proposed change is designed as a protection intended to ensure that the stock leg of a stock-option order submitted into a C–AIM Auction does not execute at a price not permissible under the Limit Up-Limit Down Plan or Regulation SHO. As stated, current C–AIM functionality already exists which ensures stock legs do not trade at prices not permissible under this plan or regulation. The Exchange does not believe the proposed rule change to allow option legs of a stock-option strategy to trade outside of their expected notional value by a specified amount determined by the Exchange and communicated to Members via specifications and/or Regulatory Circular will impose any burden on intermarket competition because it is substantially similar to other options exchanges' rules, previously filed with the Commission.[24]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[23] *See supra* note 17.

[24] *See supra* note 17.

of the Act [25] and Rule 19b–4(f)(6) thereunder.[26]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [27] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [28] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that waiver of the operative delay would allow it to implement the proposal immediately and as close in time as possible to the implementation date of other rule changes regarding stock-option orders.[29] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is designed to benefit investors by allowing stock-option strategies to trade outside of their specified net price when the executable match price results in a small difference between the expected notional value of the trade and the actual trade value, instead of forgoing an execution for their stock-option strategies when this occurs. The Commission also notes that the proposed rule change is consistent with the practices of other options exchanges, which provide for similar notional variance for legs in a stock-option strategy.[30] Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[31]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–053 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–053 and should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18873 Filed 8–30–19; 8:45 am]

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[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] *See supra* note 7.

[30] *See supra* note 18.

[31] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10676; 34–86785; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, September 19, 2019 from 9:30 a.m. until 3:15 p.m. (ET). Written statements should be received on or before September 19, 2019.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549. The meeting will be webcast on the Commission's website at *www.sec.gov.* Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for website viewing and printing in the Commission's Public Reference Room,

100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT**. The agenda for the meeting includes: Welcome remarks; a discussion regarding methods to develop better disclosures for investors; a discussion regarding increased leverage and related SEC regulatory implications; subcommittee reports; and a nonpublic administrative work session during lunch.

Dated: August 28, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–18927 Filed 8–30–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86789; File No. SR–NYSEAMER–2019–30]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Rule Change To Modify Rules 967NY and 953.1NY Regarding the Treatment of Orders Subject to Trade Collar Protection

August 28, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 21, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Rules 967NY (Price Protection—Orders) and 953.1NY (Limit-Up and Limit-Down During Extraordinary Market Volatility) regarding the treatment of orders subject to Trade Collar Protection. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rules 967NY(a) and 953.1NY regarding the treatment of orders subject to Trade Collar Protection.

The Exchange has in place various price check features that are designed to help maintain a fair and orderly market, including Trade Collar Protection.[4] Trading Collars mitigate the risks associated with orders sweeping through multiple price points (including during extreme market volatility) and resulting in executions at prices that are potentially erroneous (*i.e.,* because they are away from the last sale price or best bid or offer). By applying Trading Collars to incoming orders, the Exchange provides an opportunity to attract additional liquidity at tighter spreads and it ''collars'' affected orders at successive price points until the bid and offer are equal to the bid-ask differential guideline for that option, *i.e.,* equal to the Trading Collar. Similarly, by applying Trading Collars to partially executed orders, the Exchange prevents the balance of such orders from executing away from the prevailing market after exhausting interest at or near the top of book on arrival. The Exchange proposes to modify its rule regarding Trading Collars (*i.e.,* Rule 967NY(a) or the ''Rule'') to clarify existing functionality and to adopt enhancements to the operation of the Trading Collars.

Current Rule 967NY(a)(1)(i) states that Trade Collar Protection prevents the ''immediate execution'' of incoming Market Orders when the difference between the National Best Offer (''NBO'') and the National Best Bid (''NBB'') is greater than one Trading Collar. Rule 967NY(a)(1)(ii) states that Trade Collar Protection prevents the execution of the balance of an incoming Market Order or marketable limit order to buy (sell) if it would execute at a price that exceeds the width of the National Best Bid and Offer (''NBBO'') plus (minus) the value of one Trading Collar. Thus, the current rule limits the application of Trade Collar Protection to incoming Market Orders and only expands this protection to include marketable Limit Orders once there is a balance of a partially executed order that is subject to such protection.

The Exchange proposes to modify Rule 967NY(a) to make clear that Trade Collar Protection may be applied to marketable Limit Orders on arrival. Although this reflects current functionality, the rule is silent in this regard and focuses solely on any unexecuted portion of a marketable Limit Order. Pursuant to proposed Rule 967NY(a), the Exchange would ''limit the immediate execution'' of incoming Market Orders and marketable Limit Orders (collectively, ''Marketable Orders''; and each a ''collared order'') if the width of the NBBO is greater than one Trading Collar.[5] This proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Per Rule 967NY(a)(2), Trading Collars are determined by the Exchange on a class-by-class basis and, unless announced otherwise via Trader Update, are the same value as the bid-ask differential guidelines established pursuant to Rule 925NY(b)(4). The Exchange proposes a streamlining technical change to combine the buy and sell sections of the Rule into one paragraph since the Trading Collar value is the same whether a buy or sell order. *See* proposed Rule 967NY(a)(2)(A). To conform with this proposed change, the Exchange proposes to re-number current paragraph (a)(2)(C) to proposed (a)(2)(B), without any substantive changes.

[5] *See* proposed Rule 967NY(a)(1)(A). Because the Exchange is proposing to move the existing text (albeit modified) into a sub-paragraph, it proposes to re-number the paragraph in a manner consistent with the rest of the current rule. *See id.* Also, consistent with the clarification that Trade Collar Protection applies to incoming Marketable Orders,

change would clarify how Trade Collar Protection currently operates and explicitly state that marketable Limit Orders may be collared on arrival, in addition to having any remaining balance likewise subject to the Trading Collar (the latter point is already explicitly stated in the current rule). The Exchange would continue to apply Trade Collar Protection to the balance of Marketable Orders consistent with the current Rule (as discussed below).[6]

Current Rule 967NY(a)(3) provides that Trade Collar Protection does not apply to order types that have contingencies, namely, IOC, NOW, AON and FOK orders (the ''Contingent Order Type Provision''). The Exchange proposes to modify the Contingent Order Type Provision, which currently indicates that such order types would receive an ''immediate execution,'' to make clear that such incoming orders would ''receive an execution, depending upon the availability of an execution pursuant to the terms of those orders.'' [7] The Exchange believes this proposed change (*i.e.,* the removal of the word ''immediate'') would more accurately reflect current functionality in regards to the processing of these contingent order types, insofar as such orders will only ''immediately'' execute if the contingency is satisfied. The Exchange believes this proposed wording change would add clarity, transparency and internal consistency to Exchange rules.

Current Rule 967NY(a)(4) provides that when a Market Order is subject to Trade Collar Protection pursuant to current paragraph (a)(1)(i), the Exchange does not immediately execute or route such orders and instead goes on to state how such orders are processed. The Exchange proposes to modify this paragraph to make clear that it relates to Marketable (as opposed to just Market) Orders as well as to clarify that the ''execution and/or routing'' of such orders would be limited by the Exchange as discussed below, as opposed to stating that they would not ''immediately execute or route'' which modifications are consistent with the changes to Rule 967NY(a)(1)(A) (and consistent with existing functionality). The Exchange also proposes to make clear that this provision relates to ''incoming'' Marketable Orders as opposed to the balance thereof.[8]

The Exchange also proposes to modify the Rule to specify that collared orders will be assigned a ''collar execution price,'' which price depends upon the order type (Market or Limit) and whether (when the order arrives) the Exchange is already in receipt of another order being collared.[9] Current Rule 967NY(a)(4)(A) covers collared Market Orders to buy (sell), which would not immediately execute or route, but would be ''displayed at a price equal to the NBB (NBO) plus (minus) one Trading Collar.'' As proposed, a Market Order to buy (sell) ''received when there is not already a collared order to buy (sell)'' would be ''assigned a collar execution price'' (as opposed to being ''displayed'') equal to the NBB (NBO) plus (minus) one Trading Collar.[10] The Exchange proposes to replace ''displayed'' as used in the current rule with ''assigned a collar execution price'' because, once collared (and consistent with current functionality), the order would be eligible to immediately execute against available interest before its price is displayed. Examples illustrating this (existing) functionality are included at the end of the description of these proposed rule changes.

In addition, the Exchange proposes an exception to the processing of incoming Market Orders to buy (sell) that arrive when the NBB (NBO) is zero (the ''Zero NBBO Collar Exception''). Specifically, a Market Order to buy entered when the NBB is $0.00 would be assigned a collar execution price equal to the NBB (*i.e.,* $0.00) plus one Trading Collar to ensure it is collared to avoid executing at an erroneous price; whereas, a Market Order to sell entered when the NBO is $0.00, would be rejected as there is no market for the incoming order.[11] The Exchange believes the Zero NBBO Collar Exception would improve the operation of Trading Collars when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. Absent the proposed Zero NBBO Collar Exception, a Market Order to buy (sell) that arrives when the NBB (NBO) is zero would trade based on the last sale price, if any; if there is no last sale price, the order would trade at the contra-side NBBO which may result in a bad execution price. The proposal to collar an incoming buy order when the NBB is zero is consistent with the handling of other collared orders to buy when the NBB is not zero (*i.e.,* the collared order is assigned a collar execution price equal to the NBB plus one Trading Collar).[12] In regards to the proposal to reject (as opposed to collar) incoming sell orders when the NBO is zero, the Exchange believes this change in functionality is necessary because any attempt to collar such an order would result in a negative number. In addition, the Exchange has observed that it is extremely uncommon to have a no (zero) offer situation and believes it could be indicative of unstable market conditions. To avoid such orders receiving bad executions in times of market dislocation, the Exchange believes it would be appropriate to reject such orders. Thus, the Zero NBBO Exception helps maintain fair and orderly markets. An example illustrating this new functionality is included at the end of this section.

In addition, because the rule has been updated to clarify that (consistent with current functionality) incoming marketable Limit Orders may be collared (*i.e.,* proposed Rule 967NY(a)(1)(A)), the Exchange proposes to further update the rule to address how such orders would be collared, depending upon whether the Exchange is already in receipt of a collared order. Specifically, as proposed (and consistent with current functionality), modified Rule 967NY(a)(4)(C) would clarify that when the incoming collared order is a marketable Limit Order to buy (sell) and there is no other order already

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the Exchange proposes to modify and expand the application of paragraph (a)(4). *See* proposed Rule 967NY(a)(4).

[6] *See* proposed Rule 967NY(a)(1)(B). Because the Exchange is proposing to move the existing text (albeit slightly modified) into a sub-paragraph, it proposes to re-number the paragraph in a manner consistent with the rest of the current rule. *See id.* In addition, the Exchange proposes to modify this provision to refer solely to ''Marketable Orders'' (and to remove now extraneous reference to marketable Limit Orders), as the Marketable Orders is already defined in proposed Rule 967NY(a)(1)(A). *See* proposed Rule 967NY(a)(1)(B).

[7] *See* proposed Rule 967NY(a)(3). Because the listed contingency orders are not subject to Trade Collar Protection, the Exchange believes the current rule may refer to such orders receiving an ''immediate execution'' to contrast the treatment of orders that are subject to such protection—as such orders (under the current rule) are ''not immediately executed.'' *See* Rule 967NY(a)(1) and (a)(3).

[8] *See* proposed Rule 967NY(a)(4). *See also* proposed Rule 967NY(a)(1)(A) (making clear that incoming marketable Limit Order are subject to Trading Collar Protection).

[9] *See* proposed Rule 967NY(a)(4). The Exchange also proposes to make a conforming change to update the cross-reference from Rule 967NY(a)(1)(i) to proposed Rule 967NY(a)(1)(A). Also, current Rule 967NY(a)(4)(C)(i)–(iii) address scenarios when an order arrives while another order is being collared, but the proposed rule text adds clarity regarding current functionality and addresses enhancements to the functionality since the rule was adopted.

[10] *See* proposed Rule 967NY(a)(4)(B). As discussed further below, proposed Rule 967NY(a)(4)(A) would provide that ''[a] Market Order to buy (sell) received when there is already a collared order to buy (sell) will join that collared order and be processed consistent with paragraphs (a)(4)(C)–(a)(6),'' which reflects current functionality.

[11] *See* proposed Rule 967NY(a)(4)(B)(i), (ii).

[12] *See* proposed Rule 967NY(a)(4)(B) (providing, in relevant part, that a Market Order to buy received when there is not already a collared order to buy is assigned a collar execution price equal to the NBB plus one Trading Collar).

being collared, the order would be ''assigned a collar execution price equal to the NBO (NBB).'' If, however, a marketable Limit Order arrives when there is already an order being collared, it would join that collared order and be processed consistent with proposed paragraph (a)(6)(B), which is discussed below.[13]

The Exchange also proposes to modify the rule regarding executions of collared orders. The current rule provides that the Exchange would ''execute or route the collared order to buy (sell) against any contra-interest priced within one Trading Collar above (below) the displayed price of the collared order.'' [14] The Exchange proposes to clarify that a collared order to buy (sell) would ''trade against any contra-side interest priced equal to its collar execution price or at prices within one Trading Collar above (below) the collar execution price ('the Collar Range').'' [15] Consistent with proposed Rule 967NY(a)(4)(B),(C), the Exchange proposes to refer to the ''collar execution price'' (as opposed to a display price) as the collared order seeks an execution before it would be displayed, thus this change clarifies existing functionality. In addition, the Exchange believes that clarifying that the collared order would execute with contra-side interest priced within a Collar Range (*i.e.,* equal to, and up to one Trading Collar above (below) the collar execution price), provides more specificity than the current language, which states only that such order would execute against interest ''within one Trading Collar'' of its price. The Exchange believes these proposed changes, which describe current functionality, would add clarity, transparency, and internal consistency to Exchange rules.

The Exchange proposes to add new paragraph (a)(4)(E) to the Rule to codify existing functionality and make clear that the Exchange would cancel a Market Order, or the balance thereof, that has been collared pursuant to proposed Rule 967NY(a)(1)(A) or (B) if, after exhausting trading opportunities within the Collar Range, the Exchange determines there are no quotes on the Exchange and/or no interest on another market (''Available Interest''). The absence of Available Interest, such as a Market Maker quote in the series, means that the Exchange would have no reliable price framework within which to evaluate the Market Order. Therefore, the Exchange believes that cancellation of the Market Order would be appropriate and in the best interest of investors.

Regarding the treatment of the balance of a Marketable Order (*i.e.,* a Market Order or a marketable Limit Order) that is subject to Trade Collar Protection, the Exchange proposes to clarify and update the collar functionality, including making clear when and at what price the collared order is first displayed. Current Rule 967NY(a)(5) provides that ''[w]hen the balance of a partially executed Marketable Order'' is subject to Trade Collar Protection, such balance ''will be displayed at the last sale price.'' Further, ''[i]f there is an opportunity for trading within a Trading Collar above (below) the last sale price, the balance of the buy (sell) order will be displayed at the NBB (NBO) established at the time of the initial execution.'' [16]

The Exchange proposes to replace the existing text and replace it with new rule text titled ''Display of collared orders.'' Pursuant to new Rule 967NY(a)(5), a Market Order that does not trade on arrival will be displayed at its collar execution price whereas the display price of the balance of a partially executed Marketable Order collared pursuant to proposed paragraph (a)(1)(B) of the Rule, depends upon eligible contra-side interest.[17] Specifically, per proposed paragraph (a)(5)(A) of the Rule, if the collared order has traded against all contra-side interest within the Collar Range, the order would be displayed at the most recent execution price.[18] This proposed provision sets forth the same concept as the first sentence of current paragraph (a)(5), except that it specifies that the order would be displayed at the most recent execution price (*i.e.,* last sale price) only after it has exhausted trading opportunities within the Collar Range (whereas the current rule is silent on this fact, though it may be inferred given that the second sentence of the current Rule discusses the display price when trading opportunities have not been exhausted).

Per proposed paragraph (a)(5)(B) of the Rule, if, however, there is contra-side interest priced within one Trading Collar of the most recent execution price, the order to buy (sell) would be displayed at the higher (lower) of its assigned collar execution price or the best execution price of the order that is both within the Collar Range and at least one Trading Collar away from the best priced contra-side trading interest (*i.e.,* lowest sell interest for collared buy orders/highest buy interest for collared sell orders).[19] This proposed text modifies the second sentence of current paragraph (a)(5) by replacing reference to the NBBO at the time of initial execution with the concept of the collar execution price and clarifying that the display price would be the better of the collar execution price or keyed off of the best price contra-side interest. The Exchange believes this modified provision, which reflects current functionality, provides greater granularity regarding the circumstances under which the price of a collared order is first displayed and how that price is determined, which additional clarity and transparency is beneficial to the investing public.

In addition, the Exchange also proposes to add rule text to new paragraph (a)(5) of the Rule to make clear that collared orders would be displayed at the Minimum Price Variation (''MPV'') for the option, pursuant to Rule 960NY (Trading Differentials) which rule sets forth the minimum quoting increments for options traded on the Exchange.[20] The Exchange believes adding this information to the Rule add transparency, clarity and internal consistency to Exchange rules.

Current Rule 967NY(a)(4)(C) sets forth scenarios that would trigger the ''redisplay'' of a collared order. Consistent with the foregoing changes, the Exchange proposes to update this section with conforming changes for consistency, with regard to current functionality, and modify the rule to adopt new functionality. First, the Exchange proposes to re-number this paragraph as (a)(6), title it ''Repricing of collared orders,'' and make clear that the Exchange would ''assign a new collar execution price'' to (as opposed to redisplay) the collared order upon the happening of one of the listed scenarios (as modified below).[21]

[13] *See* proposed Rule 967NY(a)(4)(C).

[14] *See* Rule 967NY(a)(4)(B).

[15] *See* proposed Rule 967NY(a)(4)(D). The proposed rule does not repeat the concept of a collared order being executed or routed in paragraph (a)(4)(D), because this concept is already covered in proposed paragraph (a)(4).

[16] *See* Rule 967NY(a)(5).

[17] *See* proposed Rule 967NY(a)(5). The Exchange notes that the proposed new rule does not include the last sentence of current paragraph (a)(5) which provides that the balance of Marketable Orders that are subject to Trade Collar Protection are processed in the same fashion as incoming collared orders per current paragraph (a)(4). The Exchange believes that this language would be redundant of proposed paragraph (a)(1)(A)–(B), which makes clear what is deemed a ''collared order'' as well as proposed rule (a)(4)(A)–(E), which describes how such orders are processed.

[18] *See* proposed Rule 967NY(a)(5)(A).

[19] *See* proposed Rule 967NY(a)(5)(B).

[20] *See* proposed Rule 967NY(a)(5).

[21] *See* proposed Rule 967NY(a)(6). Consistent with this change, the Exchange also proposes to

• The first scenario under the current rule provides that ''an update to the NBBO (based on another market or a quote on the Exchange or a Limit Order on the Exchange priced one Trading Collar or less away from the collared order) that improves the same side of the market as the collared order will result in the collared order being redisplayed at the new NBB (for buy orders) or NBO (for sell orders)'' [22] Consistent with the foregoing proposed rule text changes, the Exchange proposes to modify this provision to replace the words ''redisplayed at'' with ''assigned a new collar execution price equal to'' the NBB (for buy orders) or NBO (for sell orders), and to add to the end of this provision that the repriced orders would be ''processed at the updated collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [23] The ''new collar execution price'' reflects the updated price at which the collared order is eligible to trade based on changes in the market. This concept is consistent with the current rule except that the updated price is not (re)displayed until it has exhausted all trading opportunities within the Collar Range.

• The second scenario under the current rule provides that a Marketable Order to buy (sell) on the same side of the market as the collared order or a Limit Order to buy (sell) on the same side of the market as the collared order and priced greater than one Trading Collar above (below) the displayed price of the collared order will itself become subject to Trade Collar Protection and will result in the collared order and the Limit Order being displayed at one Trading Collar above (below) the displayed price of the collared order.[24] The Exchange proposes to modify this rule to remove reference to ''Marketable Orders to buy (sell) on the same side of the market as the collared orders,'' because the functionality has been updated such that a Market Order received when there is already a collared order would join that collared order (rather than be subject to a separate collar).[25] This proposed modification would make clear that this scenario is applicable solely to marketable Limit Orders received when there is already an order being collared. Consistent with the proposed textual changes to the first scenario, the Exchange likewise proposes to modify this provision to replace the words ''displayed at a price'' with ''assigned a new collar execution price'' one Trading Collar above or below the displayed price of the collared order, as applicable (at which new price it will be eligible to trade), and to add to the end of this provision that the repriced orders would be ''processed at the updated collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [26]

• The third scenario under the current rule provides that ''upon the expiration of one second, the collared order to buy (sell) will redisplay at a price one Trading Collar above (below) the displayed price of the collared order.'' [27] The Exchange proposes to modify this provision to add ''and absent an update to the NBBO'' after language regarding the expiration of one second to distinguish this scenario from the first scenario where a change in the market (*i.e.,* an update to the NBBO) caused the collared order to reprice (and potentially redisplay). Also, consistent with the other two scenarios, the Exchange proposes to modify this provision to replace the words ''redisplay at a price'' with ''assigned a new collar execution price'' one Trading Collar above or below the ''current displayed price'' of the collared order, as applicable, and to add to the end of this provision that the repriced orders would be ''processed at the update collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [28] Thus, the collared order to buy (sell) would be eligible to trade at a price for a period of one second, but if market conditions prevent it from trading, the order will improve or tick up (down) and be assigned a new collar execution price one Trading Collar above (below) the current display price.

The Exchange proposes to clarify the functionality under this (third) scenario, however to provide that ''if the collared order is a Market Order to sell that has reached $0.00, it will not reprice but will be posted in the Consolidated Book at its MPV (*e.g.,* $0.01 or $0.05),'' because an order may never be posted for lower than its MPV—and the alternative to holding the order at the MPV would be to cancel it.[29] The Exchange believes this proposed rule text, which reflects current functionality, would allow the collared order an opportunity for an execution (rather than being cancelled) and adds transparency and internal consistency to Exchange rules.

The Exchange also proposes to clarify the rule text regarding the priority of collared orders. Current Rule 967NY(a)(6) states that ''[a]ll orders for which Trade Collar Protection prevents immediate execution will be ranked based on time priority (with all other orders for which Trade Collar Protection prevents immediate execution).'' Because the current rule text does not make clear that such collared orders, like other non-collared orders, will be processed at each price in time priority, the Exchange proposes to clarify that such orders would be ''processed in accordance with Rule 964NY, Display, Priority and Order Allocation—Trading Systems.'' [30] This proposed change to reflect current functionality and adds clarity, transparency and internal consistency to Exchange rules.

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Examples of Treatment of Collared Orders [31]

Example 1: Market Order Received When no Other Orders Being Collared [32]

BOX: $0 \times 0 - 1.50 \times 100$ (wide market)
LMM $100 \times 0.25 - 1.60 \times 100$
Cust1 Buy Market $\times 100$

Results:

- Cust1 is assigned a collar execution price of 0.50 (*i.e.,* the NBB (0.25), plus one Trading Collar, which is 0.25 because the NBB is less than $2.00) [33]
- Each second that elapses in which Cust1 does not trade (and absent changes to the NBBO), the order receives a new collar execution price and is displayed at each successive collar—0.50, then 0.75, then 1.00 [34]

renumber the existing subparagraphs to proposed (a)(6) as (A)–(C) and existing paragraphs (a)(4)(D) and (a)(6) as proposed paragraphs (a)(7) and (a)(8), respectively. *See id.*

[22] *See* Rule 967NY(a)(4)(C)(i).

[23] *See* proposed Rule 967NY(a)(6)(A). The Exchange also proposes to add a semi-colon to separate the two clauses regarding what constitutes a market update event that updates the NBBO (*i.e.,* that it must be ''based on another market or a quote on the Exchange; or a Limit Order on the Exchange priced one Trading Collar or less away from the collared order''). *See id.*

[24] *See* Rule 967NY(a)(4)(C)(ii). Consistent with the Rule, this provision excludes IOC Orders, AON Orders, FOK Orders and NOW Orders. *See id.; see also* Rule 967NY(a)(3).

[25] *See* proposed Rule 967NY(a)(4)(A).

[26] *See* proposed Rule 967NY(a)(6)(B).

[27] *See* Rule 967NY(a)(4)(C)(iii).

[28] *See* proposed Rule 967NY(a)(6)(C).

[29] *See id.*

[30] *See* proposed Rule 967NY(a)(8).

[31] The Exchange notes that the processing of collared orders in examples 1–3 reflect current processing, but that, as noted above, the Exchange has clarified the rule text used to describe the processing (*i.e.,* reference to ''collar execution price'' versus ''display price'' as well as removing reference to ''last sale'' as the benchmark for determining display price and adding specificity about available trading interest impacting display price determination—which may or may not be the same as the last sale price, *see, e.g.,* Rule 967NY(a)(5)(A)).

[32] *See id.*

[33] *See* proposed Rule 967NY(a)(4(B) (regarding collar execution price for Market Orders) and (a)(2)(A)(i) (regarding Trading Collar).

[34] *See* proposed Rule 967NY(a)(6)(C) (regarding assignment of new collar execution price every one

Continued

- Once the order ticks up to receive a collar execution price of 1.25, it trades with BOX at 1.50 (as 1.50 is within the Collar Range, *i.e.,* contra-side interest within one Trading Collar above the collar execution price—resulting in a permissible execution range of 1.25 up to and including 1.50) [35]

Example 2: Limit Order Received When no Other Orders Being Collared [36]

BOX: 100 × 1.50 × 1.60 × 100
T2 Sell 100 @1.70
T3 Sell 100 @1.80
T4 Sell 100 @2.95
T1 Buy 1000 @3.00

Results:

- T1 is assigned a collar execution price of 1.60 (*i.e.,* the NBO) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.25) above the collar execution price—resulting in a permissible execution range of 1.60 up to and including 1.85) [37]
  - T1 routes 100 to BOX and trades at 1.60
  - T1 trades 100 with T2 at 1.70
  - T1 trades 100 with T3 at 1.80
- Since T1 has traded with all eligible interest within the collar range, the balance of T1 (*i.e.,* the remaining 700) is assigned a collar execution price of 1.80 (the most recent execution price), is displayed at that price and is eligible to trade within the Collar Range [38]
- Each second that the T1 does not trade it receives a new collar execution price and is displayed at each successive collar (*i.e.,* 2.05 and then ticks up based on $0.40 collar—because price/NBB is over $2.00—to 2.45) [39]
  - Once at 2.85, T1 is eligible to trade within its Collar Range and trades 100 with T4 at 2.95
- The balance of T1 (*i.e.,* the remaining 600) is assigned a collar execution price of 2.95, is displayed at that price and is eligible to trade within the Collar Range [40]
- After one second, T1 is displayed at its limit price of 3.00 and will not be repriced/subject to further Trade Collar Protection [41]

Example 3: Limit Order Received When no Other Orders Being Collared [42]

MMQ 100 × 5.00 − 5.40 × 10 (NBBO)
BD1 Sell Limit Order 10 × 5.70
BD2 Sell Limit Order 10 × 5.95
BD3 Buy Limit Order 100 @6.00

Results:

- BD3 is assigned a collar execution price of 5.40 (*i.e.,* the NBO) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.40 because the NBB does not exceed 5.00) above the collar execution price—resulting in a permissible execution range of 5.40 up to and including 5.80) resulting in the following executions:
  - BD3 trades 10 with MMQ at 5.40
  - BD3 trades 10 with BD1 at 5.70 [43]
- The balance of BD3 (*i.e.,* the remaining 80) is displayed at 5.40 rather than the most recent execution price of 5.70 (''last sale'') because there is contra-side interest priced within one Trading Collar of the last sale (*i.e.,* 5.95) [44]
- One second elapses, and BD3 receives a new collar execution price of 5.90 (*i.e.,* its collar execution price (5.40) plus one Trading Collar (0.50)) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.50) above the collar execution price—resulting in a permissible execution range of 5.90 up to and including 6.40) resulting in the following execution:
  - BD4 trades 10 with BD2 at $5.95 [45]

Example 4: Market Order Received When the NBB is Zero and no Other Orders Being Collared (Illustrating the Proposed Zero NBBO Collar Exception) [46]

BOX: 0 × 0 − 1.50 × 100
Cust1 Buy Market Order x 100

Result:

- Cust1 is assigned a collar execution price of 0.25 (*i.e.,* the NBB (0.00), plus one Trading Collar which is 0.25 because the NBB is less than $2.00) [47]
- Each second that Cust1 does not trade (and absent changes to the NBBO), it receives a new collar execution price and is displayed at each successive collar (*i.e.,* 0.50, then 0.75, then 1.00) [48]
- Once the order ticks up to receive a collar execution price of 1.25, it seeks an execution within that collar range (*i.e.,* 1.25–1.50) and trades with BOX at 1.50.

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Rule 953.1NY: LULD Rule

The Exchange proposes to update the Rule 953.1NY, Limit-Up and Limit-Down During Extraordinary Market Volatility, related to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (''LULD'' or the ''LULD Rule''). The current rule provides that the Exchange shall reject Market Orders, as defined in Rule 900.3NY(a), entered when the underlying NMS stock is either in a Limit State or a Straddle State (an ''LULD State'') and shall notify ATP Holders of the reason for such rejection.[49] The Exchange proposes to add rule text to make clear that the Exchange, under existing functionality, ''will cancel any Market Order that is a collared order pursuant to Rule 967NY(a)'' if the underlying NMS stock

second that the order does not trade as seconds elapse and NBBO does not change).

[35] *See* proposed Rule 967NY(a)(4)(D) (regarding Collar Range).

[36] *See supra* note 31.

[37] *See* proposed Rule 967NY(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(i) (regarding Trading Collar).

[38] *See* proposed Rule 967NY(a)(5)(A). *See also* Rule 967NY(a)(5)(A) (regarding collared order that has traded against all eligible interest in the collar range being displayed at the most recent execution price).

[39] *See* proposed Rule 967NY(a)(6)(C) (regarding assignment of new collar execution price every one second that the order does not trade as seconds elapse and NBBO does not change) and (a)(2)(A)(i) (regarding Trading Collar).

[40] *See also* Rule 967NY(a)(5)(A) (regarding collared order that has traded against all eligible interest in the collar range being displayed at the most recent execution price).

[41] *See* proposed Rule 967NY(a)(7) (regarding a limit order not being eligible to post beyond its limit price).

[42] *See supra* note 31.

[43] *See* proposed Rule 967NY(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(ii) (regarding Trading Collar).

[44] *See* proposed Rule 967NY(a)(5)(B) (regarding display price of partially executed collared order where there is contra-side interesting within on Trading Collar).

[45] *See* proposed Rule 967NY(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(ii) (regarding Trading Collar).

[46] *See supra* note 31.

[47] *See* proposed Rule 967NY(a)(4)(B)(i). *See also* current and proposed Rule 967NY(a)(2)(i).

[48] *See* proposed Rule 967NY(a)(6)(C) (regarding assignment of new collar execution price every one second that the order does not trade as seconds elapse and NBBO does not change) and (a)(2)(A)(i) (regarding Trading Collar).

[49] *See* Rule 953.1NY(a)(1). The Exchange notes that other exchanges provide for the cancellation or rejection of market orders in such circumstance. *See, e.g.,* CBOE Rule 6.3A(b)(1) (LULD rule citing Rule 6.2 regarding order handling); CBOE Rule 6.2, Interpretations and Policies .07 (providing that if the underlying security for an option class is in an LULD State when the class moves to opening rotation, then all market orders in the system will be cancelled, except market orders that are considered limit orders pursuant to CBOE Rule 6.13(b)(vi) and entered the previous trading day). *See also* NASDAQ Options Market (''NOM'') Ch. V, Sec. 3(d) (providing that if, after the opening, the underlying NMS stock for an option class is in an LULD State, NOM will reject market orders and notify its participants of the reason for such rejection).

enters an LULD State and ''will notify ATP Holders of the reason for such cancellation,'' as the current rule does not address this scenario.[50] A market order would typically trade upon arrival, unless collared and pending execution. The Exchange believes this proposed change would add clarity, transparency and internal consistency to Exchange rules as it makes clear that, in addition to rejecting a Market Order received when an underlying NMS stock is in an LULD State, the Exchange will likewise cancel a resting Market Order if an underlying NMS stock enters an LULD State.

Implementation

The Exchange will announce the Zero NBBO Collar exception in a Trader Update to be published no later than 60 days following the approval date of this rule.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [51] of the Act, in general, and furthers the objectives of Section 6(b)(5),[52] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

Overall, the Exchange is proposing various changes that would promote just and equitable principles of trade, because collared orders would be handled in a fair and orderly manner, as described above. The various modifications and clarifications, many of which are consistent with current functionality, are intended to improve the rule overall by adding more specificity and transparency. The Exchange believes that the proposed rule changes would promote just and equitable principles of trade as well as protect investors and the public interest by making more clear what types of orders may be collared and how such orders are processed, including the circumstances that determine collar execution price(s) and display price(s).

The Exchange believes that the proposed rule assists with the maintenance of fair and orderly markets by clarifying and enhancing the operation of the Trading Collar functionality—which is designed to mitigate the risk of orders sweeping through multiple price points and executing at potentially erroneous prices—as the proposed rule would continue to protect investors from receiving bad executions away from prevailing market prices. The Exchange notes that Trading Collar functionality is not new or novel and is available on other options exchanges.[53] The Exchange believes that the proposed changes that codify existing functionality, including how incoming marketable Limit Orders are collared and the cancellation of collared Market Orders—in the absence of Available Interest or if an NMS stock enters an LULD State—would add clarity, transparency and internal consistency to Exchange rules regarding the handling of orders accepted by the Exchange (*i.e.,* that such orders would be cancelled, not rejected) and make them easier for market participants to navigate and comprehend.

Further, the proposal to codify that the Exchange would cancel a Market Order or the balance thereof that has been collared once it has exhausted trading opportunities within its collar execution price plus/minus one Trading Collar if there is no Available Interest would protect investors from potentially erroneous executions because this scenario means the Exchange would have no reliable price framework within which to evaluate the collared orders. Thus, this proposal would foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal to codify current functionality regarding a collared order that is a Market Order to sell that has reached $0.00 such that the Exchange post the order at its MPV (*e.g.,* $0.01 or $0.05) would promote just and equitable principles of trade and assist with the maintenance of fair and orderly markets because an order may never be posted for lower than its MPV—and the alternative to holding the order at the MPV would be to cancel it. The Exchange believes the proposed clarification of how such orders are handled provides the collared order an opportunity for an execution (rather than being cancelled) and adds transparency and internal consistency to Exchange rules.

The Exchange likewise believes that the proposed enhancements to the Trading Collar functionality—the Zero NBBO Collar Exception—likewise would prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and remove impediments to and perfect the mechanisms of a free and open market and a national market system. In particular, the proposed Zero NBBO Collar Exception would improve the operation of the Trading Collar when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. The Exchange believes the Zero NBBO Collar Exception would improve the operation of Trading Collars when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. Absent the proposed Zero NBBO Collar Exception, a Market Order to buy (sell) that arrives when the NBB (NBO) is zero would trade based on the last sale price, if any; if there is no last sale price, the order would trade at the contra-side NBBO which may result in a bad execution price. In regards to the proposal to reject (as opposed to collar) incoming sell orders when the NBO is zero, the Exchange believes this change in functionality is necessary because any attempt to collar such an order would result in a negative number. In addition, the Exchange has observed that it is extremely uncommon to have a no (zero) offer situation and believes it could be indicative of unstable market conditions. To avoid such orders receiving bad executions in times of market dislocation, the Exchange believes it would be appropriate to reject such orders. Thus, the Zero NBBO Exception helps maintain fair and orderly markets.

LULD

The Exchange believes it is appropriate that the Exchange cancel a Market Order that is collared when an NMS stock enters an LULD State because when the underlying NMS

[50] *See* proposed Rule 953.1NY(a)(1). For consistency, the Exchange proposes the technical change of replacing ''shall'' with ''will'' each time in appears in this rule. *See* proposed Rule 953.1NY.

[51] 15 U.S.C. 78f(b).

[52] 15 U.S.C. 78f(b)(5).

[53] *See, e.g.,* CBOE Rule 6.13(b)(v) (setting forth its Hybrid Trading System Automatic Execution Feature, which prevents the execution of marketable orders if (a) the width of the NBB and NBO is not within an ''acceptable price range'' (as determined by CBOE) or (b) if an execution would follow a partial execution and would be beyond an ''acceptable tick distance'' (as determined by CBOE), but unlike Trade Collar Protection on the Exchange, CBOE does not reprice (or redisplay) orders at narrowing prices. In addition, the NASDAQ Options Market (''NOM'') and NASDAQ OMX BX (''BX'') each have identical rules (Chapter VI, Section 18(b)(1) (setting forth the risk protection feature for quotes and orders, which prevents executions (partial or otherwise) of orders beyond an ''acceptable trade range'' (as calculated by the exchange) and when an order (or quote) reaches the limits of the ''acceptable trade range'', it posts for a period not to exceed one second and recalculated a new ''acceptable trade range'').

stock enters an LULD State, there may not be a reliable underlying reference price, there may be a wide bid/ask quotation differential in the option, and there may be less liquidity in the options markets. Thus, allowing a collared Market Order to execute (as opposed to cancel) in such circumstances could lead to executions at unintended prices (*i.e.,* inferior to the NBBO), and could add to volatility in the options markets during times of extraordinary market volatility. The Exchange believes that this current treatment of collared market orders, and the proposal to explicitly state this treatment in the rule text, would provide certainty to the treatment of Market Orders during these times and add clarity and transparency to Exchange rules, thus promoting just and equitable principles of trade and removing impediments to, and perfecting the mechanism of, a free and open market and a national market system. The proposed rule amendments would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend. The Exchange notes that the proposed cancellation of an options order if the underlying NMS security is in an LULD State is not new or novel and is available on other options exchanges that offer collar functionality similar to the Exchange's.[54] However, the Exchange believes that the rules of these other exchanges do not specifically contemplate the underlying security *entering* an LULD state while a market order is resting on the book, because such orders typically execute on arrival. The Exchange nonetheless believes that the handling such orders, as well as the proposed rule clarification, adds transparency and specificity to Exchange rules.

Technical Changes

The Exchange notes that the proposed organizational and non-substantive changes to the rule text would provide clarity and transparency to Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule amendments would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

[54] *See supra* note 49.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes the proposal provides clarity (including defining the collar execution price) and enhancement to the Trading Collars that provide market participants with protection from anomalous executions. Thus, the Exchange does not believe the proposal creates any significant impact on competition.

The proposed enhancements to the Trading Collars (*i.e.,* the Zero NBBO Collar Exception) would improve the operation of the Trading Collars thereby further protecting investors against the execution of orders at erroneous prices. As such, the proposal does not impose any burden on competition. To the contrary, the Exchange believes that the proposed enhancements may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. The Exchange's proposed rule change would enhance its ability to compete with other exchanges that already offer similar trading collar functionality.[55] Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies. The Exchange further believes that because the proposed rule change would be applicable to all ATP Holders it would not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[55] *See id.*

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2019–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–30 and

should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86772; File No. SR–CBOE–2019–042]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules Related to How the System Handles Incoming Orders and Open Outcry Trading in Connection With the Migration of the Exchange's Trading Platform to the Same System Used by the Cboe Affiliated Exchanges

August 27, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 9, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend certain Rules related to how the System[5] handles incoming orders and open outcry trading, as well as move these Rules from the currently effective Rulebook (''current Rulebook'') to the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (''shell Rulebook''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

Currently, the Exchange has an order handling system that determines how to handle incoming orders. The order handling system routes orders for automatic execution, book entry, open outcry, or manual handling (by a Floor Broker or PAR Official).[6] How the System handles an order depends on whether an order is eligible for electronic processing (*i.e.,* eligible for automatic execution or book entry) or the Trading Permit Holder's instructions on the order (*e.g.,* a Trading Permit Holder may route an order directly to a PAR workstation[7] for manual handling and potential open outcry trading). Additionally, certain Rules provide that an order will route for manual handling if it does not execute pursuant to those Rules.[8] The Exchange's new trading platform will not have an order handling system, and therefore deletes the majority of provisions in current Rule 6.12 and other provisions regarding the order handling system. Instead, the System will handle orders in accordance with their instructions. Certain orders will be eligible for electronic processing, while other orders will be eligible for manual handling and open outcry trading, as set forth in the proposed Rules and described below.

The proposed rule change adds the following order instructions to Rule 5.6 in the shell Rulebook:

- A ''Default'' order is an order a User designates for electronic processing, and which order (or unexecuted portion) routes to PAR for manual handling if not eligible for electronic processing.
- A ''Direct to PAR'' order is an order a User designates to be routed directly to a specified PAR workstation for manual handling. A User must

[56] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The term ''System'' means the Exchange's hybrid trading platform that integrates electronic and open outcry trading of option contracts on the Exchange, and includes any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub. *See* Rule 1.1 in the current Rulebook and the shell Rulebook.

[6] *See* current Rule 6.12.

[7] A PAR workstation is an order management tool used on the Exchange's trading floor by Trading Permit Holders or PAR Officials (whose responsibilities are described in current Rule 6.12B (which the proposed rule change moves to proposed Rule 5.90)) to facilitate manual handling of orders and open outcry trading.

[8] *See, e.g.,* Rule 6.12(a)(1) (which provides any remaining balance of an order that does not automatically execute are cannot enter the Book will route to a PAR workstation or order management terminal). Upon the migration of the trading platform, the Exchange will no longer offer order management terminals (as all Floor Brokers have PAR workstations on the trading floor, and order management terminals provide similar order management functionality), so all orders routed for manual handling will route to a PAR workstation.

designate a Direct to PAR order as RTH Only.[9]

These Order Instructions, in addition to the Electronic Only [10] instruction in Rule 5.6(c) in the shell Rulebook, essentially ''replace'' the Exchange's current order handling system.

Current Rule 6.12A(c) states unless otherwise specified in the Rules or the context indicates otherwise, all order types in current Rule 6.53 are eligible to route to PAR, except attributable orders, intermarket sweep orders (''ISOs''), AIM sweep orders, sweep and AIM orders, reserve orders,[11] qualified contingent cross (''QCC'') orders, and Market-Maker Trade Prevention Orders may not be routed to PAR. The proposed rule change provides in Rule 5.6(c) and (d) that Users may not designate orders with the following Order Instructions or Times-in-Force as Direct to PAR (and thus they may not route to PAR for manual handling [12] or trade in open outcry), because manual handling of these orders would generally be inconsistent with their defined purposes: [13]

- All Sessions; [14]
- Book Only;
- Cancel Back;
- ISO; [15]
- Post Only;
- Price Adjust;
- QCC; [16]
- Reserve; [17]
- Stop;
- Stop-limit;
- Fill-or-kill;
- Good-til-date;
- Immediate-or-cancel;
- Limit-on-close;
- Market-on-close; and
- At the open.

Proposed Rule 5.6(c) also identifies certain Order Instructions that are only available for PAR routing and open outcry trading:

- Multi-Class Spread Order (which may only execute on the Exchange's trading floor pursuant to current Rule 24.19);
- Not Held order (which by definition is subject to discretion regarding execution); [18] and
- SPX Combo (which may only execute on the Exchange's trading floor pursuant to current Rule 24.20).

All other orders may be routed for electronic processing or manual handling.

The proposed rule change amends the definition of complex order in Rule 1.1 of the shell Rulebook. Currently, the term complex order means any order involving the concurrent execution of two or more different series in the same class, for the same account, occurring at or near the same time and for the purpose of executing a particular investment strategy with no more than the applicable number of legs (which number the Exchange determines on a class-by-class basis). The current definition also states for purposes of Rules 5.4 (regarding permissible minimum increments for bids and offers), 5.85 (regarding complex order priority in open outcry trading), 5.86 (regarding open outcry facilitations and solicitations), and 5.87 (regarding open outcry crossing) in the shell Rulebook, the term complex order means a spread order, combination order, straddle order, or ratio order (each as defined in Rule 5.6 in the shell Rulebook.[19]

The Exchange believes the current definition of complex order is unnecessarily restrictive on market participants. Market participants may determine that investment and hedging strategies within the specified ratio are appropriate for their investment purposes, and the Exchange believes it will benefit market participants if they can define the investment and hedging strategies that may help them achieve their desired investment results. The Exchange does not believe it is necessary to restrict complex orders submitted for execution to those that fit within the definitions of straddle, combination, or spread. Therefore, the proposed rule change deletes those defined terms, as well as the term ratio order, and provides that any multi-leg order (up to the maximum number of legs specified by the Exchange) with a ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (which ratio is consistent with the current definition of ratio order) [20] may be executed on the Exchange electronically or in open outcry on the Exchange's trading floor.[21] Therefore, all multi-legged orders with a ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (and not just spread, straddle, and combination orders) may trade in penny increments pursuant to Rule 5.4 in the shell Rulebook (including electronically pursuant to Rule 5.33 and in open outcry pursuant to Rule 5.85 in the shell Rulebook), and may be eligible for the complex order priority in Rule 5.85(b)(1) in open outcry trading.[22] The proposed rule change makes conforming changes to Rules 5.4 [23] and 5.30 in the shell Rulebook.[24] In other words, the proposed rule change has no impact on the minimum trading increment or priority of complex orders as currently defined in the shell Rulebook—it merely expands the types of complex order strategies within the permissible range of ratios that may receive complex order increment (electronically and in open

[9] Pursuant to Rule 5.1(c), trading during the Exchange's Global Trading Hours (''GTH'') trading session is electronic only.

[10] An ''Electronic Only'' order is an order a User designates for electronic execution (in whole or in part) on the Exchange only, and does not route to PAR for execution in open outcry. The System cancels an Electronic Only order that would otherwise route to PAR pursuant to the Rules.

[11] The Exchange does not intend to offer reserve complex orders following the technology migration.

[12] As further discussed below, a Floor Broker that receives an order via PAR for manual handling has discretion with how to handle the order.

[13] *See* Rule 5.6(c) and (d) in the shell Rulebook. While stop and stop-limit orders are eligible for routing for manual handling today, the Exchange has authority pursuant to current Rules 6.12A and 6.53 to determine to make them not eligible for routing for manual handling. The Exchange believes there is minimal demand for these order types to route to PAR given the purpose of these order types (which is to rest and become eligible for automatic execution as soon as the series reaches a specified price), and Users have the ability to send these orders for electronic processing or send other orders to PAR for manual handling if they so desire.

[14] As noted above, there is no open outcry trading during the Exchange's GTH trading session.

[15] This is consistent with current Rule 6.12A(c).

[16] This is consistent with current Rule 6.12A(c). The proposed rule change makes nonsubstantive changes to the definition of QCC orders, including to add subheadings, update paragraph lettering and numbering, and make other clarifying changes, as well as conform language to the definition of a QCC order in EDGX Options Rule 21.1(d).

[17] This is consistent with current Rule 6.12A(c).

[18] The proposed rule change deletes the language in the definition of a ''not held'' order regarding the need to be marked, as it is redundant of the not held order message that signifies it is a not held order.

[19] The current definition also provides that a definition for complex order for the purposes of electronic processing will be added to Rule 5.33 of the shell Rulebook (which the Exchange intends to add in a separate rule filing).

[20] *See* current Rule 6.53 (Rule 5.6(c) in the shell Rulebook).

[21] *See* proposed Rules 1.1, 5.6, and 5.30 in the shell Rulebook. In a separate rule filing, the Exchange intends to adopt rules regarding the trading of complex orders following the technology migration.

[22] *See* proposed Rules 1.1 (definition of complex order), 5.4(b), 5.6(c), and 5.85(b).

[23] The proposed rule change also updates the expiration date of the penny pilot program in Rule 5.4, Interpretation and Policy .03 of the shell Rulebook. The Exchange previously ''moved'' its rule regarding minimum increments from Rule 6.42 in the current Rulebook to Rule 5.4 of the shell Rulebook (*see* Securities Exchange Act Release No. 86173 (June 20, 2019), 84 FR 30267 (June 26, 2019) (SR–CBOE–2019–027). After that filing, the Exchange submitted a rule filing to extend the penny pilot program through December 31, 2019. *See* Securities Exchange Act Release No. 86148 (June 19, 2019), 84 FR 29906 (June 25, 2019) (SR–CBOE–2019–028). The proposed rule change amends Rule 5.4 to reflect the current expiration of the penny pilot program in the shell Rulebook, but makes no change to the penny pilot program.

[24] Proposed Rule 5.85(b) also clarifies that only complex orders with ratios greater than one-to-three (.333) or less than three-to-one (3.00) are eligible for complex order priority in open outcry trading.

outcry) and open outcry priority treatment.[25]

The proposed rule change also clarifies that market participants may submit a complex order with any strategy and any ratio for manual handling and open outcry trading.[26] The proposed rule change makes explicit that a complex order (and its legs) with a ratio of less than one-to-three (.333) or greater than three-to-one (3.00) may trade in open outcry on the Exchange's trading floor in the standard trading increment for the class, and that each leg price be better than the price of a Priority Customer order in the Book on each leg of the order. This is equivalent to a market participant submitting multiple simple orders in the same class for open outcry trading (they would trade in the permissible minimum increments in Rule 5.4(a) in the shell Rulebook, and each would need to be price better than a Priority Customer order in the book in the applicable series, as set forth in proposed Rule 5.85(a)).[27] The proposed rule change merely clarifies that market participants may submit these as a single complex order for manual handling and execution on the Exchange's trading floor, which will permit more efficient execution of complex trading strategies outside of the specified ratio.

The proposed rule change also adopts Rule 5.83 in the shell Rulebook to explicitly state which orders may be eligible for PAR routing (and open outcry trading), which include market and limit orders, all-or-none orders, minimum quantity orders, multi-class spread orders, not held orders, RTH Only orders, SPX combo orders, Day orders, and GTC orders. Additionally, the Exchange may make complex orders, including security future-option orders, and stock-option orders available for PAR routing and manual handling, as it consistent with current functionality.[28]

The proposed rule change adopts Rule 5.84 in the shell Rulebook to provide that open outcry trading on the Exchange's trading floor may begin in a series after it opens for electronic trading pursuant to Rule 5.31 of the shell Rulebook. This is consistent with when open outcry trading may begin today, and the proposed rule change merely codifies this in the Rules.

The proposed rule change moves the following Rules (and deletes portions of those Rules that will no longer be applicable following the System migration) from the current Rulebook that apply solely to the Exchange's trading floor and open outcry trading into Chapter 5, Section G of the shell Rulebook. The Exchange believes it will benefit investors if all Rules that only relate to this type of trading are contained in the same portion of the Rulebook. Other than certain changes described below, the proposed rule change makes only nonsubstantive changes to these Rules, including to update paragraph lettering and numbering, make grammatical changes and make the language more plain English, change times from Central Time to Eastern Time (to be consistent with the Rule provisions in the shell Rulebook),[29] delete provisions regarding the announcement of Exchange determinations by Regulatory Circular (as those will occur pursuant to Rule 1.5 in the shell Rulebook), add paragraph headings, simplify certain provisions, update cross-references, and incorporate defined terms.

- Current Rule 6.9 regarding facilitated and solicited transactions moves to proposed Rule 5.86.[30] The proposed rule change deletes a reference to an old regulatory circular regarding front-running prohibitions, which are considered a violation of current Rule 4.1 (which the Exchange proposes to move to Rule 8.1 in the shell Rulebook). The Exchange intends to re-issue the circular and add certain portions to the Rules as appropriate, in a separate rule filing. Additionally, current Rule 6.9(f) requires orders that result from a solicitation to be marked in a manner and form prescribed by the Exchange. The Exchange no longer intends to impose that requirement. Whether an order is solicited is only relevant with respect to how it is represented on the trading floor; however, the Exchange does not incorporate any such markings into its surveillances and thus does not believe it is necessary to require a systematic marking.
- Current Rules 6.12(a)(1) and 6.13(b) regarding how the System handles incoming orders (whether they automatically execute at one price or multiple prices, rest on the Book, or route to PAR for manual handling) to proposed Rule 5.8.[31] The proposed rule change deletes language regarding the Exchange designating an eligible order size, type, origin code, or classes for which automatic execution is available from Rule 6.13(a) and(b)(i) and (ii).[32] Orders in all classes of all sizes and for all origin codes may execute automatically upon entry, subject to a User's instructions (as discussed above, orders with certain Order Instructions and Times-in-Force are only eligible to route to PAR may not automatically execute upon entry or rest in the Book). The proposed rule change also deletes current Rule 6.13(c) regarding users that may access the System for automatic execution of orders. Rule 5.5 describes how Users (including order entry firms)[33] will be able to establish access and connectivity to the System following the technology migration to enter orders both for electronic processing and manual handling. The remainder of Rule 6.13(c) describes requirements that apply to all Users (such as complying with all Rules), and thus the proposed rule change deletes those redundant provisions. For example, all TPHs must comply with the Exchange's trading rules and procedures, and all features of automatic execution on the Exchange's System are available to the public in the

[25] Pursuant to the proposed rule change, complex orders with any ratio may trade on the Exchange's trading floor pursuant to the rules regarding solicitation and crossing (current Rules 6.9 and 6.74, which the proposed rule change moves to Rules 5.86 and 5.87, respectively). However, any complex order trades pursuant to those Rules will be subject to the minimum increment and priority Rules described in this rule filing. Other options exchanges have similar definitions of complex orders. *See, e.g.,* BOX Exchange LLC (''BOX'') Rule 7600(a)(4); and Nasdaq Phlx, LLC (''Phlx'') Rule 1098(a)(i) and (c)(iii).

[26] By clarifying in the definition of complex order that, for purposes of Rule 5.33 in the shell Rulebook (which will be moved from Rule 6.53C in the current Rulebook and describe the electronic processing of complex orders), a complex order may only have a ratio equal to or greater than one-to-three and less than or equal to three-to-one to be eligible for electronic processing.

[27] *See* proposed Rules 1.1, 5.4, 5.6, and 5.85(b) in the shell Rulebook.

[28] *See* Rules 6.12A(c) and 6.53 (in the current Rulebook) (which provide that certain order types in Rule 6.53 are eligible for routing to PAR, and that the Exchange may determine which order types in Rule 6.53 are available on a class and system (including PAR) basis). In a separate rule filing, the Exchange intends to adopt rules regarding the trading of complex orders following the technology migration.

[29] *See* Rule 1.6 in the shell Rulebook.

[30] Proposed Rule 5.86 is renamed ''Facilitated and Solicited Transactions.'' While current Rule 6.9 is called ''Solicited Transactions,'' pursuant to current Rule 6.9, Interpretation and Policy .01, the rule applies to solicited orders, including facilitation orders. The Exchange believes updating the name of the Rule will clarify its application to investors.

[31] The proposed rule change also renumbers Rule 5.8 in the shell Rulebook (regarding order exposure) to Rule 5.9 in the shell Rulebook.

[32] The proposed rule change also deletes current Rule 6.13(b)(vii), as it is redundant of language in Rule 5.32 of the shell Rulebook.

[33] Order entry firms is currently defined in Rule 1.1 in the shell Rulebook, so the proposed rule change deletes provisions in Rule 6.13 regarding the functions of an order entry firm. The proposed rule change also updates the definition of order entry firm in Rule 1.1 of the shell Rulebook to eliminate the cross-reference to Rule 3.51, as the Exchange does not anticipate having a separate rule regarding order entry firms. This is consistent with the definition of order entry firms in the rules of Cboe Affiliated Exchanges. *See, e.g.,* C2 Rule 1.1 and EDGX Rule 16.1.

Exchange's Rules and other documents available on the Exchange's website.[34] Other Rules (for example, Rule 4.24 regarding supervision and Rule 9.8 regarding supervision of accounts) require TPHs to develop and maintain adequate procedures and controls over their business activities, which would include order entry.[35]

• Current Rule 6.12A regarding PAR moves to Rule 5.82. The proposed rule change deletes the portion of the current introductory paragraph in current Rule 6.12A regarding the order handling system (which, as discussed above, is being replaced by Order Instructions). The proposed rule change adds to current Rule 6.12A(b)(ii) (proposed Rule 5.82(c)(2)) that Trading Permit Holders may use PAR to trade against Priority Customer orders and other orders resting at the best available price in the Book, which is consistent with current functionality and open outcry priority and allocation rules (current Rule 6.45(b), which the proposed Rule change moves to Rule 5.85(a), as discussed below). The proposed rule change is merely adding this detail to the Rules. Additionally, the proposed rule change adds proposed Rule 5.82(c)(4) to provide that Trading Permit Holders may route orders to another PAR workstation. This is similar to current Rule 6.12(a)(2), which provides orders may be routed back and forth between order management terminals and PAR workstations. As noted above, the Exchange will no longer offer order management terminals, and so the Exchange will provide the same service for order routing between PAR workstations (which are merely a different type of order management terminals). As discussed above, the Exchange will no longer have an order handling system, and Order Instructions will determine whether an order may route to PAR. As discussed above, only orders not eligible for electronic processing (as specified in the proposed Rules) may be routed to PAR. Proposed Rule 5.83 sets forth whether a specific order type is eligible to route to PAR, as described above. The proposed rule change deletes current Rule 6.12A(d), as the proposed rule change describes PAR functionality as of the System migration. The Exchange will continue to issue additional notices or technical specifications regarding the operation of PAR workstations.[36]

• Current Rule 6.12B regarding PAR Officials moves to proposed Rule 5.90. The Exchange notes proposed Rule 5.90(b)(1)(C) deletes references to market-if-touched, market-on-close (which includes limit-on-close pursuant to current Rule 6.53), stop, stop-limit, fill-or-kill, and immediate-or-cancel orders). Currently, those orders are excluded from a PAR Official's display obligation. However, as discussed above, these orders will no longer be eligible to route to PAR, and thus it is no longer necessary to reference them.

• Current Rule 6.20(a) through (d) regarding admission to and conduct on the Exchange's trading floor moves to proposed Rule 5.80. The proposed rule change deletes the last sentence of current Rule 6.20(d) regarding quote terminals on the trading floor, as quote terminals are obsolete and no longer used. Current Rule 6.20(e) regarding TPH education moves to proposed Rule 3.12, as it relates to a TPH's registration requirements rather than open outcry trading. The Exchange notes it deletes the provision from current Rule 6.20(e) (proposed Rule 3.12) that states any action taken by Floor Officials under that provision does not preclude further disciplinary action under current Chapter XVII (proposed Chapter 13) under the Rules. There is no action that Floor Officials may take with respect to TPH educational classes, and the Exchange may take action pursuant to current Chapter XVII (proposed Chapter 13), therefore this provision is unnecessary.

• Current Rule 6.23 regarding equipment and communications on the Exchange's trading floor moves to proposed Rule 5.81.

• Current Rules 6.41, Interpretation and Policy .01 and 24.8, Interpretation and Policy .01 regarding complex orders submitted with a cash price move to proposed Rule 5.85(f). The proposed rule change adds some detail regarding the submission and execution of these orders, but does not amend how these orders may be represented or execute on the Exchange's trading floor.[37] These details regarding the representation of orders with cash prices was set forth in a previous rule filing submitted to the Commission.[38]

• Current Rule 6.45(b) regarding the priority and allocation of bids and offers in open outcry moves to proposed Rule 5.85(a) and (b). The proposed rule change also incorporates the on-floor DPM or LMM participation entitlement into the open outcry priority provisions, which is consistent with current Rules[39]—the proposed rule change merely clarifies where this priority overlay applies within the allocation and priority Rules for open outcry trades. The proposed rule change makes no change to how the on-floor participation entitlement is applied.[40] Current Rule 6.45, Interpretation and Policy .06 regarding the routing of the stock component of a stock-option order represented in open outcry moves to proposed Rule 5.85(b). The proposed rule change current Rule 6.45(b)(iii), which states the open outcry allocation and priority provisions are subject to current Rules 8.7, Interpretation and Policy .02 and Rule 8.51. Those Rules relate to Market-Maker obligations, to which Market-Makers are always subject, and thus the Exchange does not believe it is necessary to include a reference to those rules here.

• Current Rule 6.47 regarding split-price priority (which only applies to open outcry trading) moves to proposed Rule 5.85(c).

• Current Rule 6.56 regarding compression forums moves to proposed Rule 5.88.

• Current Rule 6.57 regarding risk-weighted asset (RWA) transactions moves to proposed Rule 5.89.

• Current Rule 6.73 regarding Floor Broker responsibilities moves to proposed Rule 5.91(a) and (b). Current Rule 6.73(c) is duplicative of language in current Rule 6.75 (which the proposed rule change moves to proposed Rule 5.91(c)), and thus the proposed rule change deletes the redundant language. The proposed rule change deletes current Rule 6.73(b), because the Exchange will no longer have market-if-touched orders following the System migration, and, as discussed

[34] Current Chapter IX (which the Exchange intends to move to Chapter 9 of the shell Rulebook) describes requirements for firms that do business with the public.

[35] Additionally, Rule 15c3–5 under the Exchange Act requires a broker-dealer with market access, or that provides any person with access to an exchange, to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks, such as legal and operational risks, related to market access, which would include order entry.

[36] *See, e.g.,* technical specifications on the Exchange's website at *http://markets.cboe.com/us/options/support/technical/.*

[37] The proposed rule change also adds an applicable cross-reference to Rule 5.3(e) of the shell Rulebook regarding bids and offers and updates subparagraph numbering as applicable.

[38] *See* Securities Exchange Act Release No. 74551 (March 20, 2015), 80 FR 16046 (March 26, 2015) (SR–CBOE–2015–010).

[39] *See* current Rules 8.15(d) and 8.87. As is the case for electronic trading (*see* Rule 5.32 in the shell Rulebook), the LMM/DPM participation entitlement may only be applied after Priority Customer orders at the same price trade.

[40] LMMs and DPMs will continue to only be able to receive a participation entitlement if they have an appointment in the relevant class, and if they have a quote at the best price. Additionally, LMMs and DPMs may not be allocated a total quantity of contracts greater than the quantity that they quote at the best price.

above, market-on-close (which includes limit-on-close pursuant to current Rule 6.53), stop, and stop limit orders will no longer be eligible to route to PAR, and thus will not be available for Floor Broker handling.[41] The proposed rule change amends current Rule 6.73, Interpretation and Policy .01 (which moves to proposed Rule 5.91(a)(1)) to state a Floor Broker must due diligence in handling and executing an order by announcing to the trading crowd a request for quotes, rather than making all persons in the trading crowd aware of a request for quotes. While a Floor Broker must use best efforts to make as many people in the crowd aware of a request for quotes, given the size and activity (and thus, noise volume) in certain trading crowds, a Floor Broker cannot guarantee that all persons in a trading crowd will hear and thus be aware of a request for quotes. Additionally, the proposed rule change deletes references in current Rule 6.73, Interpretations and Policies .03 and .04 to the dissemination the trading crowd market quote and a related obligation, as trading crowd quotes are no longer disseminated. Rule 8.51 regarding firm quote obligations (which the Exchange intends to move to Rule 5.52 in the shell Rulebook) applies to all orders and quotes on the Exchange.

- Current Rule 6.74 regarding crossing orders in open outcry moves to proposed Rule 5.87.
- Current Rule 6.75 regarding discretionary transactions moves to proposed Rule 5.91(c). The proposed rule change moves all rules regarding Floor Broker responsibilities into a single proposed Rule 5.91.[42]
- Current Rule 6.79 regarding Floor Broker practices moves to proposed Rule 5.91(d) through (j).[43] The proposed rule change deletes the portion of current Rule 6.79 that restates Exchange Act requirements regarding record retention requirements for Floor Brokers, as the Rule states a Floor Broker must comply with the Exchange Act and Exchange Rules regarding documentation and record-keeping, making restatement of the Exchange Act provisions redundant and unnecessary.
- Current Rule 24.19(a) and (b) regarding the definition of a multi-class spread order moves to proposed Rule 5.6(c), so that all Order Instructions that will be available on the Exchange are included in the same place within the Rules. The proposed rule change adds to the Rules the current combinations of broad-based index options the Exchange has determined may trade as multi-class spread orders.[44] Current Rule 24.19(c) regarding how a multi-class spread order may execute moves to proposed Rule 5.85(d), so that all provisions regarding how orders may trade in open outcry are included in the same place within the Rules. The proposed rule change makes no changes regarding how multi-class spreads may execute on the Exchange.
- Current Rule 24.20(a) and Interpretation and Policy .01 regarding the definition of an SPX Combo Order move to proposed Rule 5.6(c), so that all Order Instructions that will be available on the Exchange are included in the same place within the Rules. Current Rule 24.20(b) regarding how an SPX Combo Order may execute moves to proposed Rule 5.85(e), so that all provisions regarding how orders may trade in open outcry are included in the same place within the Rules. The proposed rule change makes no changes regarding how SPX Combo Orders may execute on the Exchange. The proposed rule change deletes the requirement that TPHs apply an indicator one SPX Combo, as the new ''SPX Combo'' order instruction replaces the need for a separate indictor, as it will be the only order type that may execute pursuant to the procedures set forth in current Rule 24.20 (proposed Rule 5.85(e)).
- Current Rule 24.21 regarding crowd space dispute resolution procedures moves to proposed Rule 5.93. The current rule states the Exchange may apply these procedures to OEX, SPX, DJX, DIA and any index option not located at a station shared with equity options. Currently, these procedures apply only to the SPX and VIX index option crowds, so proposed Rule 5.93 explicitly states these procedures will only apply to spaces within those trading crowds.
- Current Rule 24.22 regarding the allocation of trading spaces moves to proposed Rule 5.92.
- Current Rule 24A.6 regarding a Floor Broker's discretion with respect to the number of FLEX contracts it may transact moves to proposed Rule 5.91(c)(2)(B), so that all provisions regarding Floor Broker discretion are contained within the same part of the Rules.

The proposed rule change also amends Rule 5.32 of the shell Rulebook to delete three inadvertent references to the ''EDGX Options Book'' and instead refers to the term ''Book,'' which is defined in Rule 1.1 of the shell Rulebook as the electronic book of simple orders and quotes maintained by the System, which single book is used during both the RTH and GTH trading sessions. In addition, the proposed rule change corrects an error in the paragraph number in Rule 5.32(b), which currently has two subparagraphs labeled as (2). These proposed changes make no changes to any functionality—they merely correct errors in the shell Rulebook.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[45] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[46] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[47] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed elimination of the Exchange's order handling system, which the Exchange proposes to replace with Order Instructions that will dictate whether an order will route for electronic processing or manual handling, as well as specific Rules regarding eligibility of Order Instructions and Times-in-Force for electronic processing or manual handling (or both) will benefit investors

[41] Similarly, the Exchange deletes current Rules 21.17 and 23.12 (regarding the handling by Floor Brokers of contingency orders for government securities options and interest rate options (which the Exchange does not currently list for trading)), as those rules replace current Rule 6.73(b), which the proposed rule change deletes. Floor Brokers will no longer be able to handle any of these contingency orders.

[42] The proposed rule change also deletes Rules 6.76 and 6.76A from the current Rulebook, as they were previously deleted.

[43] These include practices related to the liquidation or reduction of error account positions, erroneously executed orders, lost or misplaced market orders, legging multi-part orders, print-throughs, stopping orders, and documentation of errors and recordkeeping requirements.

[44] *See* Cboe Options Regulatory Circular RG16–136 (August 11, 2016).

[45] 15 U.S.C. 78f(b).

[46] 15 U.S.C. 78f(b)(5).

[47] *Id.*

by providing them with more control regarding how their orders will be processed upon submission to the Exchange. The Exchange believes the proposed rule change simplifies the process pursuant to which the System handles order, and will provide Users with more certainty regarding how the Exchange will process their orders. The Exchange notes the proposed elimination of order management terminals will have minimal impact on Users on the trading floor, as all Floor Brokers use PAR workstations (which provide similar order management tools as order management terminals). The Exchange believes this will further simplify manual handling of orders on the Exchange's trading floor.

The proposed rule change also benefits investors by adding transparency regarding which orders are eligible for electronic processing, and which orders are eligible for manual handling. The Exchange currently has authority pursuant to Rules 6.12A and 6.53 in the current Rulebook to determine which orders are eligible for electronic processing and PAR routing, and the proposed rule change is consistent with that authority.

The proposed rule change regarding the definition of a complex order will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors. Market participants may determine that investment and hedging strategies within the specified ratio are appropriate for their investment purposes and refer to submit those orders for execution. The Exchange believes it will benefit market participants if they can define the investment and hedging strategies that may help them achieve their desired investment results. As discussed above, the proposed rule change has no impact on which complex orders may trade in permissible complex order increments or receive complex order priority in open outcry trading—the proposed rule change merely expands the potential strategies with ratios of greater than or equal to one-to-three and less than or equal to three-to-one that may be executed on the Exchange (electronically or in open outcry), trade in complex order increments permissible in Rule 5.4 in the shell Rulebook, and receive complex order priority in open outcry trading in Rule 5.85(b) in the shell Rulebook (as proposed). The proposed rule change also benefits investors by clarifying that a complex order (and its legs) with a ratio less than one-to-three or greater than three-to-one is only eligible for manual handling and open outcry trading in the standard increment for the class, and may not receive complex order priority in open outcry trading. Additionally, other options exchanges have similar definitions of complex orders.[48]

The Exchange believes the proposed reorganization of Rules to move all Rules that relate solely to open outcry trading on the Exchange's trading floor will also benefit investors and remove impediments to and perfect the mechanism of a free and open market and a national market system. The majority of the changes in the proposed rule change move rules from the current Rulebook to the shell Rulebook with no substantive changes. The proposed nonsubstantive changes to the Rules provide additional detail in the rule regarding current functionality, make the Rules more plain English, update cross-references and paragraph lettering and numbering, delete duplicative language, and simplify rule language, which all benefit investors. The Exchange believes these changes and transparency will protect investors, as they provide more clarity and reduce complexity within the Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as they will apply to all Users in the same manner. All Users may submit orders for electronic processing or manual handling (including complex orders as proposed) as eligible pursuant to the proposed rule change, and the System will handle orders from Users in the same manner. Submission of orders for electronic processing or manual handling will be within Users' discretion. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it only impacts how the System will route orders for electronic processing or manual trading on the Exchange, but will have no impact on how orders will be executed on the Exchange. Regarding the expanded definition of complex orders that may be submitted to the Exchange for electronic processing, the Exchange notes other options exchanges have similar definitions of complex orders.[49] The proposed nonsubstantive changes are not intended to have any impact on competition, as they do not impact trading on Cboe Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[50] and subparagraph (f)(6) of Rule 19b–4 thereunder.[51] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[48] *See, e.g.,* BOX Exchange LLC (''BOX'') Rule 7600(a)(4); and Nasdaq Phlx, LLC (''Phlx'') Rule 1098(a)(i) and (c)(iii).

[49] *See, e.g.,* BOX Rule 7600(a)(4); and Phlx Rule 1098(a)(i) and (c)(iii).

[50] 15 U.S.C. 78s(b)(3)(A).

[51] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–042 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–042 and should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[52]

Jill M. Peterson,

Assistant Secretary.

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[52] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86774; File No. SR–NASDAQ–2019–065]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct and Clarify Rules 4702(b)(3)(B), 4702(b)(5)(B), and 4703(d)

August 27, 2019.

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 August 15, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to correct and clarify Rules 4702(b)(3)(B), 4702(b)(5)(B), and 4703(d).

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rules 4702 and 4703 to correct and clarify its various descriptions of the circumstances in which the Exchange will cancel certain types of midpoint pegged Orders [3] after they post to the Nasdaq Book [4] and the National Best Bid and National Best Offer (''NBBO'') or the Inside Bid and Inside Offer subsequently shifts.[5] The Exchange intended for these descriptions to be consistent and comprehensive, but upon review, they are somewhat discordant and confusing.

In 2015, the Exchange restated its Rules that describe its Order Types (Rule 4702) and Attributes (Rule 4703).[6] Among the topics that the restated Rules described were the circumstances in which the Exchange cancels orders priced at the Midpoint of the NBBO (the Inside Bid and the Inside Offer) or priced at their limit price when the NBBO (the Inside bid and the Inside Offer) changes after the order posts to the Nasdaq Book. The Exchange described these circumstances in three different provisions of its Rules pertaining to Orders with Midpoint pegging (''Midpoint-Pegged Orders'').

First, in Rule 4702(b)(3)(B), the Exchange states as follows in describing the cancellation of a Non-Displayed Order with a Midpoint Pegging Order Attribute assigned to it:

If a Non-Displayed Order entered through OUCH or FLITE is assigned a Midpoint Pegging Order Attribute, and if, after being posted to the Nasdaq Book, the NBBO changes so that the Non-Displayed Order is no longer at the Midpoint between the NBBO, the Non-Displayed Order will be cancelled back to the Participant. In addition, if a Non-Displayed Order entered through OUCH or FLITE is assigned a Midpoint Pegging Attribute and also has a limit price that is lower than the midpoint between the NBBO for an Order to buy (higher than the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Pursuant to Rule 4701(e), the term ''Order'' means an instruction to trade a specified number of shares in a specified System Security submitted to the Nasdaq Market Center by a Participant. An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq.

[4] Pursuant to Rule 4701(a)(1), the ''Nasdaq Book'' refers to a montage for Quotes and Orders that collects and ranks all Quotes and Orders submitted by Participants. The term ''Quote'' means a single bid or offer quotation submitted to the System by a Market Maker or Nasdaq ECN and designated for display (price and size) next to the Participant's MPID in the Nasdaq Book. *See* Rule 4701(d).

[5] Pursuant to Rule 4703(d), the terms ''Inside Bid'' and ''Inside Offer'' mean the price to which an Order is pegged for purposes of Rule 4703. The term ''Midpoint'' means the midpoint of the NBBO or the Inside Bid and Inside Offer.

[6] *See* Securities Exchange Act Release No. 34–74558 (Mar. 20, 2015), 80 FR 16050 (Mar. 26, 2015) (SR–NASDAQ–2015–024).

midpoint between the NBBO for an Order to sell), the Order will nevertheless be accepted at its limit price and will be cancelled if the midpoint between the NBBO moves lower than (higher than) the price of an Order to buy (sell).

Second, in Rule 4702(b)(5)(B), which describes the Midpoint Peg Post-Only Order, the Exchange states when it will cancel such an Order due to a shift in the NBBO after initial entry and posting of the Order to the Nasdaq Book:

The price at which the Midpoint Peg Post-Only Order is ranked on the Nasdaq Book is the midpoint between the NBBO, unless the Order has a limit price that is lower than the midpoint between the NBBO for an Order to buy (higher than the midpoint between the NBBO for an Order to sell), in which case the Order will be ranked on the Nasdaq Book at its limit price. The price of the Order will not thereafter be adjusted based on changes to the NBBO. If, after being posted to the Nasdaq Book, the NBBO changes so that midpoint between the NBBO is lower than (higher than) the price of a Midpoint Peg Post-Only Order to buy (sell), or the NBBO is crossed, or there is no NBBO, the Midpoint Peg Post-Only Order will be cancelled back to the Participant. For example, if the Best Bid is $11 and the Best Offer is $11.06, a Midpoint Peg Post- Only Order to buy would post at $11.03. If, thereafter, the Best Offer is reduced to $11.05, the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

Third and finally, in describing the Midpoint Pegging Attribute, Rule 4703(d) explains when the Exchange will cancel an Order with this Attribute enabled:

An Order entered through OUCH or FLITE with Midpoint Pegging will have its price set upon initial entry to the Midpoint, unless the Order has a limit price that is lower than the Midpoint for an Order to buy (higher than the Midpoint for an Order to sell), in which case the Order will be ranked on the Nasdaq Book at its limit price. Thereafter, if the Inside Bid and Inside Offer changes so that: the Midpoint is lower than (higher than) the price of an Order to buy (sell), the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Pegged Order will be cancelled back to the Participant.

The Exchange intended for these three Rules to be substantively identical. That is, the Rules should have provided for the Exchange to cancel Midpoint-Pegged Orders in the same circumstances when entered through OUCH or FLITE. Upon review, however, the Exchange has determined that the Rules are inadvertently inconsistent in one respect. In particular, Rule 4702(b)(3)(B) does not state, as do the other two Rules, that a Non-Displayed Order with Midpoint Pegging will be cancelled back to the Participant if there is no NBBO or where the NBBO is crossed.[7]

Additionally, the three Rules provide somewhat opaque descriptions of the circumstances in which a change in the NBBO/Inside Bid and Inside Offer will and will not result in the cancellation of a Midpoint-Pegged Order. Each Rule states that the Exchange will cancel an Order to buy (sell) if, after entry, the NBBO/Inside Bid and Inside Offer shifts so that the Midpoint is lower (higher) than the price of the buy (sell) Order. However, these descriptions in the Rules do not clearly distinguish between Midpoint-Pegged Orders that post to the Nasdaq Book at the Midpoint of the NBBO/Inside Bid and Inside Offer (*i.e.,* orders with limit prices more aggressive than the Midpoint) from those Orders that post to the Book at their limit prices (*i.e.,* orders with limit prices at or less aggressive than the Midpoint). In the former case, any post-entry shift in the Midpoint of the NBBO/Inside Bid and Inside Offer will result in cancellation of the Order. In the latter case, however, a post-entry shift in the Midpoint of the NBBO/Inside Bid and Inside Offer will result in cancellation only if the Midpoint shifts lower than (higher than) the limit price of an Order to buy (sell). If the Midpoint is higher than (lower than) the limit price of an Order to buy (sell) upon Order entry, and it remains so after shifting, then the Order will remain on the Book at its limit price. The Exchange believes that this result is implicit in the notion that these Order Types may post to the Nasdaq Book at their limit prices when the Midpoints are higher (lower) than the limit prices of Orders to buy (sell). Nevertheless, the Rules do not describe this scenario expressly.

Similarly, the Rules do not distinguish the particular circumstances in which a crossed NBBO/Inside Bid and Inside Offer will and will not result in a cancellation of an Order. The Midpoint Pegged Post-Only Order rule and the Midpoint Pegging Attribute rule simply state that the Exchange will cancel Orders when the NBBO/Inside Bid and Inside Offer becomes crossed after these Orders are posted to the Nasdaq Book. However, the Exchange will only cancel a Midpoint-Pegged Order that is ranked at its limit price where the Inside Bid and Inside Offer become crossed, such that the Midpoint of the crossed quotation remains equal to or higher (lower) than the limit price of the Order to buy (sell), and a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Midpoint-Pegged Order. If an Order to buy (sell) posts to the Nasdaq Book at its limit price, and the NBBO/Inside Bid and Inside Offer subsequently become crossed but the Midpoint remains equal to or higher than (lower than) the limit price of the Order (and there are no contra-side orders that lock or cross the Order), then the Exchange will not cancel the Order. Likewise, if a Midpoint-Pegged Order is ranked at the Midpoint of the NBBO/Inside Bid and Inside Offer and the NBBO becomes crossed but the Midpoint does not change, then the Exchange will not cancel the order unless a new Order is received at a price that locks or crosses the Midpoint of the NBBO/Inside Bid and Inside Offer.

To address the foregoing issues and to increase clarity, the Exchange proposes to amend and restate Rules 4702(b)(3)(B), 4702(b)(5)(B), and 4703(d), as follows.

First, the Exchange proposes to delete entirely the excerpted language of Rule 4702(b)(3)(B). This language, which again describes the behavior of a Non-Displayed Order with a Midpoint Pegging Attribute enabled, is duplicative of the general description of the behavior of a Midpoint Pegging Attribute in Rule 4703(d). The Exchange believes that the concept described in these two Rules is best stated only once to avoid unintended discrepancies. In this instance, the Exchange believes that the language is most appropriate for inclusion in Rule 4703(d).

Second, the Exchange proposes to restate Rule 4702(b)(5)(B), which again describes Midpoint Peg Post-Only Orders, by eliminating the existing language concerning cancellation of such Orders and replacing it with the following:

The price at which the Midpoint Peg Post-Only Order is ranked on the Nasdaq Book is the midpoint between the NBBO, unless the Order has a limit price, and that limit price is lower than the midpoint between the NBBO for an Order to buy (higher than the midpoint between the NBBO for an Order to sell), in which case the Order will be ranked on the Nasdaq Book at its limit price. The price of the Order will not thereafter be adjusted based on changes to the NBBO. However, a Midpoint Peg Post-Only Order entered through OUCH or FLITE will be cancelled back to the Participant after initial entry and posting to the Nasdaq Book if any of the following conditions are met:

- There is no National Best Bid and/or National Best Offer;
- The Order to buy (sell) is entered with a limit price above (below) the Midpoint of the NBBO and is ranked at the Midpoint of the NBBO; thereafter, the NBBO changes so

[7] In practice, the Exchange presently cancels Non-Displayed Orders with Midpoint Pegging in these two circumstances, consistent with Rule 4703(d).

that the Midpoint changes and the Order is no longer at the NBBO Midpoint;

- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the midpoint of the NBBO and is ranked at its limit price and thereafter, the NBBO changes so that the Midpoint of the NBBO is lower (higher) than the limit price of the Order;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint of the NBBO and is ranked at its limit price, then the NBBO becomes crossed, such that the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order, and then a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Midpoint Peg Post-Only Order; or
- The Order to buy (sell) is entered at a limit price that is greater than (less than) the Midpoint of the NBBO and is therefore ranked at the Midpoint of the NBBO, then the NBBO becomes crossed but the Midpoint does not change, and then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the NBBO.

The Exchange believes that the restated language is more precise than the existing language because it specifies that the Exchange will cancel a Midpoint Peg Post-Only Order that posts to the Nasdaq Book at its limit price, when the NBBO later shifts, only when the NBBO shifts so that the Midpoint of the NBBO becomes lower (higher) than the limit price of an Order to buy (sell). Again, where the NBBO shifts after the Order posts such that the Midpoint of the NBBO remains or becomes higher (lower) than the limit price of an Order to buy (sell), cancellation of the Order is unnecessary because the Order can simply remain on the Nasdaq Book at its limit price. The restated language is also more precise because it specifies that for a Midpoint Peg Post-Only Order with a limit price that is more aggressive than the NBBO Midpoint, any change to the NBBO Midpoint will result in cancellation of the Order.

Likewise, the restated language is more precise than the existing language in that the restated language specifies that the Exchange will cancel a Midpoint Peg Post-Only Order to buy (sell) that posts at its limit price, when the NBBO subsequently becomes crossed and the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order to buy (sell), only when a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Order. The restated language also specifies that the Exchange will cancel a Midpoint Peg Post-Only Order to buy (sell) that posts at the Midpoint of the NBBO, when the NBBO subsequently becomes crossed and the Midpoint of the crossed NBBO remains the same, only when the Exchange receives a new sell (buy) Order at a price that locks or crosses the Midpoint of the NBBO. Other than in these two circumstances, cancellation of an Order simply because the NBBO crosses is unnecessary because the Order need not be re-priced. When an Order to buy (sell) is ranked at its limit price, and the NBBO becomes crossed while the Midpoint remains at or above (below) the limit price, the crossed market does not impact the Order, which can still rest on the Nasdaq Book at its limit price because the NBBO could uncross prior to the Order executing. Likewise, when an Order to buy (sell) is ranked at the Midpoint of the NBBO, and the NBBO becomes crossed but the Midpoint does not change, the crossed market also does not impact the Order, which can continue to rest on the Nasdaq book at the Midpoint because the NBBO could uncross (with the Midpoint still remaining unchanged) prior to the Order executing.

Third, the Exchange proposes to restate the relevant language of Rule 4703(d) so that it is substantively identical to the language that the Exchange proposes for Rule 4702(b)(5)(B) (other than that Rule 4703(d) refers to the ''Inside Bid and the Inside Offer'' rather than the ''NBBO''). The proposed language is as follows:

An Order entered through OUCH or FLITE with Midpoint Pegging will have its price set upon initial entry to the Midpoint, unless the Order has a limit price, and that limit price is lower than the Midpoint for an Order to buy (higher than the Midpoint for an Order to sell), in which case the Order will be ranked on the Nasdaq Book at its limit price. The price of the Order will not thereafter be adjusted based on changes to the Inside Bid or Offer. However, an Order with Midpoint Pegging entered through OUCH or FLITE will be cancelled back to the Participant after initial entry and posting to the Nasdaq Book if any of the following conditions are met:

- There is no Inside Bid and/or Inside Offer;
- The Order to buy (sell) is entered with a limit price above (below) the Midpoint and is ranked at the Midpoint; thereafter the Inside Bid and/or Inside Offer change so that the Midpoint changes and the Order is no longer at the Midpoint;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint and is ranked at its limit price; thereafter, the Inside Bid and/or Inside Offer change so that the Midpoint is lower (higher) than the limit price of the Order;
- The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint and is ranked at its limit price; thereafter, the Inside Bid and Inside Offer become crossed, such that the Midpoint of the crossed Quotation remains equal to or higher (lower) than the limit price of the Order, and then a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Order marked for Midpoint Pegging; or
- The Order to buy (sell) is entered at a limit price that is greater than (less than) the Midpoint and is therefore ranked at the Midpoint; thereafter, the Inside Bid and Inside Offer become crossed but the Midpoint does not change, and then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the Inside Bid and Inside Offer.

Again, the Exchange intends for this proposed restatement to ensure consistency in the language of these two Rules as well as additional specificity, as described above.

Examples

Below are examples of the operation of the proposed rule changes.

1. There is no National Best Bid and/or National Best Offer.

The National Best Bid (''NBB'') is $11.00 and the National Best Offer (''NBO'') is $11.06. A Midpoint Peg Post-Only Order to buy is posted at the Midpoint between the NBBO, at $11.03. At this point, all displayed liquidity on the sell side is reported to be removed by all Market Centers, such that an NBO no longer exists. In this circumstance, the Midpoint Peg Post-Only Order will be cancelled back to the Participant.

2. The Order to buy (sell) is entered with a limit price above (below) the Midpoint of the NBBO and is ranked at the Midpoint of the NBBO; thereafter, the NBBO changes so that the Order is no longer at the NBBO Midpoint.

The NBB is $11.00 and the NBO is $11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of $11.04 and it posts at the Midpoint between the NBBO, at $11.03. If the NBO later shifts to $11.08, such that the Midpoint between the NBBO becomes $11.04, then the Midpoint Peg Post Only Order will be cancelled back to the Participant.

3. The Order to buy (sell) is entered at a limit price that is equal to or less than (greater than) the Midpoint of the NBBO and is ranked at its limit price; thereafter, the NBBO changes so that the Midpoint of the NBBO is lower (higher) than the limit price of the Order.

The NBB is $11.00 and the NBO is $11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of $11.03 and it posts at the Midpoint between the NBBO, at $11.03. If the NBO shifts thereafter to $11.08, such that the Midpoint between the NBBO becomes $11.04, then the Midpoint Peg Post Only Order will remain on the Nasdaq Book unchanged. If, however, the NBO later shifts to $11.04, such that

the Midpoint between the NBBO becomes $11.02, then the Midpoint Peg Post Only Order will be cancelled back to the Participant.

4. The Order to buy (sell) is ranked at its limit price and the NBBO becomes crossed, such that the Midpoint of the crossed NBBO remains equal to or higher (lower) than the limit price of the Order, and a new sell (buy) Order is received at a price that locks or crosses the limit price of the resting Midpoint Peg Post-Only Order.

The NBB is $11.00 and the NBO is $11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of $11.03 and it posts at the Midpoint between the NBBO, at $11.03. Subsequently, if the NBB shifts to $11.04, such that the Midpoint between the NBBO becomes $11.05, then the Midpoint Peg Post-Only Order will remain on the Nasdaq Book at its limit price of $11.03. If the NBO later shifts to cross the market at $11.02, then the Midpoint between the crossed NBBO will become $11.03 and the Midpoint Peg Post Only Order will remain on the Nasdaq Book unchanged. If, however, a new sell Order is received at $11.03 while the market is still crossed, then the Midpoint Peg Post Only Order will be cancelled back to the Participant without execution.

5. The Order to buy (sell) is ranked at the Midpoint of the NBBO because the limit price of the Order is greater (less than) the Midpoint and the NBBO becomes crossed but the Midpoint does not change, then a new sell (buy) Order is received at a price that locks or crosses the Midpoint of the NBBO.

The NBB is $11.00 and the NBO is $11.06. A Midpoint Peg Post-Only Order to buy is entered with a limit price of $11.04 and it posts at the Midpoint between the NBBO, at $11.03. Subsequently, if the NBB shifts to $11.04 and the NBO simultaneously shifts to $11.02, thus instantaneously crossing the market, then the Midpoint between the crossed NBBO will remain at $11.03 and the Midpoint Peg Post Only Order will remain on the Nasdaq Book unchanged. If, however, a new sell Order is received at $11.03 while the market is still crossed, then the Midpoint Peg Post Only Order will be cancelled back to the Participant without execution.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The proposal will protect investors by eliminating an unintended discrepancy among what should be three substantively identical Rules that describe the circumstances in which the Exchange will cancel Midpoint-Pegged Orders.

The proposal will also protect investors by amending these Rules so that they will describe more clearly what the Rules currently imply with respect to the circumstances in which the Exchange will not cancel Midpoint-Pegged Orders. That is, the Exchange believes that concept of a limit price fairly implies that the Exchange has no need to and thus, it does not presently, cancel a Midpoint-Pegged Order to buy (sell) when such an Order is posted at its limit price and the NBBO (or Inside Bid and Inside Offer) shifts thereafter but the Midpoint remains above (below) the limit price; however, Rule 4702(a)(3)(B) merely states that any post-entry shift in the Midpoint will result in the cancellation of a Midpoint-Pegged Order. To avoid confusion, the proposal clarifies that the Exchange will cancel a Midpoint-Pegged Order posted at its limit price if the NBBO (or Inside Bid and Inside Offer) shifts after entry such that the Midpoint becomes lower (higher) than the limit price. In this circumstance, cancellation is warranted because the Order would need to be re-priced, and a Midpoint-Pegged Order entered using OUCH or FLITE cannot be re-priced. Similarly, if a Midpoint Pegged Order posts to the Nasdaq Book at the NBBO Midpoint and then the Midpoint shifts in either direction, the Order will be cancelled because it would need to be re-priced, and again, OUCH or FLITE do not allow for re-pricing to occur.

Similarly, the Exchange believes that it is helpful to investors to clarify the circumstances in which the Exchange does and does not cancel Midpoint-Pegged Orders in a crossed market. The existing Rules (other than Rule 4702(b)(3)(B), which mistakenly omitted discussion of crossed markets) state generally that the Exchange will cancel Midpoint-Pegged Orders if the NBBO (Inside Bid or Inside Offer) become crossed. However, as discussed above, the Exchange does not need to, and thus it does not presently, cancel Midpoint-Pegged Orders in all such instances. Although cancellation is warranted to prevent Orders from actually executing in a crossed market,[10] the Exchange does not believe that cancellation is warranted simply because the markets cross if there remains a possibility that the markets will uncross prior to an execution occurring. Thus, the Exchange proposes that it will not cancel a Midpoint-Pegged Order to buy (sell) when the Order is ranked at its limit price and the NBBO (or Inside Bid and Inside Offer) become crossed thereafter (and the Midpoint remains equal to or more aggressive than its limit price), but no new sell (buy) Order is received that locks or crosses the limit price of the resting Midpoint-Pegged Order. Unless or until the Exchange receives a new Order that locks or crosses the limit price of the resting Midpoint-Pegged Order while the market remains crossed, cancellation is unnecessary because the Midpoint-Pegged Order can continue to rest at its limit price and the market may uncross before the Midpoint-Pegged Order executes. Likewise, as was also discussed above, the Exchange proposes that it will not cancel a Midpoint-Pegged Order that is ranked at the Midpoint of the NBBO (Inside Bid and Inside Offer) where the market becomes crossed, provided that while the market is crossed, the Midpoint of the crossed NBBO (Inside Bid and Inside Offer) does not change, and the Exchange does not receive a new Order that would lock or cross the Midpoint. Again, cancellation is unnecessary in this scenario because the Midpoint-Pegged Order can continue to rest at the Midpoint while the market is crossed and because the market may uncross (with the Midpoint remaining unchanged) prior to execution of the Order.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange intends for the proposal to merely eliminate an unintended discrepancy between three related Rules and to improve the precision with which the Rules describe the

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 34–79290 (Nov. 10, 2016), 81 FR 81184, 81186 (Nov. 17, 2016) (stating that the ''midpoint of a crossed market is not a clear and accurate indication of a valid price'' and that cancellation in a crossed market ''would avoid mispriced executions'').

[11] If at any point after the Midpoint-Pegged Order posts to the Nasdaq Book at the Midpoint, the NBBO (Inside Bid and Inside Offer) changes so that the price of the Order is no longer at the Midpoint, then the order must be cancelled because orders entered through OUCH or FLITE cannot be re-priced.

circumstances in which it will cancel Midpoint-Pegged Orders after entry, as described above. The Exchange does not expect that these changes will have any impact whatsoever on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–065 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–065. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–065 and should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2019–0012]

Request for Comments To Compile the National Trade Estimate Report on Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), publishes the National Trade Estimate Report on Foreign Trade Barriers (NTE Report) each year. USTR invites interested persons to submit written comments to assist it and the TPSC in identifying significant barriers to U.S. exports of goods and services, U.S. foreign direct investment, and the protection and enforcement of intellectual property rights for inclusion in the NTE Report. USTR also will consider responses to this notice as part of the annual review of the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States.

DATES: October 31, 2019 at midnight EST: Deadline for submission of written comments.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments in section 4 below. The docket number is USTR–2019–0012. For alternatives to online submissions, contact Yvonne Jamison at (202) 395–3475 before transmitting a comment and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: Yvonne Jamison at (202) 395–3475.

SUPPLEMENTARY INFORMATION:

1. Background

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241), as amended, requires USTR annually to publish the NTE Report, which sets out an inventory of the most significant foreign barriers affecting U.S. exports of goods and services, including agricultural commodities, U.S. intellectual property, U.S. foreign direct investment by U.S. persons, especially if such investment has implications for trade in goods or services, and U.S. electronic commerce. The inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers and is a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. You can find the 2019 NTE Report on USTR's website at *https://www.ustr.gov* under the tab 'Reports and Publications.' To ensure compliance with the statutory mandate for the NTE Report and the Administration's commitment to focus on the most significant foreign trade barriers, USTR will take into account

submissions from interested parties in deciding which restrictions to include in the NTE Report.

2. Topics on Which USTR Seeks Information

To assist USTR in preparing the NTE Report, commenters should submit information related to one or more of the following categories of foreign trade barriers:

1. Import policies (for example, tariffs and other import charges, quantitative restrictions, import licensing, customs barriers and shortcomings in trade facilitation, and other market access barriers).

2. Technical barriers to trade (for example, unnecessarily trade restrictive or discriminatory standards, conformity assessment procedures, or technical regulations, including unnecessary or discriminatory technical regulations or standards for telecommunications products).

3. Sanitary and phytosanitary measures (for example, trade restrictions implemented through unwarranted measures not based on scientific evidence).

4. Subsidies, including export subsidies (for example, export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets) and local content subsidies (for example, subsidies contingent on the purchase or use of domestic rather than imported goods).

5. Government procurement restrictions (for example, ''buy national policies'' and closed bidding).

6. Intellectual property protection (for example, inadequate patent, copyright, and trademark regimes and inadequate enforcement of intellectual property rights).

7. Services barriers (for example, prohibitions or restrictions on foreign participation in the market, discriminatory licensing requirements or regulatory standards, local-presence requirements, and unreasonable restrictions on the types of services that providers may offer).

8. Barriers to digital trade and electronic commerce (for example, barriers to cross-border data flows, including data localization requirements, discriminatory practices affecting trade in digital products, restrictions on the provision of internet-enabled services, and other restrictive technology requirements).

9. Investment barriers (for example, limitations on foreign equity participation and on access to foreign government-funded research and development programs, local content requirements, technology transfer requirements and export performance requirements, and restrictions on repatriation of earnings, capital, fees, and royalties).

10. Competition (for example, government-tolerated anticompetitive conduct of state-owned or private firms that restrict the sale or purchase of U.S. goods or services in the foreign country's markets, or abuse of competition laws to inhibit trade).

11. Other barriers (for example, barriers that encompass more than one category, such as bribery and corruption, or that affect a single sector).

Commenters should submit information related to one or more of the following export markets to be covered in the report: Algeria, Angola, the Arab League, Argentina, Australia, Bahrain, Bangladesh, Bolivia, Brazil, Brunei, Burma, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Cote d'Ivoire, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, the European Union, Ghana, Guatemala, Honduras, Hong Kong, India, Indonesia, Israel, Japan, Jordan, Kenya, Korea, Kuwait, Laos, Malaysia, Mexico, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, the Philippines, Qatar, Russia, Saudi Arabia, Singapore, South Africa, Switzerland, Taiwan, Thailand, Tunisia, Turkey, United Arab Emirates, Ukraine, and Vietnam.

In addition, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (Section 1377) (19 U.S.C. 3106) requires USTR annually to review the operation and effectiveness of U.S. telecommunications trade agreements that are in force with respect to the United States. The purpose of the review is to determine whether any foreign government that is a party to one of those agreements is failing to comply with that government's obligations or is otherwise denying, within the context of a relevant agreement, ''mutually advantageous market opportunities'' to U.S. telecommunication products or services suppliers. USTR will consider responses to this notice in the review called for in Section 1377.

Commenters should place particular emphasis on any practices that may violate U.S. trade agreements. USTR also is interested in receiving new or updated information pertinent to the barriers covered in the 2019 NTE Report as well as information on new barriers. If USTR does not include in the 2020 NTE Report information that it receives pursuant to this notice, it will maintain the information for potential use in future discussions or negotiations with trading partners.

3. Estimate of Increase in Exports

Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Commenters should express estimates within the following value ranges: Less than $5 million; $5 million to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or, over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

4. Requirements for Submissions

Persons submitting written comments must do so in English and must identify on the first page of the submission—''Comments Regarding Foreign Trade Barriers to U.S. Exports for 2020 Reporting.'' Commenters providing information on foreign trade barriers in more than one country should, whenever possible, provide a separate submission for each country.

The deadline for submission is Thursday, October 31, 2019, at midnight EST. USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* website. To submit comments via *www.regulations.gov,* enter docket number USTR–2019–0012 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 and click on the link entitled 'comment now!'. For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on 'How to Use Regulations.gov' on the bottom of the home page.

The *www.regulations.gov* website allows users to submit comments by filling in a 'type comment' field, or by attaching a document using an 'upload file' field. USTR prefers that you provide comments in an attached document. If you attach a document, please identify the name of the country to which the submission pertains in the 'type comment' field. For example: See attached comments with respect to (name of country). USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'type comment' field.

Filers submitting comments containing no business confidential information (BCI) should name their file using the name of the person or entity submitting the comments. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters 'BC.' Any page containing BCI must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing BCI also must submit a public version of their comments that USTR will place in the docket for public inspection. The file name of the public version should begin with the character 'P. Follow the 'BC' and 'P' with the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges that you file submissions through *www.regulations.gov.* You must make any alternative arrangements with Yvonne Jamison at (202) 395–3475 before transmitting a comment and in advance of the relevant deadline.

USTR will post comments in the docket for public inspection, except BCI. You can view comments on the *https://www.regulations.gov* website by entering docket number USTR–2019–0012 in the search field on the home page. General information concerning USTR is available at *https://www.ustr.gov.*

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2019–18910 Filed 8–30–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. FAA–2019–32]

Petition for Exemption; Summary of Petition Received; Ameristar Air Cargo, Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 23, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0629 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, 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 20590–0001, 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 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thea Dickerman (202) 267–2371, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 27, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0629.

Petitioner: Ameristar Air Cargo, Inc.

Section(s) of 14 CFR Affected: §§ 121.407(a)(1)(ii), 121.441(b)(1), and part 121 Appendix F.

Description of Relief Sought: Ameristar Air Cargo, Inc. (Ameristar) seeks an exemption from 14 CFR 121.407(a)(1)(ii) to allow it to use a Boeing 737–400 full flight simulator (FFS) to provide flight training on crosswind takeoffs and landings with gusts for pilots who will serve in the Boeing 737–200. Additionally, Ameristar seeks an exemption from § 121.441(b)(1) and part 121 Appendix F, items II(c)(2) and V(c)(2) to allow it to conduct pilot proficiency checks in the Boeing 737–200 FFS without including the required crosswind takeoff and landing with gusts. Ameristar clarifies that the pilot proficiency checks will include crosswind takeoff and landing; however, the FFS is not qualified for crosswinds with gusts.

[FR Doc. 2019–18974 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2019–54]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before September 23, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0561 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: Mark Forseth, AIR–673, Federal Aviation Administration, 2200 S. 216th St., Des Moines, WA 98198–6547, email *mark.forseth@faa.gov,* phone (206) 231–3179; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on August 27, 2019.

James E. Wilborn,

Acting Manager, Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2019–0561.

Petitioner: Greenpoint Technologies, Inc.

Section of 14 CFR Affected: § 25.1309(b) and Special Conditions No. 25–682–SC.

Description of Relief Sought: Provide relief from the requirements for non-rechargeable lithium batteries installed as part of the airbag assembly used on side-facing seats in a custom business-jet interior configuration on a Boeing Model 787–8 airplane, serial number 35303.

[FR Doc. 2019–18893 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Realignment in California and Nevada

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to announce actions taken by FHWA that are final. This notice announces to the public that FHWA, as the National Environmental Policy Act (NEPA) lead agency, circulated a Final Environmental Impact Statement (EIS) and Section 4(f) *De Minimis* Determination (October 19, 2018) for the US 50/South Shore Community Revitalization Project (project) and issued a Record of Decision (ROD) (August 2, 2019). The actions relate to a proposed highway realignment project on US Highway 50 (US 50) in the City of South Lake Tahoe, California and Stateline, Nevada. The action taken by FHWA includes approval of the project. This notice supersedes a notice published on August 23, 2019, which inadvertently failed to include a date certain in the following paragraph. The date below applies to the actions taken by FHWA with regard to the project.

DATES: By this notice, the FHWA, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before January 31, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: *For FHWA:* Scott McHenry, Sr. Transportation Engineer, Project Delivery Team, Federal Highway Administration, 650 Capitol Mall, Suite 4–100, Sacramento, California 95814, (916) 498–5854, or email: *scott.mchenry@dot.gov.*

For Caltrans: Laura Loeffler, Senior Environmental Planner, California Department of Transportation, 703 B Street, P.O. Box 911, Marysville, California 95901, (530) 741–4592, or email: *laura.loeffler@dot.ca.gov.*

For NDOT: Nick Johnson, Chief, Project Management Division, Nevada Department of Transportation, 1263 South Stewart Street, Carson City, Nevada 89712, (775) 888–7318, or email: *njohnson@dot.state.nv.us.*

SUPPLEMENTARY INFORMATION: The Final Environmental Impact Report (EIR)/EIS/EIS is a joint document prepared by the Tahoe Transportation District (TTD), Tahoe Regional Planning Agency (TRPA), and FHWA and is subject to state and federal environmental review requirements. FHWA, TTD, and TRPA jointly prepared the Final EIR/EIS/EIS pursuant to the requirements of NEPA, the California Environmental Quality Act (CEQA), and the Tahoe Regional Planning Compact (Pub. L. 96–551) and 1980 revision (Compact), Code of Ordinances, and Rules of Procedure. TTD is the lead agency under CEQA. FHWA is the lead agency under NEPA. TRPA is the lead agency for the TRPA EIS pursuant to their Rules of Procedure.

The project would realign US 50 in the Stateline casino corridor area (postmile 79.00 to postmile 80.44) and convert the existing US 50 roadway, between a location southwest of Pioneer Trail in the City of South Lake Tahoe, California and Lake Parkway in Stateline, Nevada, into a two-lane local street (one travel lane in each direction). Realigned US 50 would be four lanes (two travel lanes in each direction) with left-turn pockets at intersections; it would begin at a relocated Pioneer Trail intersection to the west of the existing intersection, and proceed south along existing Moss and Echo Roads. The realigned highway would then turn east onto the Montreal Road alignment, passing behind (southeast of) the Heavenly Village Center shopping complex, and continuing along the existing Montreal Road and Lake Parkway alignments. The proposed action includes a new, two-lane roundabout at the intersection of US 50 and Lake Parkway in Stateline, Nevada. The affected segment of existing US 50 is approximately 1.1 miles long.

The existing right-of-way of the segment of US 50 between Pioneer Trail and Lake Parkway—the new ''Main Street''—would be relinquished to the City of South Lake Tahoe in California, and Douglas County in Nevada. Realigned US 50 would become California Department of Transportation

(Caltrans) and Nevada Department of Transportation (NDOT) right-of-way.

Between Park Avenue and Lake Parkway, the new ''Main Street'' would be reduced to one travel lane in each direction, with landscaped medians, and turn pockets at major intersections and driveways. Expanded sidewalks, a Class IV bicycle route (*i.e.,* cycle track), and a transit circulator are proposed to be implemented in this section within the tourist core to improve pedestrian safety and encourage use of alternative transportation modes. A pedestrian bridge would be constructed over realigned US 50 approximately 250 feet south of the proposed new intersection at the Harrah's entrance driveway near the California/Nevada state line connecting Van Sickle Bi-State Park to the Stateline area.

The proposed action would result in displacing residents and would construct replacement housing for those residents before removing existing housing and constructing the roadway improvements in California so that residents displaced by the project may be relocated to the newly constructed housing if they so choose during the relocation process.

The actions taken by the Federal agencies, and the laws under which such actions were taken, are described in the Final EIR/EIS/EIS for the project, approved on November 9, 2018 by the TTD Board and on November 15, 2018 by the TRPA Governing Board of Directors, and in the FHWA Record of Decision (ROD), issued on August 2, 2019, and in other documents in the FHWA project records. The Final EIR/EIS/EIS and other project records are available by contacting FHWA, at the address provided above.

The FHWA Final EIR/EIS/EIS can be viewed and downloaded from the project website at: *https://www.tahoetransportation.org/us50.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, included but not limited to:

1. Council on Environmental Quality regulations (40 CFR 1500 et seq, 23 CFR 771);
2. National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351 *et seq.*)
3. Federal-Aid Highway Act (23 U.S.C. 109, as amended by FAST Act Section 1404(a), Pub. L. 114–94, and 23 U.S.C. 128);
4. Fixing America's Surface Transportation Act of 2015 (Pub. L. 114–94);
5. Clean Air Act, as amended (42 U.S.C. 7401 *et seq.* (Transportation Conformity, 40 CFR part 93);
6. Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*);
7. Federal Land Policy and Management Act of 1976, Public Law 94–579;
8. Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);
9. FHWA Noise Standards, Policies, and Procedures (23 CFR 772);
10. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303 and 23 U.S.C. 138);
11. Endangered Species Act of 1973 (16 U.S.C. 1531–1544 and Section 1536);
12. Migratory Bird Treaty Act (16 U.S.C.703–712);
13. National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108 *et seq.*);
14. Executive Order 11990, Protection of Wetlands;
15. Executive Order 13112, Invasive Species;
16. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations;
17. Title VI of Civil Rights Act 1964 (42 U.S.C. 2000d *et seq.*), as amended.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 26, 2019.

Tashia J. Clemons,

Director, Planning and Environment Team, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–18989 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed project to replace the existing I Street bridge with a new bridge over the Sacramento River in the County of Sacramento, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before January 31, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Laura Loeffler, Branch Chief, Caltrans Office of Environmental Management, M–1 California Department of Transportation-District 3, 703 B Street, Marysville, CA 95901. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (530) 741–4592 or email *laura.loeffler@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The City of Sacramento, in cooperation with the City of West Sacramento and Caltrans, proposes to construct a new bridge over the Sacramento River to replace the vehicle crossing that is currently accommodated by the existing I Street Bridge in order to remove a series of functionally obsolete or structurally deficient bridges (*i.e.* approach structures). The project limits starting within Sacramento consist of Railyards Boulevard from 200 feet east of Bercut Drive on the east, continuing west over the Sacramento River into West Sacramento along C Street, crossing 2nd Street and terminating approximately 100 feet west of the 5th Street intersection. The project limits also extend along Bercut Drive approximately 500 feet north of Railyards Boulevard, along Jibboom Street 550 feet north of Railyards Boulevard and 300 feet south of Railyards Boulevard, along 3rd Street 50 feet north and south of C Street, along 4th Street 50 feet north and south of C Street, along 5th Street 50 feet north and south of C Street. The total length of the project is approximately 0.42 miles along C Street and Railyards Boulevard. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/

Finding of No Significant Impact (FONSI), approved on June 10, 2019 and in other documents in the Caltrans' project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations (40 CFR 1500 *et seq.*, 23 CFR 771);
2. National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.;*
3. Federal-Aid Highway Act, (23 U.S.C. 109, as amended by FAST Act Section 1404(a), Public Law 114–94, and 23 U.S.C. 128);
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Public Law 112–141);
5. Clean Air Act, as amended (42 U.S.C. 7401 *et seq.* (Transportation Conformity, 40 CFR part 93);
6. Clean Water Act of 1977 *(33 U.S.C. 1251 et seq.);*
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987);
8. Federal Land Policy and Management Act of 1976, Public Law 94–579;
9. Noise Control Act of 1972;
10. Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);
11. Endangered Species Act of 1973 (16 U.S.C. 1531–1544 and Section 1536);
12. Executive Order 11990, Protection of Wetlands;
13. Executive Order 13112, Invasive Species;
14. Executive Order 13186, Migratory Birds;
15. Fish and Wildlife Coordination Act of 1934, as amended;
16. Migratory Bird Treaty Act;
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007;
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130;
19. Coastal Zone Management Act of 1972;
20. Coastal Zone Management Act Reauthorization Amendments of 1990;
21. Executive Order 11988, Floodplain Management;
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979);
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended;
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: August 26, 2019.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–18991 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

[4910–RY]

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed highway project, SR–710 North Project to improve mobility and relieve congestion in the area between State Route 2/Interstate 5, and Interstates 10, 210, and 605 in east/northeast Los Angeles and the western San Gabriel Valley in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before [INSERT DATE 150 DAYS AFTER PUBLICATION IN THE **Federal Register**]. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Jason Roach, Branch Chief, Division of Environmental Planning. California Department of Transportation-District 7, 100 South Main Street MS 16A, Los Angeles, CA 90012. Office Hours 9:00 a.m. to 5:00 p.m. Pacific Standard Time, telephone: 213–897–0357 or email *jason.roach@dot.ca.gov.* For FHWA: Dave Tedrick at 916–498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Transportation System Management/Transportation Demand Management (TSM/TDM) Alternative would improve local traffic operations, mobility and accessibility. Further, this Alternative would enhance modal choice while accommodating planned growth within the study area and minimizing environmental impacts. The TSM/TDM Alternative would provide direct benefits for traffic circulation on local arterials and some benefit to the regional freeway and transit networks resulting from the following improvements:

1. Signal optimization
2. Local street and intersection improvements
3. Transit service improvements
4. Bus service enhancements
5. Bicycle facility improvements

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on November 26, 2018, in the FHWA Record of Decision (ROD) issued on August 6, 2019, and in other documents in the Caltrans project records. The FEIS and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIS can be viewed and downloaded from the project website at *http://www.dot.ca.gov/d7/env-docs/docs/SR710NorthProject/*, or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations (40 CFR 1500 et seq, 23 CFR 771);
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.;*

3. Department of Transportation Act of 1966, Section 4(f)*;*

3. Federal-Aid Highway Act of 1970, (23 U.S.C. 109*, as amended by FAST Act Section 1404(a), Pub. L. 114–94, and 23 U.S.C. 128);*

4. Moving Ahead for Progress in the 21st Century Act (MAP–21), PL 112–141

5. Clean Air Act, as amended (42 U.S.C. 7401 *et seq.* (Transportation Conformity), 40 CFR part 93);

6. Clean Water Act of 1977 and 1987 (33 U.S.C. 1251 *et seq.*);

7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 and 1987)

8. National Historic Preservation Act of 1966, as amended (Section 106)

9. Hazardous and Solid Waste Amendments (HSWA) of 1984 (see Resource Conservation and Recovery Act of 1976)

10. Federal Land Policy and Management Act of 1976, Pub. L. 94–579;

11. Pollution Prevention Act

11. Noise Control Act of 1972

10. Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended in 1987

11. Executive Order 13112, Invasive Species

12. Executive Order 13186 Migratory Bird Treaty Act

13. Title VI of the Civil Rights Act of 1964, as amended

14. Executive Order 12898, Environmental Justice (February 1984)

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway

Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: August 27, 2019.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–18988 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0086]

Identification of Interstate Motor Vehicles: City of Chicago, IL Registration Emblem Requirement; Petition for Determination

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Re-opening of comment period.

SUMMARY: In January 2012, Allerton Charter Coach, Inc. (Allerton) submitted a petition requesting that FMCSA determine that the Chicago Ground Transportation Tax registration emblem display requirement is preempted by Federal law. In March 2012, FMCSA published a notice of Allerton's petition for determination and requested comments. The Agency received five comments in response to the March 2012 notice. Due to the passage of time, and to ensure that all interested parties have an opportunity to provide comments or new information, the Agency re-opens the comment period for 30 days.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2012–0086 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: C. Kim McCarthy, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; by email at *carolyn.mccarthy@dot.gov,* or by telephone at (202) 366–9307. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this Notice (FMCSA–2012–0086), indicate the specific section of the document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2012–0086, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA seeks comment on whether the emblem display requirement described below is preempted or whether it qualifies for an exception. If you previously submitted comments in response to the Agency's March 2012 Notice, it is not necessary to resubmit your comments, unless you have new information to provide. The Agency will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2012–0086, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140

on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

DOT solicits comments from the public to better inform its decisionmaking processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On January 20, 2012, Allerton submitted a petition for determination that the Chicago Ground Transportation Tax (the Tax) registration emblem display requirement, which applies to interstate motor passenger carriers within FMCSA's jurisdiction, is preempted by 49 U.S.C. 14506(a). Section 14506(a) prohibits States from requiring interstate motor carriers to display in or on specified commercial motor vehicles (CMVs) any form of identification other than forms required by the Secretary of Transportation, with certain exceptions. On March 23, 2012, FMCSA published a Notice of Allerton's petition, requesting comment on whether the registration emblem display requirement is preempted by 49 U.S.C. 14506(a) or whether any exception set forth in section 14506(b) applies (77 FR 17105). On May 18, 2012, the City of Chicago (Chicago) submitted its response to Allerton's petition. Chicago opposed the petition, arguing that Allerton did not demonstrate a ''live dispute'' regarding the emblem display requirement and, further, that the emblem display requirement falls within the exceptions identified in 49 U.S.C. 14506(b)(2) and (3). The statutory exceptions cited by Chicago are, respectively, credentials required under the International Fuel Tax Agreement or applicable State law (49 U.S.C. 14506(b)(2)) and a State law regarding motor vehicle license plates ''or other displays that the Secretary determines are appropriate'' (49 U.S.C. 14506(b)(3)). Allerton's petition and Chicago's response are available in the docket for this Notice.

The Tax requires providers of passenger ground transportation within the City of Chicago to register their vehicles and pay a graduated fee that varies according to the seating capacity of each vehicle registered (Chicago Mun. Code ch. 3–46). The Tax applies to all for-hire vehicles used to pick up, drop off, or both pick up and drop off passengers within the city (Chicago Mun. Code § 3–46–020(H)). The Tax applies regardless of whether the vehicle is registered or titled within the State of Illinois. *Id.*

Vehicles subject to the Tax must display an emblem on the windshield as evidence of registration and payment (Chicago Mun. Code § 3–46–073(A)). Vehicles failing to display the emblem are prohibited from operating within the city and are subject to seizure and impoundment at the vehicle owner's expense, as well as an administrative penalty of $500. *Id.*

As noted above, Federal law, codified at 49 U.S.C. 14506(a), prohibits States from requiring interstate motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation. However, section 14506(b) states that a State may continue to require display of credentials required (1) under the International Registration Plan under section 31704; (2) under the International Fuel Tax Agreement (IFTA) or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through IFTA; (3) under a State law regarding requiring motor vehicle license plates or other displays that the Secretary determines are appropriate; (4) in connection with Federal requirements for hazardous materials transportation under section 5103; or (5) in connection with Federal vehicle inspection standards under section 31136.

In accordance with a previous decision, FMCSA interprets all the exceptions in section 14506(b) to apply to political subdivisions of States, including municipalities. *See Identification of Interstate Motor Vehicles: New York City, Cook County, and New Jersey Identification Requirements; Petition for Determination,* 75 FR 64779 (Oct. 20, 2010). Authority granted to the Secretary under section 14506 has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(7).

On July 2, 2019, the American Bus Association (ABA) requested that the Agency re-publish the petition to allow an opportunity for any additional public comments on the matter, and that FMCSA issue a determination as soon as practicable thereafter. The ABA also noted that, although Allerton recently ceased operations, a number of ABA members currently operating in Chicago remain subject to the decal requirement and the associated penalties for non-compliance.[1]

III. Comments Requested

As explained above, considering the passage of time since the publication of the Notice, FMCSA is re-opening the comment period on Allerton's petition. The Agency specifically seeks comment on whether the City of Chicago's registration emblem display requirement is preempted by 49 U.S.C. 14506(a) or whether it qualifies under any of the five exceptions set forth in 49 U.S.C. 14506(b) and listed above. As stated in the March 23, 2012, Notice, FMCSA believes that section 14506(b)(3) is the only exception that could potentially apply to the Tax and therefore seeks comment specifically on whether the Agency should approve the registration emblem display requirement under that exception. The Agency requests that comments be limited to these issues, and encourages the submission of data or legal authorities supporting the commenter's position. Parties who commented in response to the Agency's March 23, 2012, Notice and have no further or updated information to add need not resubmit their comments. FMCSA may issue a determination on the petition at any time after the close of the comment period.

Issued on: August 27, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–18983 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2019–0029]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt six individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which

[1] The July 2, 2019 letter from ABA to FMCSA Administrator Ray Martinez is available in Docket No. FMCSA–2012–0086, accessible through *https://www.regulations.gov.*

is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 18, 2019. The exemptions expire on June 18, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2019-0029* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On May 9, 2019, FMCSA published a notice announcing receipt of applications from six individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (84 FR 20464.) The public comment period ended on June 10, 2019, and one comments was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received one comment in this proceeding. The commenter expressed his concerns that drivers with a history of seizure disorders may have additional episodes of loss of consciousness. In response to this comment, prior to deciding to grant these exemptions, FMCSA considered each driver's health history and driving records to determine that these drivers can operate a CMV at a level of safety that meets or exceeds that of other drivers.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the May 9, 2019, **Federal Register** notice (84 FR 20464) and will not be repeated in this notice.

These six applicants have been seizure-free over a range of 15 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the six exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

Gary Bartels (SD)
Charles Davenport (TN)
Alan Finlayson (AL)
Gregory Long (CT)
John McFarland (VA)
Scott Schelske (SD)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Issued on: August 21, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–18964 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0013]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 19 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before October 3, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2019–0013 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket?D=FMCSA-2019-0013.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2019–0013), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/docket?D=FMCSA-2019-0013.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2019-0013* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 19 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency

will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

On July 16, 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (57 FR 31458). The current Vision Exemption Program was established in 14998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of § 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely in intrastate commerce with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at *https://www.regulations.gov/docket?D=FMCSA-1998-3637.*

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively.[1] The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

III. Qualifications of Applicants

William D. Amberman

Mr. Amberman, 51, has a retinal detachment in his left eye due to a traumatic incident in 1987. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2019, his optometrist stated, ''It is my medical opinion that Mr. Amberman has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Amberman reported that he has driven straight trucks for 27 years, accumulating 270,000 miles. He holds a Class BM CDL from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dwayne E. Bennett

Mr. Bennett, 53, has chorioretinal scars in his left eye due to an infection in 2000. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2019, his optometrist stated, ''According to FMSCA [sic] 391.41 the patient would be eligible for a Commercial Driver's License, and therefore in my medical opinion, he has sufficient vision to perform the driving tasks required for a commercial driver's license.'' Mr. Bennet reported that he has driven straight trucks for 34 years, accumulating 476,000 miles. He holds an operator's license from Tennessee. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

John W. Burnett

Mr. Burnett, 58, has retinal scarring in his right eye due to sarcoidosis in 1989. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''It is my medical opinion that Mr. Burnette [sic] has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Burnett reported that he has driven buses for 18 years, accumulating 360,000 miles. He holds a Class B Enhanced CDL from Washington. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Joseph A. Clark

Mr. Clark, 50, has had Coats disease in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2019, his optometrist stated, ''In my professional opinion, Joseph's visual deficiency is stable at this time and he has sufficient vision to operate a commercial vehicle.'' Mr. Clark reported that he has driven straight trucks for 11 years, accumulating 264,000 miles, and tractor-trailer combinations for ten years, accumulating 182,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kent N. Davis

Mr. Davis, 55, has corneal scarring in his right eye due to a traumatic incident in childhood. The visual acuity in his

[1] A thorough discussion of this issue may be found in a FHWA final rule published in the **Federal Register** on March 26, 1996 and available on the internet at *https://www.govinfo.gov/content/pkg/FR-1996-03-26/pdf/96-7226.pdf.*

right eye is light perception, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''It is my medical opinion that Mr. Davis does have sufficient vision required to operate a commercial vehicle.'' Mr. Davis reported that he has driven straight trucks for four years, accumulating 42,000 miles, and tractor-trailer combinations for 25 years, accumulating 4.4 million miles. He holds a Class A CDL from South Dakota. His driving record for the last three years shows no crashes and one conviction for a moving violation in a CMV, illegal lane usage—failure to drive in the right-hand lane.

James W. Day

Mr. Day, 49, has had aphakia in his right eye since birth. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''It is our medical opinion that James Day has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Day reported that he has driven straight trucks for 13 years, accumulating 975,000 miles, and tractor-trailer combinations for 13 years, accumulating 650,000 miles. He holds a Class A CDL from Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert L. Farnsworth

Mr. Farnsworth, 56, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2019, his ophthalmologist stated, ''In my medical opinion, patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Farnsworth reported that he has driven straight trucks for 27 years, accumulating 13,500 miles and tractor-trailer combinations for 27 years, accumulating 810,000 miles. He holds a Class A CDL from Oregon. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Clayton R. Galyean

Mr. Galyean, 44, has had optic neuropathy in his right eye since 2016. The visual acuity in his right eye is 20/300, and in his left eye, 20/25. Following an examination in 2019, his ophthalmologist stated, ''Given this, I feel competent in affirming that Mr. Galyean should be able to operate a commercial vehicle safely as long as his left eye health is maintained.'' Mr. Galyean reported that he has driven straight trucks for 18 years, accumulating 432,000 miles, and tractor-trailer combinations for 18 years, accumulating 432,000 miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Roy Girlie

Mr. Girlie, 60, has had a central retinal artery occlusion in his right eye since 2016. The visual acuity in his right eye is 20/80, and in his left eye, 20/25. Following an examination in 2019, his optometrist stated, ''In my medical opinion, he has sufficient vision to perform the driving tests required to operate a commercial vehicle.'' Mr. Girlie reported that he has driven straight trucks for 36 years, accumulating 900,000 miles, and tractor-trailer combinations for 39 years, accumulating 3.9 million miles. He holds a Class A CDL from Florida. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Calvin B. Jones

Mr. Jones, 47, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2019 his optometrist stated, ''in [sic] my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones reported that he has driven straight trucks for 27 years, accumulating 1.4 million miles. He holds a Class B CDL from Maryland. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Sidney L. Jones, Jr.

Mr. Jones, 65, has a retinal detachment in his left eye due to a traumatic incident in 1981. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2019, his optometrist stated, ''In my medical opinion, Mr. Sidney Jones has sufficient vision to perform the driving tasks required to safely operate a commercial vehicle.'' Mr. Jones reported that he has driven straight trucks for 40 years, accumulating 2.8 million miles. He holds a Class B CDL from Georgia. His driving record for the last three years shows no crashes and one conviction for a moving violation in a CMV; he failed to keep in the right lane.

Theodore J. Kenyon

Mr. Kenyon, 75, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2018, his optometrist stated, ''It remains my opinion that Mr. Theodore Kenyou [sic] has more than sufficient vision to safely operate a commercial vehicle.'' Mr. Kenyon reported that he has driven straight trucks for 57 years, accumulating 855,000 miles, and tractor-trailer combinations for 32 years, accumulating 320,000 miles. He holds a Class A CDL from Vermont. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Mark V. Kneib

Mr. Kneib, 59, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''Has sufficient vision to perform driving tasks required to operate a commercial vehicle in my medical opinion.'' Mr. Kneib reported that he has driven straight trucks for 40 years, accumulating 400,000 miles. He holds an operator's license from Missouri. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Molu H. Mohamed

Mr. Mohamed, 47, has had amblyopia in the left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2019, his optometrist stated, ''I do believe Mr. Mohamed has sufficient vision to perform the essential tasks of driving a commercial vehicle.'' Mr. Mohamed reported that he has driven tractor-trailer combinations for 14 years, accumulating 1.4 million miles. He holds a Class A CDL from Ohio. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Brian E. Monaghan

Mr. Monaghan, 69, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2019, his ophthalmologist stated, ''In my professional opinion, Mr. Monaghan has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Monaghan reported that he has driven straight trucks for 40 years, accumulating 1.4 million miles.

He holds an operator's license from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert M. Murphy

Mr. Murphy, 53, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''He has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Murphy reported that he has driven straight trucks for 30 years, accumulating 330,000 miles. He holds an operator's license from New Jersey. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert E. Nichols

Mr. Nichols, 43, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/15. Following an examination in 2019, his ophthalmologist stated, ''Based on the exam, Robert has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Nichols reported that he has driven straight trucks for two years, accumulating 6,000 miles, and buses for five years, accumulating 45,000 miles. He holds an operator's license from Nevada. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeffery T. Skaggs

Mr. Skaggs, 44, has a crushed orbit in his right eye due to a traumatic incident in 1996. The visual acuity in his right eye is no light perception and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, ''In regards to his vision, I see no issues with him continuing to drive in full capacity, including a CDL license.'' Mr. Skaggs reported that he has driven straight trucks for 28 years, accumulating 420,000 miles, and tractor-trailer combinations for four years, accumulating 220,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Karol Stankiewicz

Mr. Stankiewicz, 36, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2019, his optometrist stated, ''In my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stankiewicz reported that he has driven tractor-trailer combinations for 14 years, accumulating 700,000 miles. He holds a Class A CDL from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

Issued on: August 21, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–18973 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2019–0030]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt four individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on July 12, 2019. The exemptions expire on July 12, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2019-0030* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On June 7, 2019, FMCSA published a notice announcing receipt of applications from four individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (84 FR 26722). The public comment period ended on July 8, 2019, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the June 7, 2019, **Federal Register** notice (84 FR 26722) and will not be repeated in this notice.

These four applicants have been seizure-free over a range of 20 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the four exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

Robert Broxson (AL)
Douglas Day (IN)
Logan Hertzler (PA)
Alexandria Lockhart (PA)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Issued on: August 21, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–18963 Filed 8–30–19; 8:45 a.m.]

BILLING CODE 4910–EX–P

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0385]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for three individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on August 13, 2019. The exemptions expire on August 13, 2021. Comments must be received on or before October 3, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0385 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket* FMCSA–2015–0385. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

• *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2015–0385), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go *http://www.regulations.gov/docket?D=FMCSA-2015-0385.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2015-0385* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The three individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the three applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The three drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of August 13, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Jerrell M. McCrary (NC); David A. Pressley (TX); and Jason D. Swearington (WA).

The drivers were included in docket number FMCSA–2015–0385. Their exemptions are applicable as of August 13, 2019, and will expire on August 13, 2021.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a

motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the three exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Issued on: August 21, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–18942 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0060]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated June 27, 2019, Southeastern Pennsylvania Transportation Authority (SEPTA) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 236.586, *Daily or after trip test,* and § 236.588, *Periodic test.* FRA assigned the petition Docket Number FRA–2019–0060.

Specifically, SEPTA requests to increase the time between periodic tests to 184 days. SEPTA explains that it seeks the same relief and conditions as provided to CSX Transportation, National Railroad Passenger Corporation, Norfolk Southern Railway, and Union Pacific Railroad in Docket Number FRA–2014–0085. SEPTA's locomotives (road numbers 901–915, and electric multiple unit (EMU) vehicles road numbers 701–725 and 801–848) are equipped with the SEPTA system automatic cab signals and Positive Train Control. SEPTA states these locomotives and EMUs are equipped with enhanced computer-based electronics and diagnostics. SEPTA indicates performing signal inspections pursuant to 49 CFR 236.588 in conjunction with and under the same schedule as the locomotive inspections under 49 CFR 229.23(b) would increase efficiency without compromising safety.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 18, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2019–18914 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0061]

Federal Advisory Committee National Emergency Medical Services Advisory Council; Notice of Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Meeting Notice—National Emergency Medical Services Advisory Council.

SUMMARY: NHTSA announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC) to be held at DOT Headquarters in Washington, DC. This notice announces the date, time, and location of the meeting, which will be open to the public, as well as provide opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with DOT and the Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to emergency medical services (EMS).

DATES: The NEMSAC meeting will be held on September 17, 2019, from 9 a.m. to 4:30 p.m. EDT, on September 18, 2019, from 9 a.m. to 4:30 p.m. EDT (closed to public 11:30) and on September 19, 2019 from 9 a.m. to 4:00 p.m. EDT (closed to public). A public comment period will take place on September 17, 2019, between 11 a.m. and 11:30 a.m. EDT and September 18,

2019, between 10:45 a.m. and 11:15 a.m. EDT. Written comments for the NEMSAC from the public must be received no later than September 9, 2019.

ADDRESSES: The meetings will be held at the DOT Headquarters, 1200 New Jersey Avenue SE, Washington, DC 20590. Attendees should plan to arrive 10–15 minutes early.

FOR FURTHER INFORMATION CONTACT: Eric Chaney, DOT, Office of Emergency Medical Services, 1200 New Jersey Avenue SE, NPD–400, Washington, DC 20590, *EricChaney@dot.gov* or 202–366–0257.

SUPPLEMENTARY INFORMATION: Notice of the NEMSAC meeting is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2). The NEMSAC is authorized under Section 31108 of the Moving Ahead with Progress in the 21st Century Act of 2012.

Tentative Agenda of the National EMS Advisory Council Meeting

The tentative NEMSAC agenda includes the following:

Tuesday, September 17, 2019 (9 a.m. to 4:30 p.m. EDT)

(1) Call to Order, Introductions, and Opening Remarks (9 a.m. to 9:30 a.m. EDT)
(2) Approval of July 2019 NEMSAC Meeting Minutes (9:30 a.m. to 9:45 a.m. EDT)
(3) Federal Liaison Update
(4) Presentation of Advisories and Recommendations (10:30 a.m. to 10:45 a.m. EDT)
(5) Break (10:45 a.m. to 11 a.m. EDT)
(6) Public Comment (11 a.m. to 11:30 a.m. EDT)
(7) FICEMS Strategic Plan Update/ Revision (11:30 a.m. to 12:00 p.m. EDT)
(8) Lunch (12 p.m. to 1 p.m. EDT)
(9) CMS Emergency Triage, Treat and Transport (ET3) Model (1 p.m. to 1:30 p.m. EDT)
(10) Review of EMS Nomenclature and National EMS Education Standards Revision (1:30 p.m. to 2 p.m. EDT)
(11) Review of Ongoing NHTSA Projects (2 p.m. to 2:30 p.m. EDT)
(12) Break (2:30 p.m. to 3 p.m. EDT)
(13) Ad Hoc Committee Reports (3 p.m. to 3:30 p.m. EDT)
(14) NEMSIS Update (3:30 p.m. to 4 p.m. EDT)
(15) Review of Action Items (4:00 p.m. to 4:30 p.m. EDT)

Wednesday, September 18, 2019 (9:00 a.m. to 4:30 p.m. EDT)

(1) Reconvene and Introductions (9 a.m. to 9:15 a.m. EDT)
(2) Committee Reports (9:15 a.m. to 10:45 a.m. EDT)
(3) Public Comment (10:45 a.m. to 11:15 a.m. EDT)
(4) Continue Discussion of NEMSAC Focus Areas for 2019–2020 (11:15 a.m. to 11:30 a.m. EDT)
(5) Closed to Public: Committee Break Out Sessions (12:00 p.m. to 4:00 p.m. EDT)

Closed to Public: Thursday, September 19, 2019 (9:00 a.m. to 4:00 p.m. EDT)

(1) Committee Instructions (9 a.m. to 9:15 p.m. EDT)
(2) Committee Break Out Sessions (9:15 a.m. to 12:00 a.m. EDT)
(3) Lunch (12:00 a.m. to 1:00 p.m. EDT)
(4) Committee Reports (1:15 a.m. to 4 p.m.)

Registration Information: This meeting will be open to the public September 17th and morning of September 18th; however, pre-registration is requested no later than September 9, 2019, 5 p.m. EDT. For assistance with NEMSAC registration, please contact Eric Chaney at *Eric.Chaney@dot.gov* or 202–366–0257. There will not be a teleconference option for this meeting.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC during designated public comment periods. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC at the meeting and should reach the NHTSA Office of EMS no later than September 9, 2019. Written comments may be submitted by either one of the following methods: (1) You may submit comments by email: *nemsac@dot.gov* or (2) you may submit comments by fax: 202–366–7149.

NHTSA is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact Eric Chaney at the email or phone number listed in the ''Registration Information'' section with your request by close of business on September 9, 2019.

A final agenda as well as meeting materials will be available to the public online through *www.EMS.gov* on or before September 9, 2019.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC.

Jon Krohmer,

Acting Associate Administrator, Office of Research and Program Development.

[FR Doc. 2019–18878 Filed 8–30–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Open Meeting: Community Development Advisory Board

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Community Development Advisory Board (the Advisory Board), which provides advice to the Director of the Community Development Financial Institutions Fund (CDFI Fund). The meeting will be open to the public who may either attend the meeting in-person or view it as a live webcast. The meeting will be held at the U.S. Department of the Treasury in a room that will accommodate up to 50 members of the public on a first-come, first-served basis. The link to the live webcast can be found in the meeting announcement found at the top of *www.cdfifund.gov/cdab.*

DATES: The meeting will be held from 9:00 a.m. to 3:00 p.m. Eastern Time on Monday, September 23, 2019.

ADDRESSES: The Advisory Board meeting will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Submission of Written Statements: Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Anyone who would like to have the Advisory Board consider a written statement must submit it by 5:00 p.m. Eastern Time on Thursday, September 12, 2019. Send paper statements to Bill Luecht, Senior Advisor, Office of Legislative and External Affairs, CDFI Fund, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Send electronic statements to *AdvisoryBoard@cdfi.treas.gov*.

In general, the CDFI Fund will make all statements available in their original format, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers, for public inspection and photocopying at the CDFI Fund. The CDFI Fund is open on official business days between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by emailing *AdvisoryBoard@cdfi.treas.gov*. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You

should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Bill Luecht, Senior Advisor, Office of Legislative and External Affairs, CDFI Fund, 1500 Pennsylvania Avenue NW, Washington, DC 20220; (202) 653–0322 (this is not a toll free number); or *AdvisoryBoard@cdfi.treas.gov*. Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at *http://www.cdfifund.gov*.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325), which created the CDFI Fund, established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the CDFI Fund (who has been delegated the authority to administer the CDFI Fund) on the policies regarding the activities of the CDFI Fund. The Advisory Board does not advise the CDFI Fund on approving or declining any particular application for monetary or non-monetary awards.

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the regulations thereunder, Bill Luecht, Designated Federal Officer of the Advisory Board, has ordered publication of this notice that the Advisory Board will convene an open meeting, which will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20220, from 9:00 a.m. to 3:00 p.m. Eastern Time on Monday, September 23, 2019. The room will accommodate up to 50 members of the public on a first-come, first-served basis.

Because the meeting will be held in a secure federal building, members of the public who wish to attend the meeting must register in advance. The link to the online registration system can be found in the meeting announcement found at the top of *www.cdfifund.gov/cdab*. The registration deadline is 11:59 p.m. Eastern Time on Monday, September 16, 2019. For entry into the building on the date of the meeting, each attendee must present his or her government issued photo ID, such as a driver's license or passport.

The Advisory Board meeting will include two panel discussions and a report from the CDFI Fund Director on the activities of the CDFI Fund since the last Advisory Board meeting. The first panel discussion will focus on the current needs of economically disadvantaged communities, and the second on how CDFIs and other community development organizations should address those needs.

Authority: 12 U.S.C. 4703.

Dennis Nolan,

Deputy Director, Community Development Financial Institutions Fund.

[FR Doc. 2019–18915 Filed 8–30–19; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (''Committee'') will convene a meeting on Monday, September 23, 2019, in Media Room A, Room 4121, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220, from 1:30 p.m.–4:30 p.m. Eastern Time. The meeting is open to the public, and the site is accessible to individuals with disabilities.

DATES: The meeting will be held on Monday, September 23, 2019, from 1:30 p.m.–4:30 p.m. Eastern Time.

ADDRESSES: The Committee meeting will be held in Room 4121 (Media Room A), Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must either:

1. Register online. Attendees may visit *http://www.cvent.com/d/jyqvv9* and fill out a secure online registration form. A valid email address will be required to complete online registration. (*Note:* Online registration will close at 5:00 p.m. Eastern Time on Monday, September 16, 2019.)

2. Contact the Federal Insurance Office at (202) 622–3220, by 5:00 p.m. Eastern Time on Monday, September 16, 2019, and provide registration information.

Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a toll-free number). 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. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov*.

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its website *https://www.treasury.gov/initiatives/fio/Pages/faci.aspx* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are 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: This is the third periodic meeting of the Committee in 2019. In this meeting, the Committee will receive updates from the subcommittees on the Availability of Insurance Products, the Federal Insurance Office's International Work, and Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms.

The Committee will also receive an update from the Federal Insurance Office on its activities.

Dated: August 27, 2019.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2019–18874 Filed 8–30–19; 8:45 am]

BILLING CODE 4810–25–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board of Directors Meeting

TIME AND DATE: September 5, 2019, from Noon to 1:00 p.m., Eastern daylight time.

PLACE: This meeting will be accessible via conference call. Any interested person may call 1–866–210–1669, passcode 5253902#.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

AGENDA

PORTIONS OPEN TO THE PUBLIC

I. Welcome, Call to Order, and Introductions—UCR Acting Chair
UCR Acting Chair will call the meeting to order, call roll for the Board, and facilitate self-introductions of guests.

II. Verification of Publication of Meeting Notice—Chief Legal Officer
Publication of notice for the meeting on the UCR website and in the **Federal Register** will be verified.

III. Review and Approval of Agenda and Setting of Ground Rules—UCR Acting Chair
For Discussion and Possible Board Action
Agenda will be reviewed and the Board will consider adoption.
Ground Rules
- Board action only to be taken in designated areas on agenda.
- Please MUTE your telephone.
- Do NOT place call on hold.

IV. Possible Revisions to Proposed Budgets for 2020 and 2021—Finance Chair and Depository Manager
For Discussion and Possible Board Action
The Finance Chair and Depository Manager will lead a discussion concerning the need for revisions to the proposed budgets for 2020 and 2021 in light of increased operating costs. The Finance Chair and Depository Manager will recommend that the Board adopt the suggested revisions to the proposed budgets for 2020 and 2021.

V. Comments to Proposed Rulemaking regarding UCR 2020/2021 Fees—Finance Chair and Depository Manager
For Discussion and Possible Board Action
The Finance Chair and Depository Manager will recommend that the Board authorize the UCR Acting Chair to submit written comments to the FMCSA in response to the FMCSA's notice of proposed rulemaking regarding the fee levels for the 2020 and 2021 UCR registration years (Fees for the Unified Carrier Registration Plan and Agreement; 49 CFR part 367). The proposed comments include a request to further reduce the proposed UCR fee levels for the 2020 and 2021 UCR registration years published in the notice.

VI. Adjourn
UCR Acting Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern daylight time, August 27, 2019 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Acting Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *elizabeth.leaman@state.ma.us.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2019–18984 Filed 8–29–19; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–XXXX]

Agency Information Collection Activity: Edith Nourse Rogers STEM Scholarship Application

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 4, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 115–48; 44 U.S.C. 3501–3521.

Title: Edith Nourse Rogers STEM Scholarship Application (VA Form 22–10203).

OMB Control Number: 2900–XXXX.

Type of Review: New collection.

Abstract: VA Form 22–10203 will allow students to apply for the Edith Nourse Rogers STEM Scholarship Program. Under the program, VA shall provide up to 9 months or 0,000 of Post-9/11 GI Bill benefits to certain eligible individuals selected by the Secretary of the Department of Veterans Affairs (VA).

Affected Public: Individuals or Households.

Estimated Annual Burden: 36,000 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 750.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–18904 Filed 8–30–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Agency Information Collection Activity Under OMB Review: Financial Counseling Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 3, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0270'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270.

Type of Review: Reinstatement of a previously approved collection.

Abstract: This form was developed under 38 U.S.C. 3732. VA Form 26–8844 provides for recording comprehensive financial information concerning the borrower's net income, total expenditures, net worth, suggested areas for which expenses can be reduced or income increased, the arrangement of a family budget and recommendations for the terms of any repayment agreement on the defaulted loan.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR118 on June 19, 2019, pages 28627 and 28628.

Affected Public: Individuals or Households.

Estimated Annual Burden: 3750 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 5000.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–18903 Filed 8–30–19; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

Vol. 84 Tuesday,
No. 170 September 3, 2019

Part II

Environmental Protection Agency

40 CFR Part 151
Clean Water Act Hazardous Substances Spill Prevention; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 151

[EPA–HQ–OLEM–2018–0024; FRL–9999–09–OLEM]

RIN 2050–AG87

Clean Water Act Hazardous Substances Spill Prevention

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is not establishing at this time new requirements for hazardous substances under Clean Water Act (CWA) section 311. This section directs the President to establish procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges. The EPA has been delegated and/or redelegated authority for certain facilities as identified below. On July 21, 2015, a lawsuit was filed against the EPA for failing to comply with the alleged duty to issue regulations to prevent and contain CWA hazardous substance discharges under CWA section 311. On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between the EPA and the litigants that required a notice of proposed rulemaking pertaining to the issuance of hazardous substance regulations, and a final action after notice and comment. After seeking public comment and based on an analysis of the frequency and impacts of reported CWA Hazardous Substances discharges, as well as the existing framework of EPA regulatory requirements, the Agency is not establishing at this time new discharge prevention and containment regulatory requirements under CWA section 311.

DATES: This final action is effective on October 3, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2018–0024, ''Clean Water Act Hazardous Substances Discharge Prevention Action.'' All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory Wilson, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 564–7989, *wilson.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

A list of entities potentially subject to CWA section 311(j)(1)(C) requirements is provided in Table 1:

TABLE 1—POTENTIALLY AFFECTED ENTITIES

Industry	NAICS
Wired and Wireless Telecommunications	51711, 51721
Oil and Gas Extraction	21111
Water Supply and Irrigation Systems	22131
Farm Supplies Merchant Wholesalers	42491
Electric Power Generation, Transmission and Distribution	2211
Support Activities for Crop Production	11511
Warehousing and Storage	4931
Food Manufacturing	311
Chemical Manufacturing	325
Other Merchant Wholesalers, Nondurable Goods	424
Mining and Quarrying	21
Utilities	22
Construction	23
Manufacturing	31–33
Wholesale and Retail Trade	42, 44–45
Transportation and Warehousing	48–49
Other	11, 51–56, 61–62, 71–72, 81, 92

NAICS = North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially subject to CWA section 311(j)(1)(C) requirements. This table lists the types of entities that EPA is now aware could potentially be regulated under CWA section 311(j)(1)(C). Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

The Agency is taking final action to not establish at this time new regulatory requirements under the CWA section 311(j)(1)(C) authority for CWA hazardous substance (HS) discharge prevention. Based on a review of the existing EPA programs in conjunction with the frequency and impacts of reported CWA HS discharges, the Agency believes the existing regulatory framework meets the requirements of CWA section 311(j)(1)(C) and is serving to prevent, contain and mitigate CWA HS discharges. This action is (1) in compliance with a consent decree addressing CWA section 311(j)(1)(C) and (2) based on public comment on the proposed EPA approach.

C. What is the Agency's authority for taking this action?

This action is authorized by section 311(j)(1)(C) of the CWA.

D. What are the incremental costs and benefits of this action?

Under the final action, which imposes no new requirements at this time,

facilities will not incur any incremental costs. The Agency expects zero incremental change in CWA HS discharges and therefore, no benefits are realized under the final action. The full economic analysis can be found in the *Regulatory Impact Analysis—Clean Water Act Hazardous, Substances Spill Prevention Final Action* document, which is included in the public docket for this action.

II. Background

A. Statutory Authority and Delegation of Authority

CWA section 311(j)(1)(C) directs the President to issue regulations establishing procedures, methods, and equipment, and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.[1] The EPA has been delegated the authority to regulate non-transportation-related onshore facilities and offshore facilities landward of the coastline, under section 311(j)(1)(C).[2]

B. Legislative Background

The term ''hazardous substance'' is defined in CWA section 311(a)(14). Section 311(b)(2)(A) authorizes regulations designating hazardous substances, which when discharged in any quantity into waters subject to CWA jurisdiction,[3] present an imminent and substantial danger to public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

Once a chemical (*i.e.,*'' element and compound'') is designated as a CWA HS, as described in Section II.C, the corresponding quantity is established by regulation under the authority of CWA section 311(b)(4).[4] Section 311 of the CWA prohibits discharges of CWA HS in quantities that may be harmful in section 311(b)(3), except where permitted under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful.

C. Regulatory Background

In March 1978, EPA designated a list of CWA HS in 40 CFR part 116. EPA established reportable quantities for those substances in 40 CFR part 117 in August 1979 (see, for example, 43 FR 10474, March 13, 1978; 44 FR 50766, August 29, 1979). In September 1978, EPA proposed to establish requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plans to prevent and contain CWA HS discharges from facilities subject to permitting requirements under the National Pollution Discharge Elimination System (NPDES) program of the CWA (43 FR 39276, September 1, 1978). The Agency proposed to require owners and operators to develop CWA HS SPCC Plans that included, among other things, general requirements for appropriate containment, drainage control and/or diversionary structures; and specific requirements for the proper storage of liquids and raw materials, preventive maintenance and housekeeping, facility security, and training for employees and contractors. The EPA did not finalize that proposed CWA HS SPCC regulation. There is no information in the record to explain the reason(s) the 1978 proposal was not finalized.

D. Litigation Background

On July 21, 2015, the Environmental Justice Health Alliance for Chemical Policy Reform, People Concerned About Chemical Safety, and the Natural Resources Defense Council filed a lawsuit [5] against EPA for failing to comply with the alleged duty to issue regulations to prevent and contain CWA HS discharges originating from non-transportation-related onshore facilities, including aboveground storage tanks, under CWA section 311(j)(1)(C).

On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between EPA and the litigants establishing a schedule under which EPA is to sign ''a notice of proposed rulemaking pertaining to the issuance of the Hazardous Substance Regulations'' and take final action after notice and comment on said notice of proposed rulemaking.[6]

E. Additional Information Collection

The Agency's initial data gathering efforts to support this action focused on assessing the scope of historical CWA HS discharges, identifying relevant industry practices, and identifying regulatory requirements related to preventing and containing CWA HS discharges. The EPA also used available data to estimate the universe of potentially regulated entities subject to this action. To supplement this data, the EPA developed a voluntary survey for states, territories and tribes, focused on collecting information on the universe of potentially-regulated facilities' CWA HS discharges over a 10-year period.

On June 22, 2018, EPA issued the voluntary survey directed at State and Tribal Emergency Response Coordinators (respondents with custodial responsibility for data representing the potentially affected ''facility universe'' that produce, store, or use CWA HS), as well as state, tribal, and territorial government agencies with custodial responsibility for data on CWA HS impacts to drinking water utilities and fish kills potentially caused by discharge(s) of CWA HS. The EPA received relevant responses from 15 states: Alabama, California, Delaware,

[1] 33 U.S.C. 1321(j)(1)(C).

[2] Under Executive Order 12777 (56 FR 54757, October 22, 1991), the President delegated various responsibilities identified in section 311(j) of the CWA, including the responsibility to regulate non-transportation related onshore facilities to EPA, and the responsibility to regulate non-transportation-related offshore facilities landward of the coast line to the Department of the Interior (DOI). DOI has redelegated the authority to regulate non-transportation-related offshore facilities landward of the coast line to EPA through a Memorandum of Understanding (MOU), effective February 3, 1994, between DOI, the U.S. Department of Transportation (DOT), and EPA (see 40 CFR part 112, Appendix B). An MOU DOT and EPA (36 FR 24080, November 24, 1971) established the definitions of transportation- and non-transportation-related facilities for the purposes of Executive Order 11548 (see 40 CFR part 112, Appendix A).

[3] CWA 311(b)(3) provides that the discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*); or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States [including resources under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*]), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson-Stevens Fishery Conservation and Management Act), where permitted under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and (B) where permitted in such quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful.

[4] CWA section 311(b)(4) provides for the President to, by regulation, determine for the purposes of this section, those quantities of oil and any hazardous substances, the discharge of which may be harmful to the public health or welfare or the environment of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

[5] Complaint for Declaratory and Injunctive Relief, *Environmental Justice Health Alliance from Chemical Policy Reform* v. *EPA,* 15–cv–5705 (Southern District of New York (S.D.N.Y.) July 21, 2015).

[6] Envtl. Justice Health All. for Chem. Reform v. U.S. EPA, No. 15–cv–05075, ECF No. 46 (S.D.N.Y. Feb. 16, 2016).

Hawaii, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Mexico, Oregon, Rhode Island, and Texas. A full analysis of the voluntary survey data can be found in Appendix B of the RIA, included in the docket for this action.

The Agency made the voluntary survey data available in *regulations.gov* at Docket ID: EPA–HQ–OLEM–2017–0444, provided notice of its availability on the EPA website for this action, and provided direct notice to the litigants in the S.D.N.Y. litigation that the data was available. Additionally, the EPA published a Notice of Data Availability (NODA)[7] making the survey data received available for public review and comment. The Agency considered the supplemental data received in response to the survey, and the related public comments, to further inform this final action.

III. This Action

The EPA is finalizing this action as proposed, establishing no new regulatory requirements under the authority of CWA section 311(j)(1)(C) at this time. In making this determination, the Agency analyzed data on both the frequency and reported impacts of identified CWA HS discharges, and supplemented this analysis with information received in response to the voluntary survey. Additionally, the EPA identified an analytical framework of program elements that include prevention, containment, and mitigation provisions commonly found in regulatory programs for discharge and accident prevention.

Based on the reported frequency and impacts of identified CWA HS discharges, and on an evaluation of the existing framework of EPA discharge, containment and accident prevention regulatory requirements, the Agency has determined that, at this time, this existing framework adequately serves to prevent and contain CWA HS discharges. While recognizing there may be other applicable regulations and standards relevant and of value in preventing and containing CWA HS discharges, the Agency ultimately focused on programs within, and regulations promulgated under, its authorities, and for which the requirements more directly address the key prevention, containment and mitigation program elements identified. In general, the Agency recognizes that other federal programs, as well as other state programs and industry standards, may also be effective in preventing and containing CWA HS discharges.

This Section highlights comments received on the proposed approach to this action and summarizes Agency responses to those comments. While discussion in preamble and supporting documents for this action reflect comments received characterizing various regulatory programs, the Agency notes that specific requirements and applicability for all cited prevention programs are contained in the relevant statutes and regulations. For a full discussion of the comments received and of Agency responses, see *Comment and Response Document—Clean Water Act Hazardous Substances Spill Prevention Final Action,* available in the docket for this action.

A. General Comments

The EPA proposed to establish at this time no new regulatory requirements under the authority of CWA section 311(j)(1)(C). This determination was based on an analysis of identified CWA HS discharges, and an evaluation of the existing framework of EPA regulatory requirements relevant to preventing and containing CWA HS discharges.

Several commenters supported EPA's proposed determination not to issue new regulatory requirements under CWA section 311(j)(1)(C), agreeing that existing federal and state agency programs, and other industry standards are effective in preventing discharges of CWA HS to waters subject to CWA jurisdiction. Several commenters supported the key prevention program elements the Agency identified to analyze the existing framework of regulations that serve to prevent and contain CWA HS discharges. Several commenters also stated new requirements would conflict with existing regulations, create redundancy, and would have ''minimal incremental value.'' Several commenters stated compliance with regulatory programs is not 100 percent, with new provisions not preventing discharges because of regulatory programs violations irrespective of regulation, and that requiring all facilities to protect from worst-case events would likely be expensive or not technically feasible. Several commenters agreed the Agency has discretion to interpret CWA section 311(j)(1)(C) as having already been satisfied by existing EPA regulations.

The Agency agrees with comments supporting this action that new regulatory requirements at this time would have minimal incremental value. The EPA based its determination on an analysis of the frequency and impacts of reported CWA HS discharges to waters subject to CWA jurisdiction and on an evaluation of the existing framework of EPA regulatory requirements relevant to prevention and containment of CWA HS discharges. While this action is based on the existing EPA regulatory framework, the Agency agrees there are other federal and state agency programs and other industry standards that may be effective in preventing and containing discharges of CWA HS. Further, EPA has the discretion to determine that CWA section 311(j)(1)(C) has been satisfied by existing EPA regulations issued since 1972. The EPA is taking this final action in compliance with the Consent Decree. Finally, nothing in this action precludes future EPA regulatory actions under CWA section 311(j)(1)(C).

In contrast, some commenters opposed the approach of establishing no new regulatory requirements under CWA section 311(j)(1)(C) at this time. Some commenters asserted CWA section 311(j)(1)(C) explicitly requires EPA to issue hazardous-substance spill-prevention regulations for non-transportation-related onshore facilities, and that EPA lacks the authority to ignore a statutory mandate. Additionally, commenters stated the regulatory analysis for the proposed approach failed to adequately show how existing programs/regulations serve to functionally provide the spill-prevention protections mandated in the CWA, asserting that the supporting cost/benefit analyses provided insufficient justification. One commenter stated that the existing framework of the EPA regulatory requirements fails to prevent toxic spills as demonstrated by the recent chemical spill into West Virginia's Elk River, stating that existing federal regulations would not prevent that exact scenario. One commenter stated EPA's proposal to take no action is inappropriate and would leave water bodies, drinking water sources, and communities at risk. Another commenter stated the EPA should perform a second regulatory analysis to determine gaps where the current regulations lack protection that may have led to the identified discharges, and how the current regulations could be improved to prevent future spills.

Further, one commenter stated that the EPA lacks critical information on the universe of potentially regulated facilities (*e.g.,* location, chemicals stored, current spill-prevention measures), without which the central claim for this action cannot be reasonably evaluated or supported. Another commenter questioned why the Agency did not wait for the voluntary

[7] Clean Water Act Hazardous Substances Spill Prevention Proposed Action Under Clean Water Act Section 311(j)(1)(C); Notification of Data Availability—Responses to 2018 Clean Water Act Hazardous Substances Survey (OMB Control No. 2050–0220); 84 FR 4741, February 19, 2019.

survey results before issuing the proposed action, further stating that existing regulatory programs lack useful prevention or preparedness guidance for industry or communities to follow. The commenter offered that instead, the EPA should build upon the framework of the spill-prevention rules it has already issued under section 311(j)(1)(C) for oil.

Finally, several commenters recommended establishing new prevention measures specific to safeguard drinking water from threats, including information sharing and timely notification with downstream utilities to plan for and respond to potential hazards. One commenter stated that, lacking a federal mandate, there is no guarantee that hazardous substance spills will not occur, with another commenter stating that federal minimum requirements must be sufficient to facilitate additional protections at the regional level and particularly for tribal lands.

The Agency disagrees with commenters stating that the existing EPA regulatory framework fails to provide the spill-prevention protections mandated under the CWA. In the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, multiple statutory and regulatory requirements have been established under different Federal authorities which serve, both directly and indirectly, to prevent and contain CWA HS discharges. While the Agency has the authority to regulate CWA HS under CWA section 311(j)(1)(C), it has determined that at this time CWA 311(j)(1)(C) has been satisfied as to CWA HS by the existing EPA regulatory framework. It is important to note that this action is not guided by a cost-benefit analysis. Rather, the action is based on the determination that further regulation would provide only minimal incremental value. The EPA has based its determination on an analysis of the frequency and impacts of reported CWA HS discharges to waters subject to CWA jurisdiction, and on its evaluation of the existing framework of EPA regulatory requirements relevant to prevention and containment of CWA HS discharges. The Agency also disagrees that there are no federal regulations currently in place to prevent discharges similar to past scenarios and that this final action leaves water bodies, drinking water sources, and communities at risk. The Agency believes its analyses support the conclusion that the existing framework of requirements identified within EPA's regulatory programs serves to address key prevention elements. The Agency further points to its review of discharge history, which identified discharges that would not have been prevented regardless of applicable regulatory requirements already in place.

Regarding the voluntary survey, the Agency's original intent was to collect information on current prevention practices and other facility specific information that would inform the selection of prevention program elements for the proposed action (*e.g.,* storage capacity, types of storage equipment). However, as survey development progressed, EPA revised the survey's focus to instead inform the estimate of the universe of potentially-subject facilities and of the impacts associated with the 10-year CWA HS discharge data. This change in approach to the survey, in conjunction with the court ordered deadline to issue a proposed action, did not allow the Agency to await the survey results before publishing the proposed action. The Agency has considered the data received through the voluntary survey when revising its regulatory analysis to further inform this final action.

The Agency disagrees with the comment that without a federally mandated regulation there would be no guarantee that hazardous substance spills will not occur. The existing framework of regulatory requirements upon which this final action is based provides the federal baseline for EPA programs relative to the prevention and containment CWA HS discharges. Additionally, there are other federal programs under statutes administered by other Agencies and Departments that also add to the current federal baseline of existing regulatory requirements, all of which provide discharge protections applicable to states, including tribal lands. The EPA recognizes the concerns regarding threats to drinking water systems. To this end, the Agency notes that, in addition to the regulatory structure already identified herein, recent statutory amendments to the Emergency Planning and Community Right-To-Know (EPCRA) focus on notifications to State drinking water primacy agencies, as well as on providing community water systems with hazardous chemical inventory data.[8]

Again, while this final action is based on the existing EPA regulatory framework, the Agency recognizes there are, in addition to other federal programs, state agency programs and other industry standards that may be effective in preventing discharges of CWA HS. Finally, nothing in this action precludes future EPA regulatory actions under CWA section 311(j)(1)(C).

B. Comments on CWA HS Discharge History and Impacts Analysis

1. Analytic Approach to Frequency of CWA HS Discharges

For the proposed action, the Agency analyzed CWA HS discharges reported to the National Response Center (NRC) over a 10-year period to estimate the frequency of discharges. Specifically, for the period of 2007–2016, the EPA identified 2,491 NRC reports (less than one percent of all reports to the NRC for that period) as CWA HS discharges originating from non-transportation-related sources, with 117 of those non-transportation-related discharges having reported impacts.[9]

Several commenters supported the Agency's analysis of CWA HS discharges, and agreed with the Agency's conclusion that, given the relatively small number of discharges and reported impacts, the framework of existing EPA regulations adequately serves to prevent, contain and mitigate CWA HS discharges. Three commenters specifically supported the use of NRC data as likely the best readily available source of relevant information. Some commenters noted the Agency's analysis that less than one percent of releases originated from non-transportation sources, with only a fraction of those originating from non-transportation sources resulting in impacts. Some commenters also stated that unreported spills would not come from the already highly regulated facilities that would likely be subject to any new spill prevention program, but rather would result from illegal dumping or other unknown causes; these commenters stated that additional SPCC-type regulations would not address such discharges. One commenter stated that while the impacts for some discharges over the 10-year period may have been significant, they are a small number on which to justify a major new federal regulatory framework. Yet another commenter asserted that new requirements for onshore facilities would have little environmental benefit, but would create significant costs, given

[8] The EPA has published a factsheet on its website providing information on America's Water Infrastructure Act of 2018 (Pub. L. No: 115–270) amendments for State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), and Local Emergency Planning Committees (LEPCs). *https://www.epa.gov/sites/production/files/2019-04/documents/awia_epcra_fact_sheet_draft_508_serc_terc_lepc_final_4-10-19.pdf.*

[9] The causes of the 117 CWA HS identified discharges with reported impacts are: 74 as Unknow/Illegal Dumping/Other; 17 as Equipment Failure; 4 as Natural Phenomena; 10 as Operator Error; 12 as Fire/Explosion. See Table 7 of the proposed action at 83 FR 29517, June 25, 2018.

the limited number of hazardous substance spills to waters.

The Agency agrees that the frequency and reported impacts of CWA HS discharges identified, and as supplemented by the voluntary survey data, does not support issuing new regulatory requirements under the authority of CWA section 311(j)(1)(C) at this time. However, discharge history does serve as the basis for determining applicability of certain requirements within existing EPA regulations. While this final action does not establish any new requirements, the Agency reiterates that the CWA prohibits discharges of CWA HS in quantities that may be harmful, with exceptions only where otherwise permitted or under such circumstances or conditions as the President may, by regulation, determine not to be harmful, irrespective of whether facilities are subject to hazardous substance spill prevention regulations.

Alternatively, several commenters opposed the approach used by EPA to identify CWA HS discharges to water, with one commenter stating that underreporting to the NRC is more likely than over-reporting, thereby resulting in an incomplete and unreliable data set. The commenter further stated the EPA exacerbated NRC data limitations by only focusing on CWA HS spills reported to reach waterways with reported impacts. Additionally, this commenter expressed concern that CWA HS discharges resulting from natural phenomena are likely to increase in frequency in the future (*e.g.,* hurricane activity).

One commenter stated that EPA's approach of looking at retrospective data to predict the future is ''a fraught endeavor'' that does not quantify that risk. The commenter suggested that the most relevant data for the Agency to consider would be CWA HS spills with potential to reach water, rather than those reported to reach water with impacts. The commenter stated the EPA did not consider the proximity of facilities to water and that the Agency rejected comments on the proposed Information Collection Requests supporting this approach. Further, another commenter stated that without confirming NRC data, the Agency cannot ''provide a conclusive picture of the amount, causes, or ultimate impact of a hazardous substance release.''

The Agency recognizes the limitations of the NRC database. As noted in the FR Notice for the proposed action, the NRC database is based on notifications of CWA HS discharges and thus, is dependent on the reporting individual(s) for completeness and accuracy of the information provided. NRC reports are generally received and documented immediately following an incident, often before a facility has accurate and complete information about the discharge. There is no requirement to update the information reported to the NRC; sometimes, the information available in the database includes inaccuracies regarding the substance reported, the quantity reported, the source, and the nature or impacts of the discharge, among other elements of the report. Further, some discharges may not be reported to the NRC, or the NRC may be notified of discharges that do not equal or exceed the reportable quantity.

Despite these limitations, the Agency looked to the NRC database as the best readily available source of relevant information on CWA HS discharges in the United States. Further, the Agency disagrees that discharges are necessarily more likely to be underreported than overreported. The EPA has no information to assess or characterize the uncertainty associated with information reported to the NRC, the extent of under-reporting (failure to report a discharge), or the extent of overreporting (discharges reported that are not subject to notification requirements). While EPA recognizes that past discharge history does not necessarily predict future discharges, the Agency believes the NRC data can provide insight into the extent of CWA HS discharge for the purposes of establishing the need for new regulatory requirements.

The EPA considered both CWA HS reported discharges with the potential to reach waters as well as CWA HS discharges reported to have reached water. The analysis identified 9,416 reports of CWA HS discharges out of all NRC reports received (3.3 percent) for the period of 2007 to 2016. Of these CWA HS discharge reports, the Agency further refined the analysis by identifying 3,140 discharges reported to have reached water. Within that universe, 2,491 (less than one percent of the reports) were identified as CWA HS discharges identified from non-transportation-related sources. Each refined data set informed the proposed action.

The Agency could not identify an appropriate method to quantify those facilities that would not have the potential to discharge to waters subject to CWA jurisdiction for this final action. Further, the EPA took a conservative approach and assumed that any CWA HS facility, regardless of its proximity to waters subject to CWA jurisdiction, would have the potential to discharge CWA HS to such waters. Finally, the Agency disagrees that it did not try to confirm NRC data for the amounts, causes, or ultimate impacts of reported hazardous substance releases. Part of the Agency's purpose in analyzing the data received from the voluntary survey was to identify new, potentially relevant discharges and impacts that could not be matched to those identified from the NRC data in the proposed action.

2. Analytic Approach to Quantifying Impacts of CWA HS Discharges

The EPA analyzed the NRC data to examine how many of the CWA HS discharges to waters from non-transportation-related facilities had reported impacts. The Agency supplemented its analysis of this NRC impact data with reported impact data for identified CWA HS discharges from the National Toxic Substance Incidents Program (NTSIP).[10] Impacts reported to NRC and NTSIP include evacuations, injuries, hospitalizations, fatalities, waterway closures, and water supply contamination. The analysis for the proposed action showed that, out of the 2,491 identified CWA HS discharges reports from non-transportation-related sources to water, 117 included one or more of these impacts over the 10-year period analyzed.

A commenter stated a new rule to address the small number of hazardous substances spills to waters would have significant costs but little environmental benefit, with another pointing to the small number of identified discharge reports on which to justify a major new federal regulatory framework. One commenter expressed concerns that the monetized damages still overestimated the direct costs associated with the discharges. The commenter supports reliance on other federal statutes and regulatory programs as the appropriate mechanisms to address other types of damages associated with chemical releases. The commenter further argues that damages are most accurately assessed in the analysis for this final action by limiting evaluation to direct impacts of CWA HS discharges. A commenter asserted that a chemical release reaching water does not necessarily mean that chemical caused other site impacts, including explosions,

[10] The Agency for Toxic Substances and Disease Registry's NTSIP collects and combines information from many resources to protect people from harm caused by spills and leaks of toxic substances. NTSIP gathers information about harmful spills into a central place. People can use NTSIP information to help prevent or reduce the harm caused by toxic substance incidents. NTSIP can also help experts when a release does occur. See *https://www.atsdr.cdc.gov/ntsip/* for additional information.

fires, and air and water quality issues. Further, the commenter pointed out that it is not clear whether some identified impacts, such as sheltering in place and fatalities, are directly caused by the hazardous substances reaching water; the commenter also questioned whether the EPA evaluated whether the impacts were directly caused by the CWA HS discharge. The commenter added that the 2014 fatality included in the Regulatory Impacts Analysis (RIA) for the proposed action appeared to have been caused by incidents unrelated to the discharge of a hazardous substance to water and stated that it is likely that the two other fatalities included in the Regulatory Impacts Analysis (RIA) for the proposed action were not directly caused by CWA HS reaching CWA jurisdictional water. This commenter suggested that it would be more appropriate for the fatality EPA included in its assessment of impacts in 2014 to be considered in an evaluation of chemical accidents subject to Occupational Safety and Health Administration (OSHA) or EPA Risk Management Program (RMP) regulations.

Further, the commenter raised the concern that the three fatalities EPA included in its analysis account for over 90 percent of the total monetized damages from hazardous substance discharges to water. The commenter noted that eliminating one of the three included fatalities from the analysis would decrease the monetized damages in the RIA by approximately one-third and urged the EPA to perform the type of cursory evaluation used in the review of the remaining impact data. Finally, a commenter stated that SPCC-type regulations would not address 74 incidents out of the 117 that were identified, given that the incidents resulted from illegal dumping or other unknown causes.

The Agency recognizes commenters' support for EPA's analysis, with several reiterating the findings of 117 CWA HS identified discharges with reported impacts such as evacuations, injuries, waterway closures, and water supply contamination. The Agency analyzed the NRC data to examine how many of the CWA HS discharges to water originating from non-transportation-related facilities had reported impacts. This information was supplemented with reported impact data for identified CWA HS discharges from the NTSIP. Impacts reported to NRC and NTSIP include evacuations, injuries, hospitalizations, sheltering in place, fatalities, waterway closures, and water supply contamination. The EPA recognizes that the reported impacts in the proposed action do not necessarily represent the only impacts arising from those discharges. The EPA also agrees with the commenters that the fatalities reported to the NRC database may not be the direct result of CWA HS discharges to water. For the final action, EPA supplemented the reported impacts data with additional information (*e.g.,* fish kill events) from the voluntary survey. The Agency's analysis is further discussed in Section III.E below.

Alternatively, two commenters opposed the approach EPA used to quantify impacts of CWA HS discharges. One commenter took issue with the analysis, given that NRC and NTSIP do not require comprehensive reporting of impacts, and stated the analysis did not account for under-reporting. One commenter stated the Agency did not address significant health risks from exposure to hazardous substances. The commenter cited Agency for Toxic Substances and Disease Registry's (ATSDR, an agency of the U.S. Department of Health and Human Services) information for some of the most commonly spilled hazardous substances, and further asserted the EPA ignored health risks in favor of a numerical analysis based on incomplete and unreliable data.

Associated with comments on impacts, some commenters stated that there are disparate impacts on communities of color and low-income communities resulting from hazardous substance discharges, and that comprehensive regulation would provide critical protections for communities. Commenters further stated that EPA's no action approach maintains existing environmental injustices associated with CWA HS discharges. These comments are further discussed in Section III.H.2 of this FR notice. Parallel to those comments, some commenters recommended the EPA continue gathering States and Tribal information, stating concerns that this final action and the economic analysis fail to consider the potential environmental and treaty rights impacts to the rights of Indian Tribal Governments. These impacts include the potential impacts to Indian Tribal Governments, sheltering in place, waterway closures, water supply contamination, environmental impacts, lost productivity, emergency response costs, transaction costs, and property value impacts not reflected in NRC data. Further discussion on these comments are found in Section III.H.2 of this FR notice.

The Agency recognizes NRC reports are generally received immediately following an incident, often before a facility has accurate and complete information about the discharge. There is no requirement to update the information reported to the NRC; sometimes, the information available in the database includes inaccuracies regarding, among others, the substance reported, the quantity reported, the source, and the nature or impacts of the discharge. Further, some discharges may not be reported to the NRC, or the NRC may be notified of discharges that do not meet or exceed the reportable quantity. The EPA has no information to assess or characterize the uncertainty associated with information reported to the NRC, the extent of under-reporting (failure to report a discharge), or the extent of over-reporting (discharges reported that are not subject to notification requirements). As noted in the RIA, monetized historical impacts are also not necessarily direct consequences of CWA HS discharges to water. Based on the descriptions provided to the NRC on the monetized fatalities, EPA cannot confirm that the fatalities were the direct result of a CWA HS discharge to water; however, EPA erred on the conservative side and included these impacts as historical damages. Further comments on impacts and economic analysis are found below in Section III.H.1 of this FR notice; discussion on the regulatory impacts is found in Section IV of this FR notice.

The EPA also noted in the proposed action that there may be additional impacts (*i.e.,* beyond evacuations, injuries, hospitalizations, fatalities, waterway closures, and water supply contamination) from the universe of CWA HS discharges to water originating from non-transportation-related facilities, which were not reported to the NRC or the NTSIP and thus, could not be quantified in this analysis. These may include the loss of productivity due to a facility or process unit shutting down because of a discharge, emergency response and restoration costs, transaction costs such as the cost of resulting litigation, damages to water quality, fish kills, or impacts to property values due to changes in perceived risk or reduced ecological services. For the proposed action, the EPA was not able to identify sources of data to quantify these impacts, other than the cited data from NRC or NTSIP and some limited information about fish kills that is made publicly available by a few states. However, EPA updated the discharge history and reported impacts in the proposed action with additional information the Agency received from the voluntary survey and from publicly

available state data, further discussed in Section III. E of this FR notice.

Finally, relative to health risks from exposure to hazardous substances, the proposed action noted that the list of CWA HS and/or the criteria for listing or distinguishing hazards between CWA HS is outside the scope of this final action; that authority is provided in CWA section 311(b)(2)(A). Similarly, differentiating requirements based on listing and hazard considerations is also outside the scope of this final action.

3. Alternative Approaches and Supplemental Information To Refine Impacts Estimates

The Agency requested comment on additional data sources, information, and approaches that allow it to further revise or refine the estimated impacts of CWA HS discharges from non-transportation-related sources, nationally.

Several commenters provided data or suggestions for further analysis of discharge data, with one industry group searching the NRC database to identify relevant discharges from member facilities for the years 2010–2016 and contrasting the results with company-specific data; for the period reviewed the industry group stated that there were 18 relevant discharges from their member facilities, arguing this provides strong evidence there are sufficient existing requirements.

Some commenters provided additional information to support an analysis of the cost of water supply, noting Federal Emergency Management Agency's (FEMA) valuation for disruption of water service, and citing an analysis of the Charleston, WV incident that affected 300,000 residents and business due its impact on the community's drinking water supply. One commenter stated the Agency's cost-benefit analyses did not adequately account for potential drinking water utilities impacts, and that water supply contamination can be a major cost to communities (*e.g.,* potential public health consequences for downstream utility intakes economic losses from cessation of potable water production and sewerage service interruption; impacts in distribution systems; cost of developing new raw water source if remediation is not possible; utility advisory outreach), requesting the EPA include these types of monetary costs in its assessment. Further, the commenter asked the EPA to provide information on regulatory gaps that allowed these instances of water contamination.

Finally, a commenter noted the EPA and the states need to continually improve risk assessment, planning, and implementation to protect populations in high-risk areas that experience greater exposure and disease burdens. The commenter stated the NRC data are unreliable and urged the EPA to develop more robust and credible data before weighing costs and benefits of alternatives to a no action determination.

The Agency acknowledges that some commenters performed a search of the NRC database for their specific industry group and concluded that the small number of discharges identified for their specific industry group suggests that existing requirements are sufficient. For its proposed action, the EPA considered CWA HS discharges with the potential to reach water as well as CWA HS discharges reported to have reached water. The analysis identified 9,416 reports of CWA HS discharges (3.3 percent of the total received) for the period of 2007 to 2016. Of these CWA HS discharge reports, the Agency further refined the analysis by identifying 3,140 reports that were reported to have reached water (see discussion below on NRC data limitations). Within that universe, 2,491 (less than one percent of the reports) were identified as CWA HS discharges reported to have originated from non-transportation-related sources. Each refined data set informed the proposed action; the Agency has supplemented that analysis with the data and information received from the voluntary survey in support of this final action, further discussed in Section III.E of this FR notice.

As noted in the FR notice for the proposed action, the Agency looked to the NRC database as the best readily available source of information on CWA HS discharges in the United States. The EPA also notes that some commenters agreed that the NRC data is likely the best readily available source of relevant information. In addition, EPA also developed a voluntary survey to collect information from states, tribes and territories focused on the universe of potentially regulated facilities and on CWA HS discharges. Again, the use of relevant survey responses to further inform this final action is further discussed in Section III.E.

4. Most-Frequently Discharged CWA HS

The Agency analyzed the NRC reporting data to identify those CWA HS most frequently discharged. Of the currently designated CWA HS,[11] 13 accounted for 90 percent of all identified CWA HS discharges to water originating from non-transportation-related facilities, while accounting for 80 percent of the 117 identified CWA HS discharged with reported impacts.

Commenters generally supported the Agency's examination of most frequently discharged CWA HS, with one commenter highlighting that less than one percent of the identified discharges originated from non-transportation sources. Another commenter specifically noted members of its organization use, handle, or store three of the top 13 CWA HS, with most spills captured in the NRC with no reported impacts.

The EPA acknowledges commenters supporting the analysis to identify the most frequently discharged CWA HS. To be conservative in its analysis, the Agency focused on those discharges that impacted water, with no additional determination of whether the waters impacted were subject to CWA jurisdiction. The Agency could not identify an appropriate method to quantify those facilities that would not have the potential to discharge to waters subject to CWA jurisdiction for this final action.

5. NRC Data Limitations and Alternatives

The Agency recognized the limitations of using the NRC database as its source of information on CWA HS discharges in the United States in support of the proposed action. The NRC database is dependent on reporting individuals for comprehensiveness and accuracy of information provided. In addition, EPA has no information to assess the uncertainty associated with NRC information, including the extent of under-reporting, or the extent of over-reporting. In addition, there may be additional impacts beyond those reported to the NRC that could not be quantified by EPA.

Several commenters supported EPA's use of NRC data as being the best readily available source of relevant information. One commenter noted that while facilities are required to report almost immediately, failure to report is subject to potential penalties, resulting in conservative reporting of regulated discharges. The commenter stated that members of this commenter's organization compared their records to NRC data, revealing few discrepancies and a tendency toward over-reporting. The Agency acknowledges the support for the use of the NRC database to inform this action and notes that discharge notification requirements are outside the scope of this final action.[12]

[11] At 40 CFR part 116.

[12] Under CWA section 311 regulations, the notice of a discharge of a reportable quantity requirement

In contrast, several commenters highlighted limitations to the NRC data, with one stating that the identified CWA HS discharges used in support of the proposed action is under-inclusive and provides limited impacts information given it relies on self-reporting. Another commenter noted the EPA has previously used stronger language to describe underreporting limitations, with statements to the data representing the minimum number of spills. Additionally, the commenter stated, reports are received immediately after an incident, with no update requirement, and may not accurately convey the nature and extent of the discharge, including the substance reported, the quantity reported, the source, and the nature or impacts. Some commenters stated the NRC data may provide a snapshot of how often, where, and when hazardous substances are released, but lacking confirmation, it cannot provide a conclusive picture of the amount, causes, or ultimate impact of a hazardous substance release. One commenter also expressed concerns the NRC data may misrepresent the nature of discharges and suggested further analysis to ensure that reportable quantities were exceeded, releases were to jurisdictional waters, and to clarify any over- or under-reporting during the initial report.

The EPA has no information to assess or characterize the uncertainty associated with information reported to the NRC, the extent of under-reporting (*e.g.,* failure to report a discharge), or the extent of over-reporting (*e.g.,* discharges reported that are not subject to notification requirements). The Agency's analysis focused on those discharges that impacted water, but no additional determination was conducted to determine whether the waters impacted were subject to CWA jurisdiction. EPA could not identify an appropriate method to quantify those facilities that would not have the potential to discharge to jurisdictional waters for this final action.

However, recognizing these limitations, the Agency looked to the NRC database as the best readily available source of information on CWA HS discharges in the United States. The Agency notes that, for example, 40 CFR 117.21 requires immediate notification of discharge of a reportable quantity of a CWA HS by any person in charge of a vessel or an onshore or an offshore facility as soon as he or she has knowledge of any discharge of a designated hazardous substance. Additionally, the EPA also developed a voluntary survey directed at states, tribes and territories to collect information on the universe of potentially regulated facilities and on CWA HS discharges. The Agency supplemented the proposed action analysis with data and information from relevant survey responses to further inform the final action. The analyses of the data received from the voluntary survey is further discussed in Section III. E of this FR notice.

C. Comments on Affected Universe Analysis

1. Analytic Approach To Determine Affected Universe

For the proposed action, the Agency used EPCRA Tier II information to estimate the universe of potentially affected facilities by identifying those with CWA HS onsite. The EPA reviewed Tier II reports submitted for 2014, 2015, or 2017 (the latest available) in 16 states and extrapolated the data nationwide based on NAICS codes and U.S. Census data. The Agency noted data limitations, including the wide range of trade names used for many chemicals and chemical mixtures, as well as the applicability thresholds established in 40 CFR 370.10, which then references the Threshold Planning Quantities for Extremely Hazardous Substances listed in 40 CFR 355, Appendix A and B for EPCRA Tier II reporting. The analysis assumed the fraction of facilities in each NAICS sector with CWA HS facilities is the same across all states and extrapolated accordingly.

One commenter claimed that using Tier II data would underestimate facilities potentially subject to hazardous substance spill prevention regulation, stating that EPA has not attempted to determine the number of facilities that would be subject to hazardous substance spill prevention regulations under CWA section 311(j)(l)(C). Because EPA extrapolated the data from 16 states to potentially covered facilities nationwide, and given the EPCRA Tier II reporting thresholds (*i.e.,* amounts greater or equal to 10,000 pounds, or lower established thresholds for Extremely Hazardous Substances) the commenter asserts only facilities with relatively large storage quantities of hazardous substances are required to report under EPCRA Tier II. In contrast, the commenter notes, CWA section 311(b) requires reports of discharges of much smaller amounts. With some reportable quantities as low as one pound under the CWA, the commenter notes the Agency did not solicit information from non-Tier II facilities that could potentially be subject to a CWA HS spill prevention rule, further asserting the analysis does not provide a rational basis for the determination not to issue regulations. Another commenter stated the number of aboveground storage tanks around the country containing hazardous substances is unknown, and no existing program assembles information on these tanks, their condition, the hazardous substances they contain, or whether they threaten water resources.

The Agency acknowledged the uncertainties associated with the estimate of potentially regulated facilities in the proposed notice. First, due to the wide range of trade names used for many chemicals and chemical mixtures, it was unclear whether approximately 20 percent of the facilities in the Tier II reports reviewed had a CWA HS onsite. Second, Tier II reports are required for substances present at any one time in an amount greater than or equal to 10,000 pounds, or lower established thresholds for chemicals defined as Extremely Hazardous Substances in 40 CFR part 355, Appendix A. The estimated number of potentially regulated facilities would depend on whether regulatory requirements establish applicability criteria with either higher or lower thresholds than those established in 40 CFR part 355, Appendix A. There are approximately 400,000 facilities that are subject to EPCRA Tier II reporting, including those with CWA HS onsite. These facilities are required under 40 CFR part 370 to report annually to the State Emergency Response Commission (SERC), Local Emergency Planning Committees (LEPC) and the fire department with jurisdiction over the facility. These facilities are also required to provide access for site inspections and information on the location of hazardous chemicals present to the fire department with jurisdiction over the facility. The Agency recognizes it has no information to assess or characterize non-Tier II facilities, and that the CWA HS reportable quantities for some of the designated CWA HS are measurably lower than the Tier II reporting thresholds. The Agency recognizes that it did not base the estimated universe of potentially regulated facilities on applicability criteria, including one specific to the RQ for the CWA HS. However, the Agency used EPCRA Tier II information as the best available data for estimating the potential universe in both the proposal and in this final action.

for CWA HS is found at 40 CFR 117.21, and the liabilities for removal requirement at 40 CFR 117.23.

The Agency is unaware of specific data at a national level on aboveground storage tanks that contain hazardous substances, or of any specific program that compiles this information. However, the EPA disagrees with the assertion that this final action would result in a threat to water resources. In the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, multiple EPA statutory and regulatory requirements have been established which generally serve, directly and indirectly, to prevent and contain CWA HS discharges. Based on EPA's analysis of the frequency and impacts of reported CWA HS discharges, EPA determined that the existing framework of EPA regulatory programs and implementing regulations at this time is serving to adequately prevent and contain CWA HS discharges, and thus is not finalizing any new spill prevention and containment regulatory requirements under CWA section 311(j)(1)(C).

2. Alternative Approaches and Supplemental Information To Refine Affected Universe

In the proposed action, EPA solicited additional data or information that could be used to revise, refine, or reduce the uncertainty of the estimated affected facility universe and CWA HS storage volume locations relative to water sources.

One commenter pointed to information submitted to the Agency through comments for identifying potential candidates for prioritization for risk evaluation under the amended Toxic Substances Control Act (TSCA), stating that the offered approaches for that effort could inform an assessment of the volume of chemical substances stored near ground and surface water drinking water sources. Pointing to baseline data called for in section 311, the commenter stated the EPA has hydrological data on surface waters and aquifers critical for targeting source water protection, which can be used to evaluate risk when compared against chemical storage data collected in Tier II reports. The commenter also stated the Agency's approach underestimates the potential universe of facilities, offering that a review of the EPA data shows 10 states reported 60 percent of these discharges, with none among the 16 states used to estimate facility universe; comparatively, the 16 states with Tier II data represented 19 percent of CWA HS discharges to water. The commenter recommended that the Agency work directly with those states that may have a greater frequency of incidents and/or a greater proportion of CWA HS facilities to determine the potential universe.

The Agency could not identify, for the purposes of this final action, an appropriate method to estimate the number of facilities that would not have the potential to discharge to waters subject to CWA jurisdiction. Therefore, EPA estimated the universe of potentially subject facilities using a conservative approach and assumed that all CWA HS facilities identified in this rulemaking have the potential to discharge CWA HS to waters subject to CWA jurisdiction. For further discussion refer to the Response to Comments document for this action, located in the docket.

Additionally, EPA issued a voluntary survey to states, tribes and territories to collect relevant information, including information on the universe of potentially regulated facilities and on CWA HS discharges. EPA used relevant survey responses to further inform the final action. Based on the voluntary survey information received, EPA updated the universe of potentially subject facilities; the revised estimate changed by less than one percent from the original estimate.

D. Comments on Review of Existing Regulatory Programs

1. Program Elements

The Agency evaluated eleven EPA regulatory programs to determine whether they addressed the following program elements: Safety information, hazard review, mechanical integrity, personnel training, incident investigations, compliance audits, secondary containment, emergency response plan, and coordination with state and local responders.

Several commenters expressed general support for EPA's identification of the nine program elements, agreeing these elements would comprise the core procedures, methods and equipment of a discharge prevention program for CWA HS, and that regulatory programs with these nine program elements would similarly achieve the objective of preventing and containing CWA HS discharges to water. Other commenters expressed support for EPA's identification of provisions within the existing EPA regulations that address discharge and accident prevention, control and mitigation of CWA HS discharges. Some commenters also agreed that new regulatory action would be a redundant mandate relative to the costs and administrative resources potentially required for implementation and enforcement when it would likely result in little commensurate benefit to human health and the environment. One commenter specifically noted the identified nine program elements are currently part of at least two or more existing rules, and that the identified program elements are covered under a minimum of ten other federal regulations.

The Agency agrees with the commenters that the identified nine program elements are key to prevention, containment, and mitigation of CWA HS discharges. The EPA identified these elements as an analytical framework of provisions commonly found in discharge and accident prevention regulatory programs. To this end, the Agency reviewed existing EPA and other federal regulatory programs, state regulatory programs, and industry standards to assess current discharge prevention practices and technologies. The Agency agrees the nine program elements identified and which are commonly reflected in EPA regulatory programs provisions, at this time adequately serve to prevent, contain, or mitigate CWA HS.

In contrast, one commenter asserted the examination of existing regulatory mechanisms conflates hazardous substance accident prevention with emergency response, and that the regulatory programs in place mainly focus on the follow-up to releases, rather than on spill prevention. Another commenter urged the EPA to expand its discussion to include the numerous other federal statutory and regulatory programs that have the effect, either directly or indirectly, of helping to prevent and contain discharges of hazardous substances. The commenter stated that focusing the analysis of regulatory programs on the nine program elements is too narrow and fails to consider how other regulatory programs with broader purposes, such as NPDES permits, as well as statutory and regulatory programs establishing liability for hazardous substance discharges, effectively impose additional ''program elements'' on facilities. The commenter stated these broad programs and liability provisions create strong incentives for facilities to implement appropriate measures to avoid uncontained hazardous substance spills and provide substantial additional support for the Agency's determination that additional rules would provide only de minimis regulatory benefit.

The Agency disagrees with the commenters that the analysis of EPA regulations focused on nine select program elements was too narrow. The Agency recognizes there may be other provisions captured within additional regulations with broader purposes,

including those establishing liability for CWA HS discharges, that may either directly or indirectly be effective for the prevention, containment, and mitigation of CWA HS discharges. However, EPA identified the nine program elements as an analytical framework of key provisions specific to discharge and accident prevention regulatory programs. The Agency reviewed existing EPA and other federal regulatory programs, state regulatory programs, and industry standards to assess current discharge prevention practices and technologies. The EPA also reviewed past CWA HS discharges to identify key elements that would serve to prevent, contain or minimize impacts from future CWA HS discharges. While some of these key elements may be also considered as response measures, the Agency believes it is also important to note provisions that focus on expeditiously containing discharges. The Agency believes regulatory requirements addressing these nine key program elements adequately serve to prevent, contain, or mitigate CWA HS discharges.

The discussion that follows addresses comments on each of the nine prevention program elements identified. The Agency recognizes that no single program element or regulatory provision may individually prevent and contain CWA HS discharges from occurring. However, this action is not based on any individual provision and/or program preventing CWA HS discharges, but rather on how the cumulative framework of key prevention elements, as implemented through existing EPA regulatory programs, adequately serves to prevent, contain, or mitigate CWA HS discharges under section 311(j)(1)(C).

i. Safety Information

The EPA identified safety information as one of the key provisions within prevention regulations. Prevention planning includes owners/operators maintaining and reviewing chemical and process safety information for their facility. Knowing and understanding the hazards associated with CWA HS helps maintain the overall safety of facility operations and reduces the potential for CWA HS discharges.

The Agency originally determined in the proposed action that the safety information program element is addressed in three out of the eleven EPA regulatory programs identified: RMP, Pesticide Worker Protection Standard, and EPCRA Hazardous Chemical Inventory Reporting regulation. Upon notice and comment review, the Agency identified two additional regulatory programs that addressed this element: NPDES Pretreatment standards and TSCA Polychlorinated Biphenyl (PCB) regulation. The EPA had also identified that safety information is addressed in at least two OSHA regulations (OSHA PSM, OSHA Hazard Communication Standard (HCS)), and in regulatory requirements under the Mine Safety and Health Administration (MSHA), and the Pipeline and Hazardous Materials Safety Administration (PHMSA). For more information on other federal programs and corresponding regulations, please see the *Background Information Document: Review of Relevant Federal and State Regulations* (hereafter referred to as *BID*) and the *Supplemental Background Information Document: Additional Review of Relevant EPA Federal and State Regulations* (hereafter referred to as *Supplemental BID*) in the docket to this action (Docket ID No. EPA–HQ–OLEM–2018–0024).

One commenter opposed the determination to establish no new requirements, stating that prevention provisions are not adequately covered under existing regulations and that a prevention provision alone does not actively prevent unlawful discharges. The commenter posited that while maintaining safety information on-site makes it more likely that fully-trained personnel and emergency response officials will understand the risks and be able to appropriately respond to releases, the three regulatory programs identified in this category mostly relate to response situations. The commenter noted it is up to the facility to provide adequate training to ensure proper handling of hazardous substances, and stated the identified rules seem to focus on emergency response mechanisms rather than spill prevention. The commenter noted RMP standards focus on potential off-site impacts and worst-case scenarios (40 CFR 68.12); the Pesticide Worker Protection Standards emphasize response protocols more than preventative measures (40 CFR 170.230 and 170.311); and EPCRA safety information standards require Safety Data Sheets (SDS) (29 CFR 1910.1200(g)) which, while required to contain information about handling and storage, exposure controls/personal protection, and disposal and transportation information, mainly provide general chemical composition and emergency response information.

While the Agency recognizes the regulations specifically identified as existing safety information requirements may also focus on emergency response, these regulations also include requirements more broadly relevant to prevention and preparedness. For example, as highlighted in the supporting documents for the proposed action, the RMP regulation requires owners or operators to compile and maintain general safety information, including: An SDS, maximum intended inventory of equipment in which the regulated substances are stored or processed, and safe operation conditions. The RMP regulation also requires owners to compile process safety information for regulated substances, such as toxicity information. Similar safety information requirements that address preparedness and prevention were also identified for the Pesticide Worker Protection Standard and for the EPCRA Hazardous Chemical Inventory Reporting Regulation.

ii. Hazard Review

Hazard review was identified by the Agency as one of the key provisions within prevention regulations. It is intended to identify potential chemical or operational hazards present in a process and allowing for the prevention, containment, and/or mitigation of discharges. A hazard review provides information key for the proper design, construction, and operation of facility equipment/systems (*e.g.,* identifying corrosion risks to be mitigated by ensuring storage container compatibility) and for choosing engineering controls (*e.g.,* identifying overfill risks to be addressed by installing alarms/automatic shutoffs).

The Agency originally determined that the hazard review program element is addressed in eight out of the 11 EPA regulatory programs identified: NPDES Multi-Sector General Permit (MSGP) for Industrial Stormwater (2015), RMP, SPCC, Pesticide Management, Resource Conservation and Recovery Act (RCRA) Generators, RCRA Treatment, Storage and Disposal Facilities (TSDF), Underground Storage Tanks (UST), and EPCRA Hazardous Chemical Inventory Reporting. Upon notice and comment review, the Agency identified five additional regulatory programs that addressed this element: NPDES Pretreatment standards, TSCA PCB regulation, Effluent Guidelines and Standards for Transportation Equipment Cleaning Point Source Category, Effluent Guidelines and Standards for Construction and Development Point Source Category, and Pulp and Paper Effluent Guidelines. The EPA had also identified that hazard review is addressed in at least two OSHA regulations (OSHA PSM, OSHA Hazardous Waste Operations and Emergency Response Standard (HAZWOPER)), MSHA, PHMSA, and Surface Mining Control and Reclamation Act (SMCRA). For more

information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter stated the bulk of prevention provisions fall under hazard review, mechanical integrity, and personnel training, stating these are the most-covered prevention provisions along with personnel training, and a step in the right direction for promulgating spill prevention regulations. The commenter pointed to hazard review consisting of controls that, for example, support container integrity and prevent overfills, to varying degrees across the eight regulatory programs identified.

The Agency believes that, at this time, existing regulations adequately cover prevention provisions relative to CWA HS, including hazard review requirements. For example, as highlighted in the supporting documents for the proposed action, both the RMP and the SPCC regulations include general hazard review and process hazards identification requirements; RMP requires facilities, depending on applicability, to either develop a hazard review or a process hazard analysis, and the SPCC regulation requires regulated facilities to develop spill prevention, control and countermeasure plans including equipment and processes review. Similarly, other hazard review requirements such as identification of engineering or administrative controls, compatibility of stored materials with tanks and equipment, and overfill prevention were identified in existing EPA programs.

iii. Mechanical Integrity

Mechanical integrity programs to ensure proper equipment operation and maintenance, identified by the Agency as one of the key provisions of prevention regulations, not only serve to prevent and contain CWA HS discharges, but also serve to ensure operational reliability and safe operation at a facility. Mechanical integrity provisions may include procedures for inspections, testing, and appropriate corrective action by qualified personnel to prevent equipment failures before they cause a discharge.

The Agency originally determined that the mechanical integrity program element is addressed in eight out of the 11 EPA regulatory programs identified: NPDES MSGP for Industrial Stormwater (2015), RMP, SPCC, Pesticide Management, RCRA Generators, RCRA TSDF, UST, and Pulp, Paper, and Paper Board Effluent Guidelines. Upon notice and comment review, the Agency identified five additional regulatory programs that addressed this element: NPDES Pretreatment standards, TSCA PCB regulation, and CWA Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Category, CWA Effluent Guidelines and Standards for Concentrated Aquatic Animal Production Point Source Category, and CWA Effluent Guidelines and Standards for Pesticide Chemicals. The EPA had identified that mechanical integrity is addressed in at least one OSHA regulation (OSHA PSM), and in regulatory requirements under PHMSA and SMCRA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter noted mechanical integrity requirements for regular testing of components and corrective actions, and that these prevention controls are implemented based on revealed potential hazards and encourage good engineering practices to prevent discharges and mechanical failures. The commenter stated these control options have room for expansion, and that the process of discovering potential breaches in safety and correcting those works well as a preventative safety measure.

The Agency believes that, at this time, existing regulations adequately cover prevention provisions relative to CWA HS, including requirements for facilities to maintain mechanical integrity of equipment that is critical for safe operations. Requirements range from general mechanical integrity programs, inspections and testing, and corrective action resulting from inspections and tests. As highlighted in the supporting documents for the proposed action, for example, the RMP regulation requires facilities to inspect equipment at a frequency recommended by the manufacturer or industry standards and also to keep records of inspections. Similarly, the SPCC regulation has mechanical integrity and inspection requirements for bulk containers for certain plan holders.

iv. Personnel Training

Personnel training programs to ensure employees and/or contractors are aware of safe operating procedures, chemical hazards, discharge prevention and containment measures, and response procedures aim to reduce operator errors that could lead to CWA HS discharges. These programs also strengthen implementation of other prevention program elements, such as hazard review or mechanical integrity, by ensuring employees understand the operational hazards at the facility and the procedures for safe operations established by those program elements.

The Agency originally determined that the personnel training program element is addressed in seven out of the 11 EPA regulatory programs identified: RMP, SPCC, Pesticide Worker Protection Standard, RCRA Generators, RCRA TSDF, UST, and CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category. Upon notice and comment review, the Agency identified two additional regulatory program that addressed this element: NPDES Pretreatment standards and CWA Effluent Guidelines and Standards for Concentrated Aquatic Animal Production Point Source Category. The Agency had identified that personnel training is addressed in at least three OSHA regulations (OSHA PSM, OSHA HAZWOPER, OSHA HCS), and in regulatory requirements under MSHA and PHMSA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter noted that personnel training can reasonably decrease the chance that employee negligence would cause a release. The commenter stated however, that the regulatory programs identified seem to focus on employee understanding of release emergency response mechanisms rather than emphasizing spill prevention training, and again pointed to the RMP standards focus on worst-case scenarios and on off-site impacts, and the Pesticide Worker Protection Standards emphasizing response protocols over prevention measures.

While the Agency recognizes the regulations specifically identified with existing personnel training requirements may also focus on emergency response, these regulations also include requirements more broadly relevant to prevention and preparedness. For example, as highlighted in the supporting documents for the proposed action, the RCRA TSDF and Generators Regulations require that facility personnel are trained in hazardous waste management procedures, including equipment monitoring, automatic waste feed cut-off systems, alarm systems, response to fires or explosions, response to ground-water contamination incidents, and emergency shutdown of operations. Similarly, personnel training requirements were identified in other existing EPA programs, ranging from specific prevention and response

procedures to prevent, contain, and mitigate CWA HS discharges, to more general provisions for the proper handling of chemical hazards and the safe operation of equipment to prevent accidents.

v. Incident Investigations

The Agency identified incident investigation provisions as a key to prevention regulations, as they focus on examining causes of discharges to apply lessons learned and inform prevention and containment activities going forward. While the Agency recognizes these may also be considered a response measure, provisions for incident investigations also result in improvements to process design, operational methods, and procedures with the goal of preventing future incidents.

The Agency originally determined that the incident investigation program element is addressed in three out of the 11 EPA regulatory programs identified: RMP, SPCC, and CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category. Upon notice and comment review, the Agency identified one additional regulatory programs that addressed this element: MSGP for Industrial Stormwater (2015). The EPA also found that incident investigation is addressed in at least one OSHA regulation (OSHA PSM), and in regulatory requirements under MSHA and PHMSA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter stated that incident investigation should not be classified as a prevention provision but that rather it would more appropriately be considered a response measure. The commenter stated that, for example, RMP requires investigations of catastrophic releases or near misses of catastrophic releases, but the investigations do not actively prevent releases from happening. The commenter further stated that owners and operators are often forced to respond to new or unusual types of releases that have never occurred at their sites; therefore, incident investigation reports may prove useless at times. Finally, the commenter noted that the Agency appears to be on the verge of eliminating many of the provisions of the RMP regulation that have any possible link to accident prevention or investigation.

As highlighted in the supporting documents for the proposed action, the incident investigation provisions under the SPCC regulation require an analysis of the cause of the discharge, including corrective actions and additional preventive measures to minimize the possibility of recurrence. Similar incident investigation requirements for prevent corrective actions were also identified for the RMP regulation and for the CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category.

Finally, RMP regulation provisions that the Agency is contemplating to amend are not expected to impact the core requirements of the regulation that have served to reliably prevent accidents since its issuance in 1996. While the RMP Amendments, 82 FR 4594 (January 13, 2017), added various new provisions to the prevention program requirements in subparts C and D of the RMP Rule, and while the Agency is conducting a reconsideration of these additions, the Agency did not propose and is not contemplating eliminating the prevention program requirements altogether. The RMP Amendments themselves acknowledge the pre-Amendments RMP Rule was ''effective in preventing and mitigating chemical accidents.'' 82 FR at 4600.

vi. Compliance Audits

Compliance audit provisions were identified as a key to prevention regulations as a mechanism to evaluate and measure a facility's compliance with regulatory requirements. A compliance audit provision can provide facility management with a mechanism for oversight of implementation of discharge prevention practices, including documentation and follow-up actions. These provisions require facilities to identify compliance deficiencies or opportunities for improvement.

The Agency originally determined that the compliance audit program element is addressed in one of the regulatory programs identified: RMP. Upon notice and comment review, the Agency identified two additional relevant regulatory programs that addressed this element: CWA NPDES MSGP for Industrial Stormwater and CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category. The EPA also found that compliance audits are addressed in at least one other federal regulation: OSHA PSM.

One commenter stated compliance audits alone do not prevent releases, and further noted they were only identified as an RMP requirement. The commenter states that while compliance audits are not immaterial, their use could be expanded to ensure facilities stay in compliance with any current or future prevention requirements. The commenter agreed the compliance review discussed in the notice is appropriate to determine whether a facility has deficiencies and to correct those deficiencies, and that third-party audits could be useful to learn to what extent facilities need to correct shortcomings in prevention mechanisms, recognizing that discovery of those deficiencies could help prevent future hazardous releases.

The Agency recognizes that while specific requirements for compliance audits were identified under RMP, CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category, and CWA NPDES MSGP for Industrial Stormwater (see the *Supplemental BID* in the docket to this action for additional details), there are other regulations with compliance duty provisions that may also serve to prevent and contain CWA HS spills. For example, applicable to all NPDES Permits are ''duty to comply'' requirements (see 40 CFR 122.41: Conditions applicable to all permits) requiring compliance with all conditions of issued permits. Finally, the Agency agrees that compliance audits may also be considered a response measure. Nonetheless, in implementing these provisions facilities may identify deficiencies or opportunities for improvements to process design and operational methods and may also identify procedures with the goal of preventing future discharges as well.

vii. Secondary Containment

Secondary containment provisions were identified by the Agency as a key to prevention regulations, serving as a second line of defense in the event of a failure of the primary containment, such as bulk storage containers, plant equipment, portable containers, or piping. Secondary containment provides a temporary measure until appropriate actions are taken to permanently abate the source of the release. Provisions may include passive or active containment measures such as specific sizing requirements to contain worst-case discharges, or design specifications to address impervious construction. When properly designed and maintained, secondary containment can prevent discharges to waters subject to CWA jurisdiction.

The Agency originally determined that the secondary containment program element is addressed in seven out of the 11 EPA regulatory programs identified: CWA NPDES MSGP for Industrial Stormwater (2015), SPCC, Pesticide

Management Regulation, RCRA Generators, RCRA TSDF, UST, and CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category. Upon notice and comment review, the Agency identified four additional regulatory programs that addressed this element: NPDES Pretreatment standards, TSCA PCB Regulation, and the CWA Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Category and the CWA Effluent Guidelines and Standards for Pesticide Chemicals. The EPA had also identified that secondary containment requirements are addressed in at least two OSHA regulations (OSHA PSM, OSHA HAZWOPER), and in regulatory requirements under the MSHA and the SMCRA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter noted that, because the identified secondary containment provisions call for the use of liners, double-walled tanks, berms, drip pans, gutters, and other collection systems, they can be fairly described as prevention measures. The commenter also asserted that regulating the types of containers in which hazardous substances are stored may help to prevent leaks from occurring or prevent hazardous substances discharges to water and stated that expanding secondary containment into other standards such as RMP and EPCRA may also add layers of spill prevention.

While the EPA programs and corresponding regulations reviewed vary in their standards for the required secondary containment, seven of the 11 EPA programs originally reviewed were found to contain secondary containment provisions. For example, as highlighted in the supporting documents for the proposed action, the SPCC regulation requires onshore facilities to use at least one of the following: Dikes, berms, or retaining walls sufficiently impervious to contain oil; curbing or drip pans; sumps and collection systems; culverting, gutters, or other drainage systems; weirs, booms, or other barriers; spill diversion ponds; retention ponds; or sorbent materials. Similarly, secondary containment requirements were identified in other existing EPA programs, ranging from passive measures, to equivalent devices, to approvals by Regional Administrators. Amending the regulations identified as part of the existing prevention and containment framework is outside the scope of this action. However, nothing in this action precludes future regulatory actions for regulations identified as part of the existing EPA regulatory framework.

viii. Emergency Response Plan

Emergency response plan requirements were identified by the Agency as a key provision for prevention regulations, focusing facility owners/operators to gather information and develop procedures needed to adequately respond in advance of a discharge. These plans identify steps for facility personnel to mitigate the severity and environmental impacts of a discharge, as well as for appropriate notifications to local, state and federal authorities (including notifications to potential drinking water receptors). While the Agency recognizes these may also be considered a response measure, emergency response planning provisions may also include procedures for expeditiously containing discharges.

The Agency originally determined that the emergency response plan program element is addressed in eight out of the eleven EPA regulatory programs identified: NPDES MSGP for Industrial Stormwater (2015), RMP, SPCC, Pesticide Worker Protection Standard, RCRA Generators, RCRA TSDF, UST, and EPCRA Emergency Planning and Notification regulations. Upon notice and comment review, the Agency identified three additional regulatory programs that addressed this element: NPDES Pretreatment standards, TSCA PCB regulation, and CWA Effluent Guidelines and Standards for Pesticide Chemicals. The EPA had also identified that the emergency response plan program element is addressed in at least three OSHA regulations (OSHA Emergency Action Plans, OSHA PSM, OSHA HAZWOPER), and in regulatory requirements under MSHA, PHMSA, and SMCRA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter recognized that emergency response planning is critical to protecting the health, safety, and welfare of the public. However, the commenter stated that while emergency response plans provide for immediate response to releases of hazardous materials, they do nothing to actively prevent releases from occurring, similarly to safety information, making their consideration irrelevant in an action regarding spill prevention.

Most of the EPA programs identified by the Agency have emergency response planning requirements for facilities to plan what immediate actions they will take in the event of a discharge. For example, as highlighted in supporting documents for the proposed action, the MSGP for Industrial Stormwater requires permitted facilities to develop plans for effective response to spills, including procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases and to execute such procedures as soon as possible. Similarly, notification procedures are also frequently addressed by the identified EPA programs and corresponding regulations. Separately, 40 CFR 117.21 requires immediate notification to the NRC of discharge of a reportable quantity of a CWA HS from vessels or onshore or offshore facilities as soon as there is knowledge of it.[13] The NRC serves as an emergency call center that fields initial reports for pollution and railroad incidents and forwards that information to appropriate federal/state agencies for response.

ix. Coordination With State and Local Responders

Coordinating with state and local responders is also identified by the Agency as key to prevention regulations. Coordination between facility personnel and state and/or local responders on emergency response plans allows for emergency responders' improved understanding of potential onsite hazards and better ensures an effective response following a discharge.

The Agency originally determined that the program element for coordinating with state and local responders is addressed in four out of the eleven EPA regulatory programs identified: RMP, SPCC, RCRA Generators, RCRA TSDF, and EPCRA Emergency Planning and Notification. Upon notice and comment review, the Agency identified one additional relevant regulatory programs that addressed this element: NPDES Pretreatment standards. The EPA had also identified that coordination with state and/or local responders is addressed in at least one OSHA regulation (OSHA HAZWOPER), and in regulatory requirements under PHMSA. For more information on other federal programs and corresponding regulations please see the *BID* and the *Supplemental BID* in the docket to this action.

One commenter stated that, regarding coordination with state or local emergency responders, EPCRA puts the

[13] Anyone witnessing an oil spill, chemical release or maritime security incident should call the NRC hotline at 1–800–424–8802. *http://www.nrc.uscg.mil/.*

EPA on the right path toward meaningful spill prevention regulation. The commenter noted that SERCs and LEPCs use the information provided to them under EPCRA to make their own arrangements with facilities, while RMP and RCRA provide for information coordination with emergency response personnel including fire departments and police. The commenter also recognized that coordinated efforts with third parties would likely make the planning process more efficient for facilities and lead to better operational practices, and that sharing knowledge can increase confidence that release prevention mechanisms will work as intended. This commenter also submitted comments to the NODA published in the **Federal Register** on February 19, 2019 (Docket number EPA–HQ–OLEM–2017–0444). The commenter expressed concerns that the Agency is focused on accident response rather than prevention, adding that accidental release prevention is not about emergency response, but is about efforts within the facility to identify sources of potential accidental releases and then to design their facility, or modify their operations, to prevent the releases. The commenter also stated facilities need good emergency preplanning done in conjunction with local first responders and the LEPC.

As highlighted in supporting documents to the proposed action, LEPCs include representatives from the local community such as police, fire, civil defense, public health professionals and facility representatives. The LEPCs develop an emergency response plan for the community and provide information about chemicals in the community to citizens. Under EPCRA section 312(f), the facility owner or operator subject to Tier II reporting is required to provide access to the fire department to conduct an on-site inspection of the facility. Further, the facility is also required to provide the location information on hazardous chemicals at the facility. While the Agency agrees coordinating with state and local responders may also be considered a response measure, such coordination prior to any discharge could also help to contain and/or mitigate the impacts of a discharge (*e.g.,* allow for a timely shutdown of downstream drinking water intakes).

2. Existing EPA Regulatory Programs

i. NPDES MSGP for Industrial Stormwater

The NPDES MSGP for Industrial Stormwater includes requirements that address six of the nine identified program elements: Hazard review, mechanical integrity, incident investigations, compliance audits, secondary containment, and emergency response plan.

Some commenters supported EPA's analysis of the NPDES MSGP's coverage of the program elements, with one commenter also recommending that EPA recognize that the NPDES MSGP for Industrial Stormwater also has requirements for incident investigations and compliance audits. The commenter stated that the current version of the NPDES MSGP requires permitted facilities to review and revise its Stormwater Pollution Prevention Plan (SWPPP) and to initiate immediate and follow-up corrective actions in the event of certain conditions or incidents, including an unauthorized release or discharge, a discharge that violates an effluent limit, a visual assessment that shows evidence of stormwater pollution, benchmark exceedances, or certain issues relating to stormwater control measures. The commenter asserted that permitted facilities are also required to immediately document the existence of any of above-described conditions, including an incident evaluation and a description of any measures taken to prevent the reoccurrence of the condition. The commenter stated that the NPDES MSGP for Industrial Stormwater includes requirements for facilities to document and report the cause of any incident or release, implement corrective actions, and revise its SWPPP to minimize the chance of future incidents or releases.

The commenter asserted that the NPDES MSGP for Industrial Stormwater requires investigations and reporting that amount to a compliance audit. As part of the requirements, facilities must conduct inspections quarterly, and facilities must document their findings. Further, the commenter noted that facilities must also submit an Annual Report to EPA, which includes a summary of the past year's routine facility inspection documentation, a summary of the past year's corrective action documentation, and a description of any incidents of noncompliance, or a statement that the facility is compliant with the permit. Lastly, the commenter stated that facilities must review and revise their SWPPPs upon incidents of non-compliance and document the conditions triggering the incident of non-compliance and actions taken to minimize or prevent reoccurrence of releases.

The Agency agrees with the commenters that requirements for incident investigations and compliance audits are included in the NPDES MSGP for Industrial Stormwater. This analysis is detailed in the *Supplemental BID* in the docket to this action.

Other commenters did not support EPA's analysis of the NPDES MSGP for Industrial Stormwater relative to this action, stating that the NPDES MSGP is not intended to address spill-prevention for hazardous substances, but rather to mitigate pollution from stormwater discharges across industrial facilities. A commenter stated that hazardous substance spills are not a type of stormwater discharge under the NPDES MSGP nor are they a type of ''allowable non-stormwater discharge'' covered under the NPDES MSGP. The commenter stated that the provisions that touch on spill prevention are extremely high-level and are not tailored to hazardous substances under the CWA. The commenter further stated that these provisions, while perhaps detailed enough for the context of permitting stormwater discharges under the NPDES program, are far from adequate to satisfy the CWA's separate command that EPA issue specific spill-prevention regulations for hazardous substances.

The commenter also stated that the NPDES MSGP cross-references spill-prevention plans under the SPCC regulation 12 times, with no suggestion the SPCC regulation, which is issued under the same statutory mandate and authority at issue in this rulemaking, is satisfied through compliance with the MSGP's spill-prevention guidelines. Furthermore, the commenter stated that the MSGP applies only in a few states, most territories, and most of Indian country, and that a permit that applies to such a small part of the United States cannot serve as the basis for EPA's refusal to issue the nationwide hazardous-substance spill-prevention regulations mandated by Congress.

The Agency disagrees with these commenters because, as part of compliance with the NPDES MSGP, facilities are required to prepare a SWPPP prior to submitting a Notice of Intent (NOI) for permit coverage. The SWPPP is intended to document the selection, design, and installation of control measures to meet the permit's effluent limits plus document the implementation (including inspection, maintenance, monitoring, and corrective action) of the permit requirements. The SWPPP must be prepared in accordance with good engineering practices and to industry standards. While the Agency recognizes that the SWPPP is not directly intended to address emergency and/or unanticipated oil discharges, as is the case with an SPCC plan, the core

elements of a SWPPP enhance CWA HS discharge spill prevention. Additionally, in cases where the facility is subject to the SPCC requirements under 40 CFR 112, a facility's SWPPP can reference the relevant SPCC plan for oil spill prevention requirements.

ii. RMP Regulation

The RMP regulation includes requirements that address eight of the nine program elements: Safety information, hazard review, mechanical integrity, personnel training, incident investigations, compliance audits, emergency response plan, and coordinating with state and/or local responders.

Some commenters supported EPA's analysis of the RMP regulation, stating that to the extent that discharges of hazardous substances to water are caused by chemical accidents at RMP-regulated facilities/substances, EPA should consider these discharged substances already comprehensively federally regulated. Another commenter asserted that RMP requires many steel mills to develop risk management plans to address the potential risks of a chemical spill and procedures for responding to an accidental release. The EPA acknowledges the commenters' support.

Another commenter did not support EPA's review of the RMP regulation, stating that the RMP Rule covers only some of the CWA HS, and that of the 13 most commonly spilled CWA HS identified by EPA, only four (ammonia, chlorine, hydrochloric acid, and nitric acid) are covered under the RMP regulation. The commenter also stated that even for those hazardous substances, the threshold quantity for RMP is significantly higher than the CWA's reporting requirements for spills. The commenter further stated that EPA should evaluate the protections in the RMP Rule, including the risk evaluation, accident prevention, response planning, training, auditing, and incident investigation components within the RMP, and determine whether and how they can be adapted to apply the full suite of CWA HS. The commenter also stated that EPA relies on the incident investigation and compliance audit portions of the RMP Rule, while the agency is simultaneously proposing to remove those protections from the RMP Rule.

The Agency recognizes there is not a complete overlap between the RMP regulation protections and the universe of potentially regulated CWA HS facilities. However, this action is not based on any individual provision and/or standalone regulatory program preventing CWA HS discharges, but rather on how the cumulative framework of key prevention and containment elements, as implemented through those existing EPA regulatory programs identified, meet the requirement to regulate CWA HS under section 311(j)(1)(C).

The Agency examined current discharge prevention practices and technologies within existing EPA regulations that would be relevant to the prevention, containment, and mitigation of CWA HS discharges. The EPA also reviewed past CWA HS discharges to identify key elements that would serve to prevent, contain or mitigate impacts from CWA HS discharges in the future. Based on these analyses, the Agency identified the RMP regulation as a discharge prevention program within the framework of existing accident prevention regulations.

As discussed in the FR notice to the proposed action, EPA analyzed the NRC data to identify those CWA HS most frequently discharged. The EPA updated this analysis to include the additional information from the voluntary survey. Of the currently designated CWA HS,[14] 13 substances accounted for most identified discharges, as well as most identified discharges with reported impacts: Polychlorinated Biphenyls, Sulfuric Acid (≤80%), Sodium Hydroxide, Ammonia, Benzene, Hydrochloric Acid, Chlorine, Sodium Hypochlorite, Toluene, Phosphoric Acid, Styrene, Nitric Acid (fuming), and Phosphorus. These 13 CWA HS make up approximately 89 percent of all identified CWA HS discharges to water from non-transportation-related facilities and 83 percent of the 265 identified CWA HS discharges with reported impacts. The EPA's analysis also found the 13 most frequently discharged CWA HS are subject to multiple regulatory programs which serve to prevent and contain CWA HS discharges. For example, sulfuric acid (covered by RMP if fuming) is also regulated by the Underground Storage Tank regulation, EPCRA Regulations, and the NPDES MSGP for Industrial Stormwater. The Agency recognizes the currently designated CWA HS and RMP regulated substances may not completely overlap. However, the Agency is taking this action based on the framework of key prevention elements, as implemented through the cumulative requirements identified within existing EPA regulations that are applicable to the universe of CWA HS and regulated facilities.

Finally, the commenter mischaracterizes the chemical accident prevention provisions in 40 CFR part 68 (RMP Rule) as they are since the RMP Amendments (82 FR 4594, January 13, 2017) and as EPA has proposed to revise them in the RMP Reconsideration proposal (83 FR 24850, May 30, 2018). The RMP Rule has had provisions for incident investigations and compliance audits since it was adopted in 1996 (61 FR 31688, 31717, June 20, 1996). The RMP Amendments added additional provisions addressing these topics, and the RMP Reconsideration proposal has proposed to rescind or modify these additions. The proposal is taking comment on reverting to the pre-RMP Amendments provisions on these issues and not altogether removing the incident investigation or compliance audit requirements.

iii. SPCC Regulation

The SPCC regulation includes requirements that address six of the nine program elements: Hazard review, mechanical integrity, personnel training, incident investigations, secondary containment, and emergency response plan.

Several commenters supported EPA's analysis of the SPCC regulation, stating that EPA correctly concluded that the SPCC program applies to oil, including mixtures of hazardous substances and oil, and contains a range of requirements that include a general review of facility hazards, personnel training, incident investigation, and emergency response planning. Several commenters stated that many states also have established protective, state-specific SPCC regulations to prevent discharges of oil and hazardous substances and to address them when they occur.

One commenter stated that many mining companies also treat substances with hazard characteristics similar to regulated oil-based products, comparable to those covered under a site's SPCC plan, as a best management practice. One commenter discussed that the SPCC regulation, including plans, secondary containment areas, and countermeasures, provides protection against hazardous substance discharges. One commenter stated that the SPCC regulation already requires facilities to develop and implement SPCC plans, conduct appropriate tank inspection

[14] See 40 CFR 116.4: The elements and compounds appearing in Tables 116.4 A and B are designated as hazardous substances in accordance with section 311(b)(2)(A) of the Act. This designation includes any isomers and hydrates, as well as any solutions and mixtures containing these substances. Synonyms and Chemical Abstract System (CAS) numbers have been added for convenience of the user only. In case of any disparity the common names shall be considered the designated substance.''

and testing in accordance with standards set by organizations such as the American Petroleum Institute and the Steel Tank Institute, install both general and sized secondary containment to prevent oil spills, and provide proper notification in the event of a spill.

Several commenters stated that the scope of the existing SPCC regulation includes mixtures of oil, such as PCB-containing transformer oil. According to the commenters, this is noteworthy given that in EPA's review, PCBs were associated with more than 50 percent of CWA HS discharges to water. A commenter further stated that the Agency should specifically find that it has already directly fulfilled Congress' legislative mandate. A commenter noted that a majority of facilities in the electric power industry that possess CWA HS of any significant volume are also subject to SPCC plan regulations and must comply with these provisions. These regulations significantly impact these facilities' potential to discharge hazardous substances, even if these hazardous substances do not, by themselves, trigger the SPCC requirements.

A commenter discussed that SPCC regulations, which address oil, and EPA's current proposed action, which addresses hazardous substances, serve the same legislative purpose: Preventing these materials from being discharged and containing these discharges if they occur. The commenter noted that a single mixture could have duplicative regulations that address the exact same congressional intent and the exact same risk.

Alternatively, several commenters opposed EPA's analysis of the SPCC Rule. One commenter stated that the analysis does not appear to address a significant protective regulatory gap. The commenter noted that SPCC rules do not apply to facilities with aggregate aboveground storage tank capacity of 1,320 gallons or less, and only counts containers of oil with 55 gallons of capacity or greater when determining storage tank capacity. The commenter stated that many potential PCB-containing oil containers, such as transformers, may not be covered by SPCC protections, and therefore may not have been adequately assessed by this analysis. Several commenters stated that SPCC applies only to ''oil'' or ''oil mixed with other substances,'' thus facilities or tanks storing hazardous substances—but not oil—are not subject to the rule. Commenters also stated that the SPCC rule is an ideal model for a spill prevention and response regulation for hazardous substances and contains features that can be adopted into a robust hazardous substance spill prevention regulation.

The EPA agrees with the comments that the SPCC prevention program elements serve as part of the larger framework of existing regulatory requirements identified in the proposed action, providing a holistic approach to CWA HS discharge prevention and containment. The EPA is basing this approach on an analysis of the frequency and impacts of reported CWA HS discharges, and on an evaluation of the existing framework of EPA regulatory requirements relevant to prevention, containment, and mitigation of CWA HS discharges. Additionally, the Agency recognizes other federal and state agency programs, as well as other industry standards, may also be effective in preventing and containing CWA HS discharges.

The EPA acknowledges that the SPCC program applicability is generally limited to certain containers of oil and oil mixed with other substances, including oil mixed with CWA HS, as further defined in the SPCC regulations themselves. While recognizing that containers and related equipment with only CWA HS are not regulated under SPCC as per the SPCC regulations, the Agency believes the application of SPCC prevention program elements still serves as a model for good engineering practice within SPCC regulated facilities and can provide collateral improvements resulting in overall spill prevention. The Agency agrees with certain commenters that collateral improvements, such as drainage and containment elements of the SPCC regulation, can be applied on a facility-wide basis, which can also serve to prevent, contain and mitigate discharges from CWA HS containers. Likewise, where CWA HS and oil handling activities (*e.g.,* operations, piping, storage containers) are co-located, the prevention elements of the SPCC program can also serve to prevent, contain and mitigate CWA HS discharges. This may also be important where containers and related equipment may be interchangeably used for both oil and CWA HS service: For example, operations, piping, and storage containers that meet the regulatory applicability and threshold requirements would be subject to the SPCC regulation.

The EPA disagrees with those commenters that state the SPCC program, as part of the existing EPA regulatory framework, fails to functionally provide the spill prevention protections mandated under section 311 of the CWA. In the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, EPA has established multiple statutory and regulatory requirements under different federal authorities that generally serve, directly and indirectly, to adequately prevent and contain CWA HS discharges. The Agency has identified the SPCC program as part of the larger framework of existing EPA regulations that implement cumulative discharge prevention requirements applicable to the universe of CWA HS and regulated facilities.

The EPA acknowledges the SPCC regulation applies to certain containers of oil and oil mixed with other substances, including oil mixed with CWA HS. While containers designated for use with only CWA HS (*i.e.,* containers not used interchangeably with oil) are not subject to the SPCC regulation, the Agency believes SPCC elements can serve to prevent and contain discharges where the operator chooses to apply the SPCC provisions facility wide. For example, elements of the SPCC regulation such as drainage and containment can be applied to include CWA HS containers and operations, thereby also serving to prevent discharges from CWA HS containers. Likewise, where CWA HS and oil handling activities (*e.g.,* operations, piping, storage containers) are co-located, the prevention elements of the SPCC program can also serve to prevent and contain CWA HS discharges.

The EPA also acknowledges that certain smaller facilities and containers may not be subject to SPCC because of its threshold applicability requirements, and that there may not be a complete overlap between SPCC protections and the universe of potentially regulated CWA HS facilities. However, this final action is not based on any individual provision, applicability threshold, and/or standalone regulatory program for the prevention of CWA HS discharges. The final action is based rather on the cumulative framework of key prevention elements, as implemented through the existing EPA regulatory programs identified, that have been demonstrated to adequately serve to prevent and contain CWA HS discharges.

iv. Pesticide Management and Disposal Regulation/Pesticide Agricultural Worker Protection Standard

The Pesticide Management and Disposal regulation includes requirements that address three of the nine program elements: Hazard review, mechanical integrity, and secondary containment. EPA reviewed the Pesticide Agricultural Worker

Protection Standard and found that the program includes requirements which address three of the nine program elements: Safety information, personnel training, and emergency response plan.

One commenter opposed EPA's analysis of the Pesticide Management Regulation and the Pesticide Agricultural Worker Protection Standard, stating that those regulations only apply to specific businesses in the agricultural industry, as the requirements only apply to chemicals that meet the definition of ''pesticide'' under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The commenter stated that according to EPA analysis for the proposed action, a little less than one-third of CWA HS may be used as pesticides. However, the commenter noted that the FIFRA definition requires that the substance also be ''intended for'' pesticide use, and unless the CWA HS is actually ''intended for'' use as a pesticide, the Pesticide Management Rule and the Pesticide Agricultural Worker Protection Standard spill-prevention requirements do not apply.

The EPA agrees that the applicability criteria of the Pesticide Management regulation and the Pesticide Agricultural Worker Protection Standard may be limited to a subset of CWA HS and a subset of facilities. The EPA also recognizes that the applicability criteria for some of the regulatory programs which serve, in part, as the basis for this action do not rely solely on chemical identity but include other factors. The regulatory programs discussed in the proposed action were selected because they include discharge or accident prevention requirements and were identified as regulating at least either some CWA HS or some facilities that produce, store, or use CWA HS. The Agency's analysis indicates that, for all nine program elements, there are existing cumulative regulatory requirements for accident and discharge prevention relevant to CWA HS under the framework.

v. RCRA Standards Applicable to Generators of Hazardous Waste/RCRA Treatment, Storage, and Disposal Facilities (TSDF) Standards

The RCRA Standards applicable to generators of hazardous waste includes requirements that address six of the nine program elements: Hazard review, mechanical integrity, personnel training, secondary containment, emergency response plan, and coordination with state and/or local responders. EPA reviewed RCRA TSDF Standards and found that the program includes requirements that address six of the nine program elements: Hazard review, mechanical integrity, personnel training, secondary containment, emergency response plan, and coordination with state and/or local responders.

Some commenters agreed with EPA's analysis of the RCRA regulations, stating that RCRA regulations require identification and safe storage, inspection, and shipping of wastes that are identified as hazardous due to ignitability, corrosivity, reactivity, or toxicity. The commenters also noted that the regulations subject storage and accumulation of wastes onsite to accumulation time limits; that hazardous waste containers and storage tanks, inspections, secondary containment, training, and spill response are addressed in the regulations; and that RCRA addresses pre-transportation packaging and labeling requirements for any hazardous wastes being shipped offsite. Some commenters stated that industrial facilities are subject to cradle-to-grave regulations governing the generation, storage, treatment, and disposal of hazardous waste, and that these regulations take into consideration the size and nature of wastes generated and create comprehensive regulatory framework for preventing and responding to releases.

One commenter supported EPA's analysis approach and suggested that RCRA TSDF Standard meets all nine requirements of the program elements either based on direct regulatory requirements or requirements that accomplish the same goals as required under the CWA HS language. The commenter listed other regulations beyond the 40 CFR parts 264 and 265 standards which TSDFs may also currently follow and stated those directly address requirements for each of the program elements. The commenter noted that TSDFs are required to follow OSHA safety information requirements to have SDSs available for any products that are kept or used at the facility. The commenter further noted that the proper operation of a TSDF requires that the facility know and understand the hazards associated with any material handled, which is accomplished with a detailed waste analysis plan required under 40 CFR 264.13.

The commenter noted that the requirements for incident investigations are met three ways: (1) Immediately after a release, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release (40 CFR 264.56(g)); (2) 40 CFR 264.56(i) requires documentation in the operating record of every time the contingency plan is implemented; and (3) TSDFs employ methods to prevent reoccurrence that include management team investigations of any releases. The commenter stated that if a release or incident is significant, the permitting authorities will often require an incident investigation, and that facilities regulated by OSHA PSM are also required to conduct an incident investigation when a significant event occurs under 29 CFR 1910.119(m).

Regarding compliance audits, the commenter stated that 40 CFR 264.73 requires every TSDF to keep an operating record. These records are maintained at the facility and are available for inspection. The commenter noted that in addition, facilities are required to immediately report any releases to the environment to the local authorities or the NRC and submit a written report to the Regional Administrator within 15 days of an incident.

The EPA acknowledges these commenters' support that RCRA regulations contribute to the existing framework of prevention requirements that apply to CWA HS when these substances are also considered hazardous waste. The RCRA Standards Applicable to Generators of Hazardous Waste at 40 CFR part 262 establishes cradle-to grave hazardous waste management standards and include general preparedness and prevention requirements as well as specific requirements for containers and tank systems.

The Agency recognizes the commenters' support for the inclusion of the RCRA TSDF Standard as part of the existing regulatory framework upon which this action is based; 40 CFR parts 264 and 265 establish minimum national standards for the acceptable management of hazardous waste. These standards include both facility-wide requirements such as good housekeeping provisions and unit-specific technical requirements designed to prevent the release of hazardous waste into the environment.

The Agency did not identify TSDF Standard requirements specific to the safety information, incident investigation, and compliance audits prevention program elements. Nonetheless, EPA recognizes other applicable regulations and standards at these TSDF facilities may address these elements. For example, the commenter cited OSHA's Hazard Communication Standard (29 CFR 1910.1200) as a

requirement for TSDFs that may serve to meet the safety information program element. While relevant and of value in CWA HS discharge prevention, the Agency ultimately focused on programs within its authorities, and for which the requirements more directly address the key prevention program elements. In general, the Agency recognizes other federal, state, and industry programs and standards may also be effective in preventing CWA HS discharges.

Further, the Agency notes the citations highlighted by the commenter (*i.e.,* 40 CFR 264.56(g) and (i)) are not requirements specific to incident investigations, but rather to immediate emergency response and written incident reports within 15 days to the EPA Regional Administrator. These provisions differ from those of the incident investigation program element identified for this action, which focuses on identifying the cause of an incident to implement corrective actions to prevent future recurrences. Finally, the Agency disagrees that regulatory requirements for compliance audits are captured under the citations offered by the commenter for operating record requirements at 40 CFR 264.73. While useful to review if performing a compliance audit, it is not itself a compliance audit requirement. This likewise applies to the incident reports requirements cited by the commenter at 40 CFR 264.56(d)(2) and (i) are not themselves compliance audits.

Alternatively, a commenter disagreed with EPA's analysis of the RCRA standards for generators of hazardous waste and the RCRA TSDF Standards, stating that the regulations address only a small part of the spill-prevention problem for CWA HS. The commenter stated that the regulations apply only to generators of hazardous waste, as defined under RCRA, and only some unquantified number of CWA HS would qualify as 'hazardous' under RCRA. In addition, the commenter stated that the generator requirements apply only to ''waste'' and that definition does not cover chemicals that are being created, stored for use, or used at a facility. The commenter further stated that by focusing only on ''waste'', the hazardous waste facility regulations capture only a sliver of the spill-prevention problem Congress intended CWA HS spill-prevention regulations to address.

The Agency recognizes that RCRA regulations apply to CWA HS when the CWA HS are considered hazardous wastes. However, the Agency identified these RCRA provisions regulations areas as part of a broader framework of existing regulations that address CWA HS. While there is not a complete overlap between these specific RCRA regulations and the universe of potentially regulated CWA HS facilities, this action is not based on any individual regulation and/or standalone regulatory program preventing CWA HS discharges, but rather on how the cumulative framework of key prevention elements, as implemented through those existing EPA regulatory programs identified, have been demonstrated to adequately serve to prevent and contain CWA HS discharges.

vi. Technical Standards and Corrective Action Requirements for Owners and Operators of USTs

The Technical Standards and Corrective Action Requirements for Owners and Operators of USTs at 40 CFR part 280 (UST regulation) include requirements that address five of the nine program elements: Hazard review, mechanical integrity, personnel training, secondary containment, and emergency response plan.

One commenter opposed EPA's analysis of the UST, stating that the regulation only addresses a subset of the facilities for which Congress has mandated that the President issue hazardous-substance spill-prevention regulations under the CWA. The commenter specified that the UST regulation, issued pursuant to a statutory mandate in RCRA, applies only to underground tanks, which it defines, subject to several exceptions, as any one tank, or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. The commenter added that portions of the UST regulation apply to so-called 'hazardous substance UST systems,' which generally includes UST systems storing more than 110 gallons of any CWA HS. The commenter stated that the UST regulation does not apply to above-ground storage tanks or any other non-transportation-related onshore facilities that do not meet the definition of an underground storage tank.

Relative to the UST regulations authorized by the Solid Waste Disposal Act, as amended (commonly known as RCRA), the EPA agrees the applicability criteria may be limited to a subset of CWA HS and a subset of facilities handling CWA HS. EPA also recognizes that the applicability criteria for some of the regulatory programs which serve, in part, as the basis for this action do not rely solely on chemical identity but include other factors as well. For example, EPA noted in the proposed action that requirements for USTs apply to CWA HS when present in UST systems greater than 110 gallons in capacity. The regulatory programs discussed in the proposed action were selected because they include discharge or accident prevention requirements and were identified as regulating at least some CWA HS; or regulating at least some facilities that produce, store, or use CWA HS. The Agency's analysis indicated that, for all nine program elements, there are existing cumulative regulatory requirements for accident and discharge prevention and containment relevant to CWA HS under various EPA programs.

vii. EPCRA Emergency Planning and Notification

The EPCRA Emergency Planning and Notification regulations include requirements that address two of the nine program elements: Emergency response plan and coordination with state and local responders.

Several commenters supported EPA's analysis of the EPCRA Emergency Planning and Notification regulations. One commenter stated that these programs cover all CWA HS that may be found at a steel mill and require detailed notification to emergency responders and reporting for each such chemical. Another commenter agreed with EPA's assessment of existing regulatory coverage, explaining that the EPCRA Emergency Planning and Notification regulations establish a Threshold Planning Quantity (TPQ) for Extremely Hazardous Substances (EHS) present at a mine site, and require that, if an EHS is present above the TPQ, information be submitted to the SERC. The commenter also noted that additionally, under EPCRA, emergency release notifications for EHS or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) hazardous substances are required. EPA acknowledges commenters' support of EPA's analysis of the EPCRA regulations, including as applied to CWA HS at specific facilities.

Some commenters opposed EPA's analysis of the EPCRA Emergency Planning and Notification regulations, stating that a majority of CWA HS are not covered by the Emergency Planning Rule's requirements. One commenter asserted that the EPCRA Emergency Planning Rule's requirements to facilitate development of state and local emergency response plans apply, with limited exception, only to facilities with an EHS above threshold planning

quantities onsite, and stated that fewer than 20 percent of CWA HS are listed EHS under EPCRA. The commenter stated that of the 13 most commonly spilled CWA HS, only five (ammonia, chlorine, hydrogen chloride, nitric acid, and sulfuric acid) are listed as EHS under EPCRA regulations.

Another commenter discussed EPCRA requirements generally and stated that there was a lack of clarity in how the analysis of protection provided by EPCRA regulations ensures that water quality will not be compromised. The commenter stated that EPCRA applies to substantial quantities of a limited universe of hazardous substances and is intended to prevent large scale community harm from a catastrophic air release, not prevent chronic community and ecological harm via water quality degradation through a drainage release pathway, and urged EPA to clarify and reassess the analysis in this proposed rulemaking and to eliminate any protective factors from the analysis that do not directly affect risk to water quality.

EPA disagrees that the applicability criteria of the EPCRA notification requirements is limited to a subset of CWA HS for emergency release notification. The emergency release notification requirements under 40 CFR part 355 apply to facilities that produce, use, or store a hazardous chemical, and that also release a reportable quantity of either an EHS or a designated CERCLA hazardous substance; all CWA HS are defined as CERCLA hazardous substances.

EPA agrees the applicability criteria of the EPCRA emergency planning requirements are limited to a subset of CWA HS. The emergency planning requirements under 40 CFR part 355 apply to facilities with an EHS onsite in amounts equal to or greater than its designated TPQ. The list of EHS is codified in Appendices A and B of 40 CFR part 355 and includes substances that are also designated as CWA HS. Although the EPCRA emergency planning requirement is for facilities that handle EPCRA EHS, many LEPCs now also include planning for other hazardous chemicals that are reported on the Tier II form under section 312 of EPCRA.

The applicability criteria for the identified regulatory programs, which serve in part as the basis for this action, do not always rely on chemical identity, and includes other factors. Thus, the Agency recognizes that while all the identified regulations include at least some CWA HS within their applicability criteria, the extent to which they serve to prevent and contain CWA HS discharges may be impacted by how broadly or narrowly they regulate those substances within any specific facility. However, the Agency again notes that this final action is not based on any individual provision and/or program preventing CWA HS discharges, but rather on how the cumulative framework of key prevention elements, as implemented through existing EPA regulatory programs, has been demonstrated to adequately serve to prevent, contain and mitigate CWA HS discharges.

viii. EPCRA Hazardous Chemical Inventory Reporting

The EPCRA Hazardous Chemical Inventory Reporting regulation includes requirements that address two of the nine program elements: Safety information and hazard review.

Several commenters supported EPA's analysis of the EPCRA Hazardous Chemical Inventory Reporting regulation as it relates to the safety information and hazard review. One commenter, however, asserted that there is potentially another prevention program element under the EPCRA Hazardous Chemical Inventory Reporting regulation that was not identified as relevant in EPA's analysis: Incident investigations. The commenter explained that pursuant to the EPCRA regulation found at 40 CFR 355.40(a), a facility must include in its immediate notification several pieces of information that require incident investigation including: The chemical name or identity of any substance involved in the release; an estimate of the quantity of any such substance that was released into the environment; the time and duration of the release; the medium or media into which the release occurred; and any known or anticipated acute or chronic health risks associated with the emergency. The commenter also noted that, except for releases that occur during transportation, the facility must provide a follow-up written emergency notice including: (1) A description of any actions taken to respond and contain the release; (2) state any known or anticipated acute or chronic health risks associated with the release; and (3) where appropriate, provide advice regarding the medical attention necessary for exposed individuals. The commenter further stated that incident investigation typically includes identification of the incident, a determination of why the incident occurred, and a determination of appropriate actions to remedy the incident or prevent future incidents. The commenter asserted that the EPCRA Hazardous Chemical Inventory Reporting Regulations require these components so that the facility can submit a mandatory report. As a facility is required to create a notification that includes the above parameters, it must first investigate the incident to determine what the release was, how it occurred, and identify appropriate follow-up actions.

The Agency recognizes these commenters' support for this action. However, the Agency disagrees with the commenters that the EPCRA Hazardous Chemical Inventory Reporting Regulations, in essence, require incident investigations. The highlighted notification requirements the commenter offers as relevant to incident investigation provisions (*e.g.,* chemical name, estimate of quantity released, media release occurred into, necessary medical attention) focus on facility reporting requirements to state and local officials, including information on releases at the facility which must also be made available to the public. For hazardous chemicals designated under the OSHA and its implementing regulations, the EPCRA hazardous chemical inventory reporting provisions require facilities to provide their stored amounts and storage location, as well as their potential hazard(s). The Agency believes that while the information within the reporting requirements highlighted by the commenter may also be included as part of incident investigations, the focus of an incident investigation is to determine the cause of a CWA HS discharge, to identify ways to prevent recurrence, to document the investigation's findings, and to implement appropriate corrective actions. Again, while the EPCRA provisions highlighted in this section do not include requirements for incident investigation, LEPCs may use an actual event to update the LEPC emergency response plan and to plan for any potential events in the future. As stated in the above section of this document, many LEPCs focus their emergency planning efforts on all OSHA hazardous chemicals, which include EPCRA EHSs.

In contrast, some commenters disagreed with EPA's analysis of the EPCRA Hazardous Chemical Inventory Reporting rules. One commenter urged EPA to address limitations regarding the implementation of EPCRA. The commenter explained that according to an article by Benjamin et al. (2018),[15] while EPCRA requires industry to report the storage, use, and releases of

[15] Benjamin, J., Smith, E., Kearns, M., Rosen, J., and Stevens, K. (2018). Improving Water Utilities' Access to Source Water Protection and Emergency Response Data. Journal AWWA. 110:2. E33–E44.

hazardous substances to federal, state, and local governments, it is often the most difficult data for utilities to obtain for an entire geographic area because of restrictions mandating how requests must be submitted, and because data can be accessed only after a request is fulfilled. The commenter noted that the article by Benjamin et al. singles out the requirement where requests made under EPCRA must be made by individual facility name and address, which requires utilities to have knowledge of all facilities in their area that may have chemical storage tanks on site. These restrictions mean that utilities often do not have all the information they need to prepare for the possibility of a future spill. Another commenter also noted that there is no requirement in any current regulation for facilities to alert downstream utilities once a spill has occurred.

Another commenter stated that the EPCRA Hazardous Chemical Inventory Reporting requirements have a limited reporting regime, and that EPA should establish a more robust reporting regime for CWA HS, including requiring reporting directly to EPA, as well as local and state authorities. The commenter also stated that while reporting is critical, it alone does not prevent spills.

As the Agency highlighted in the proposed action, the EPCRA Hazardous Chemical Inventory Reporting regulation establishes reporting requirements for facilities to provide state and local officials with information on hazardous chemicals present at the facility. The information submitted by the facilities must also be made available to the public. These reporting requirements under 40 CFR part 370 were identified to reflect both the Safety Information and Hazard Review program elements. As part of prevention planning, owners/operators must maintain and review safety information about the chemicals they handle, as well as the equipment involved in their operations. Knowledge and understanding of this information could serve to maintain overall safe operations, reducing the potential for CWA HS discharges. Likewise, the hazard review process is intended to identify potential chemical or operational hazards present in a process. The task of identifying potential hazards could inform changes in operations that would prevent, contain and mitigate CWA HS discharges.

The Agency disagrees the EPCRA Hazardous Chemical Reporting requirements should include directly reporting to EPA. The purpose of these requirements is to provide the public with important information on the hazardous chemicals in their communities, raising community awareness of chemical hazards and aiding in the development of State and local emergency response plans. The Agency believes such a requirement would unnecessarily increase burden on a reporting facility when the intent is to ensure local communities are aware of chemical hazards.

The Agency recognizes that while all the identified regulations include at least some CWA HS within their applicability criteria, the extent to which they serve to prevent, contain and mitigate CWA HS discharges may be impacted by how broadly or narrowly they regulate those substances within a facility. However, EPA disagrees that the applicability criteria of the EPCRA Hazardous Chemical Inventory Reporting regulation cover a limited universe of hazardous substances. The applicability of EPCRA reporting requirements under 40 CFR part 370 is tied to the OSHA HCS (29 CFR 1910.1200(g)). This OSHA standard requires that, for each hazardous chemical, the chemical manufacturer, distributor, or importer provide Safety Data Sheets (SDSs) to downstream users to communicate information on their hazards. Given that OSHA requires SDSs for all designated CWA HS, the EPCRA Inventory reporting requirements under 40 CFR part 370 apply to facilities handling any designated CWA HS.

The EPA recognizes recent statutory amendments to EPCRA to require state and tribal emergency response commissions to notify the applicable State agency (*i.e.,* the drinking water primacy agency) of any reportable releases and provide community water systems with hazardous chemical inventory data. The EPA published a factsheet on its website [16] which provides information on these amendments for SERCs, Tribal Emergency Response Commissions (TERCs), and LEPCs.

The Agency again notes that this action is not based on any individual provision and/or program preventing CWA HS discharges, but rather on how the cumulative framework of key prevention elements, as implemented through existing EPA regulatory programs, adequately serves to prevent and contain CWA HS discharges.

[16] *https://www.epa.gov/sites/production/files/2019/04/documents/awia_epcra_fact_sheet_draft_508_serc_terc_lepc_final_4-10-19.pdf.*

ix. Pulp, Paper and Paperboard Effluent Guidelines

As highlighted in the proposed action, the CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category include requirements that address six of the nine program elements: Hazard review, mechanical integrity, personnel training, incident investigations, compliance audits, and secondary containment.

A commenter supported EPA's analysis of the CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category, and suggested inclusion of additional program elements. The commenter advocated that the regulation includes requirements for all nine program elements, and that EPA should recognize the requirements related to safety information, hazard review, compliance audits, emergency response plan, and coordinating with state/local responders.

The EPA agrees with the commenter that the CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category have requirements on hazard review and compliance audits; however, the Agency did not identify requirements specific to safety information, emergency response plans, and coordinating with state/local responders on emergency response plans.

In contrast, a commenter disagreed with EPA's analysis of the CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category because the guidelines address only a subset of non-transportation-related onshore facilities that store or use CWA HS.

The EPA disagrees with the comment because the Best Management Practice (BMP) requirements of 40 CFR 430.03 and related effluent limitations found in 40 CFR 430.24 and 40 CFR 430.54 (for specific CWA HS that may be present in effluents from Subpart B and E mills) serve to prevent and contain discharges of CWA HS. For the other mill subcategories under 40 CFR 430, and require permit limits for specific CWA HS (related to the use of certain biocides) unless the permittee has certified to the permit-issuing authority that they are not using these certain biocides.

x. Other EPA Regulatory Programs

Several commenters highlighted other EPA regulations not considered for the proposed action as having applicable discharge prevention requirements, including multiple regulations

governing aboveground and underground storage tanks. Specifically, the commenters characterized requirements within other EPA programs they believe provide further accident discharge prevention requirements, as follows:

- NPDES Permits: Some commenters asserted that NPDES permits contain effluent limitations and other conditions designed to ensure that any discharges from the point source do not cause or contribute to a violation of an applicable water quality standard, including narrative standards. One commenter asserted that while the Pulp and Paper Effluent Guidelines that EPA identified in the proposed action contain specific BMP requirements designed to avoid discharges from mill processes into the mill sewer system that concern and response applies to other types of facilities as well. A commenter asserted many of the EPA effluent guidelines for other point source categories effectively require or create a strong incentive for covered facilities to implement similar measures to prevent or contain spills that otherwise would go into the facility's sewer and impact its wastewater treatment plant.
- NPDES SWPPPs: A commenter asserted that many facilities are required to develop SWPPP under the requirements of their individual NPDES permits. The commenter asserted that under these requirements, facilities are required to conduct site-wide evaluations and identify all potential pollutant sources, describe maintenance and inspection procedures for points of discharge, and maintain robust records of inspections and any required follow-up maintenance of BMPs.
- NPDES Pretreatment Program: Some commenters asserted that because a large number of facilities that may store or use hazardous waste substances are subject to EPA pretreatment standards under CWA § 307, this creates a substantial regulatory infrastructure which encourages industrial users of POTWs to avoid hazardous substance spills and to contain them if they occur.
- CWA Citizen Suit Provision: A commenter asserted that the CWA's frequently used citizen suit provision allows any citizen to commence a civil action against a mining company for an unpermitted point source discharge into a navigable water, which provides for additional incentives to avoid unplanned discharges resulting from spills.
- CERCLA: Some commenters asserted that facilities likely to be affected by additional CWA HS regulations are already aware of potential liability under CERCLA, which creates a strong incentive for companies to monitor and control the potential release of hazardous substances.
- RCRA Corrective Action Program and RCRA Imminent Hazard Provisions: Some commenters asserted that CWA HS may also be subject to cleanup requirements for releases of hazardous waste, under the Resource Conservation and Recovery Act (''RCRA'') Corrective Action program, and under the imminent hazard provisions of RCRA § 7003 for releases of hazardous and non-hazardous solid waste. A commenter asserted that, like CERCLA, RCRA cleanup liability has created a strong incentive for companies to monitor and control the potential release of hazardous substances.
- Toxic Release Inventory (TRI): A commenter asserted that there is large overlap between CWA HS and chemicals reported under TRI, which already requires extensive inventory reporting. A commenter stated that EPA should recognize that TRI and similar federal and state reporting requirements can be as effective in motivating facilities to prevent and contain hazardous substance discharges as can traditional command-and-control regulations such as the alternatives considered in the Proposed Action, if not more so.
- TSCA: A commenter noted that TSCA directly regulates PCBs (along with SPCC), and that certain of these regulations specifically address the regulatory program elements identified by EPA as pertaining to CWA HS discharges and are designed with the express intent to contain any potential discharge from escaping into the environment.
- Safe Drinking Water Act (SDWA): A commenter stated that the potential for hazardous substance releases is addressed through regulations promulgated pursuant to the SDWA.

The EPA recognizes that other of its regulatory programs may also create incentives for implementing prevention, containment and mitigation measures. However, for the purposes of this final action the Agency identified specific EPA regulatory programs that contain requirements to address the key prevention program elements. For example, the Agency's review of its existing regulatory programs included the Effluent Guidelines requirements for the Pulp, Paper, and Paperboard Industry promulgated at 40 CFR part 430; this specific review was included because of its provisions for spill prevention and control measures and the requirement to develop a BMP. The relevant BMPs (Subparts B and E of part 430) to prevent spills and leaks of spent pulping liquor, soap, and turpentine apply specifically to direct and indirect discharging pulp, paper, and paperboard mills with pulp production.

The EPA identified similar requirements under five CWA Effluent Guidelines and Standards. For the Ore Mining and Dressing Point Source Category standard, EPA found that these effluent guidelines contain requirements for two program elements: Mechanical integrity and secondary containment. For the Transportation Equipment Cleaning Point Source Category standard, EPA found that these effluent guidelines contain requirements for one program element: Hazard review. For the Construction and Development Point Source Category standard, EPA found that these effluent guidelines contain requirements for one program element: Hazard review. For the Concentrated Aquatic Animal Production Point Source Category standard, EPA found that these effluent guidelines contain requirements for two program elements: Mechanical integrity and personnel training. Finally, for Pesticide Chemicals standard, EPA found that these effluent guidelines contain requirements for three program elements: Mechanical integrity, secondary containment, and emergency response plans. For further details on these requirements, please see the *Supplemental BID.*

Likewise, the Agency is aware that some individual NPDES permits may include SWPPPs, which in turn may contain requirements for the development of spill prevention and response plans as part of BMPs. However, because the entities issuing these permits have discretion whether to require any specific BMPs that may include a spill prevention plan on an individual facility basis, the Agency is not considering them as part of the basis for this final action. The Agency recognizes that, similar to the discretionary nature of certain program elements for NPDES Pretreatment Standards, individual entities may have, on a case-by-case basis, requirements that may also serve to prevent and contain CWA HS discharges. In contrast, for facilities subject to the SPCC regulation under 40 CFR part 112, the requirement to prepare an SPCC Plan and to implement an SPCC program is non-discretionary. Nonetheless, the Agency recognizes provisions under other programs may serve to further support the framework of regulatory requirements that would serve to prevent and contain CWA HS discharges.

Regarding the NPDES Pretreatment Program, EPA agrees with the commenters and identified requirements for seven of the program elements: Safety information, hazard review, mechanical integrity, personnel training, secondary containment, emergency response plan, and coordinating with state/local responders. For details on these requirements, please see the *Supplemental BID* in the docket for this action.

While EPA did not point to specific program elements under CWA Citizen Suit, CERCLA and/or RCRA cleanup liability, or TRI and/or similar federal and state reporting requirements as program elements in EPA's discharge and accident prevention programs, the Agency recognizes that these provisions may also serve as a deterrent to CWA HS discharges.

Regarding TSCA PCB regulations, EPA agrees with the commenter and identified requirements for five of the program elements: Safety information, hazard review, mechanical integrity, secondary containment, and emergency response plans. For details on these requirements, please see the *Supplemental BID* in the docket for this action.

Regarding SDWA regulations, EPA did not include SDWA in its program review. There are no specific regulations regarding CWA HS in SDWA. However, under the provisions of the 1996 SDWA Amendments (Pub. L. 104–182, Section 1453), states exercising primary enforcement responsibilities for public water systems were required to complete source water assessments by the end of 2003. Source Water Assessments developed by states were intended to assist local governments, water utilities, and others in identifying and prioritizing risks, mitigation options, and preparedness measures.

The Agency recognizes that several EPA regulations address aboveground and underground storage tanks, for example the UST regulations. The proposed action, *BID* and *Supplemental BID* include background on EPA regulations for aboveground and underground storage tanks that would apply to CWA HS.

Table 2 summarizes the provisions relevant to program elements identified in EPA regulatory programs reviewed both in the *BID* and in the *Supplemental BID,* that adequately serve to prevent and contain CWA HS discharges.

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Table 2
EPA Programs and Corresponding Regulations that Address the Nine Program Elements

	Program Elements[a]								
	Safety Information	**Hazard Review**	**Mechanical Integrity**	**Personnel Training**	**Incident Investigations**	**Compliance Audits**	**Secondary Containment**	**Emergency Response Plan**	**Coordination with State and Local Responders**
Reviewed in the Supplemental BID:									
CWA NPDES Pretreatment Standards	✓[b]	✓[b]	✓[b]	✓[b]			✓[b]	✓[b]	✓[b]
TSCA PCB Regulation	✓	✓	✓				✓	✓	
CWA Effluent Guidelines and Standards: Ore Mining and Dressing Point Source Category			✓				✓		
CWA Effluent Guidelines and Standards: Transportation Equipment Cleaning Point Source Category		✓							
CWA Effluent Guidelines and Standards:		✓							

	Program Elements[a]								
	Safety Information	**Hazard Review**	**Mechanical Integrity**	**Personnel Training**	**Incident Investigations**	**Compliance Audits**	**Secondary Containment**	**Emergency Response Plan**	**Coordination with State and Local Responders**
Construction and Development Point Source Category									
CWA Effluent Guidelines and Standards: Concentrated Aquatic Animal Production Point Source Category			✓	✓					
CWA Effluent Guidelines and Standards: Pesticide Chemicals Point Source Category			✓				✓	✓	
Originally Reviewed in BID									
CWA NPDES MSGP for Industrial Stormwater (2015)		✓	✓		✓SBID	✓SBID	✓	✓	
CAA RMP Regulation	✓	✓	✓	✓	✓	✓		✓	✓
CWA SPCC Regulation		✓	✓	✓	✓		✓	✓	
FIFRA Pesticide Management Regulation		✓	✓				✓		
FIFRA Pesticide Worker Protection Standard	✓			✓				✓	

	Program Elements[a]								
	Safety Information	**Hazard Review**	**Mechanical Integrity**	**Personnel Training**	**Incident Investigations**	**Compliance Audits**	**Secondary Containment**	**Emergency Response Plan**	**Coordination with State and Local Responders**
RCRA Generators Regulation		✓	✓	✓			✓	✓	✓
RCRA TSDF Regulations		✓	✓	✓			✓	✓	✓
SWDA UST Regulation		✓	✓	✓			✓	✓	
EPCRA Emergency Planning and Notification Regulation								✓	✓
EPCRA Hazardous Chemical Inventory Reporting Regulation	✓	✓							
CWA Effluent Guidelines and Standards for Pulp, Paper and Paperboard Point Source Category		✓SBID	✓	✓	✓	✓SBID	✓		

[a]A check mark indicates that the regulatory program includes provisions addressing at least one sub-element of the program element.

[b]Note that these requirements are at the discretion of the regulatory authority.

✓SBID indicates EPA added this check mark after public comment review.

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Though not shown in Table 2, the Agency also reviewed associated program elements or specific requirements, identified as sub-elements (*e.g.,* under the emergency response plan program element, sub-elements include requiring information about appropriate medical treatment of exposures and procedures for notifying downstream receptors). While inclusion of the sub-elements varies considerably across programs, EPA found the majority were addressed in at least one EPA program and corresponding regulation, with most addressed in several programs. A detailed analysis of the EPA regulations that address the nine program elements is contained in the *BID* for the proposed action, as well as in the *Supplemental BID* for this final action, both of which are available in the docket.

This analysis identifies relevant prevention requirements for the existing regulatory framework currently applicable to facilities that manufacture, store, produce, use, or otherwise handle CWA HS. The Agency acknowledges, however, that it does not necessarily

gauge the extent to which each prevention element is addressed by the specific provisions. The precise relevance and coverage of existing regulatory requirements to the nine program elements will depend on site-specific information, which is not always available for a nation-wide analysis. The basis for the final action relies on existing EPA framework of regulatory requirements coupled with the frequency and impacts of reported CWA HS discharges.

xi. Other Federal and State Regulations

While they were not the basis for the Agency's decision for this final action, EPA identified OSHA Regulations, MSHA Regulations, PHMSA Hazardous Materials Regulations, and Office of Surface Mining Reclamation and Enforcement (OSMRE) Regulations spill prevention requirements that may be applicable to CWA HS. EPA also identified several state regulations addressing spill prevention requirements that may be applicable to CWA HS.

Several commenters agreed with EPA's analysis of other federal and state regulations. Many of these commenters offered additional federal and state programs that they believe serve to prevent and contain CWA HS. Alternatively, one commenter noted that EPA identified only 14 states that regulate the proper handling and storage of chemicals to prevent accidents and discharges, and that no state appears to provide for all CWA HS the full panoply of spill-prevention program elements identified by EPA in its proposal.

The Agency acknowledges the comments providing additional federal and state regulations that may serve to prevent and contain CWA HS. However, the basis for this final action are the existing EPA regulatory requirements relevant to prevention and containment. Nonetheless, the Agency recognizes that other federal and state regulatory programs, as well as other non-regulatory programs and industry standards, may be applicable and relevant to CWA HS discharge prevention, containment and mitigation.

E. Comments on Additional Efforts To Gather Data

The Agency signaled in the proposed action its intent to supplement the information used as the basis for its determination with an additional information collection through a voluntary survey. The voluntary survey was distributed to U.S. states, tribes, and territories and requested information on EPCRA Tier II facilities, discharges and impacts of hazardous substances to surface waters from 2007 to 2016, and existing state programs in place to help prevent and mitigate the impacts of discharges of hazardous substances to surface waters. The EPA anticipated using the results of the survey to further inform this regulatory action.

Several commenters offered comments on the proposed action in support of the Agency's voluntary survey effort. Some of the commenters stated the Agency should have waited to issue the proposed action until it had the information from the voluntary survey, with one questioning how the EPA could reach the determination that no regulation was needed without first consulting the States, Tribes, and territories who have developed such programs and regulate hazardous substance facilities. Commenters also requested that EPA make the information received through the voluntary survey available for public comment before taking final action.

As previously noted in this FR notice, on June 22, 2018, the Agency issued a voluntary survey directed at State and Tribal Emergency Response Coordinators (respondents with custodial responsibility for data representing the potentially affected ''facility universe'' that produce, store, or use CWA HS), as well as state, tribal, and territorial government agencies with custodial responsibility for data on CWA HS impacts to drinking water utilities and fish kills potentially caused by discharge(s) of CWA HS. The EPA received relevant responses from 15 states: Alabama, California, Delaware, Hawaii, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Mexico, Oregon, Rhode Island, and Texas. The Agency made available the data it obtained in response to the voluntary survey through *Regulations.gov* at Docket ID: EPA–HQ–OLEM–2017–0444, provided notice of its availability on the EPA website for this action, and provided direct notice to the litigants in the S.D.N.Y. litigation that the data was available. Additionally, on February 19, 2019, the EPA published a NODA making the survey data received available for public review and comment.

Three comments submitted on the NODA supported the additional data gathering efforts and the public availability of the responses. One commenter stated that making spill data available allows the public to hold the EPA and industries accountable for hazardous waste spillage, and citizens to make informed decisions on where they live or how their environment may be impacting them. One stated that, while it is important to provide this data to the public, it is more important to enact regulations that monitor how hazardous substances enter water, further citing hydraulic fracturing as just one way these hazardous materials enter our waterways. EPA agrees with the comments that support making the voluntary data publicly available.

The Agency considered the supplemental data received in response to the survey and associated public comments to further inform this final action. The Agency analyzed the data received through the voluntary survey to identify new, potentially relevant discharges and impacts (*i.e.,* could not be matched to those identified in the proposed action), as well as to refine the facility universe analysis.

1. Discharge Estimates and Impacts Analysis

The Agency compared the number of newly identified discharges, and discharges with newly identified reported impacts, to a subset of discharges of CWA HS from non-transportation-related sources presented in the proposed action, for the 13 states analyzed.[17] From the NRC data, the Agency had identified 2,491 potentially relevant discharges and 117 discharges with impacts nationwide. The EPA identified an additional 159 discharges and 148 discharges with impacts, from the 13 states. For the revised total including data from the voluntary survey, EPA identified a subset of 265 discharges with impacts from a total of 2,650 historical, in-scope CWA HS discharges. Impacts included fish kills, evacuations, injuries, hospitalizations, fatalities, sheltering in place, waterway closures, water quality alerts/events/advisories, and water supply contamination.

2. Facility Universe Estimates

To estimate the universe of facilities that would potentially be subject to the proposed action, the Agency reviewed EPCRA Tier II reports submitted by 16 states and extrapolated the data nationally based on NAICS codes. EPA received Tier II reports submitted by two states from the ICR. EPA already had Tier II reports from one of these states—Minnesota. The Agency added the Tier II reports from the second state, Delaware, to the analysis to estimate a

[17] Data from the 13 states analyzed includes data from 10 states that responded to the voluntary survey and fish kill data from three states which EPA had received for the proposed action. A full analysis of the voluntary survey data can be found in Appendix B of the Regulatory Impacts Analysis, included in the docket for this action.

revised facility universe. Using Tier II reports for 2014, 2015, or 2017 (the latest available) submitted to 17 states, there are an estimated 108,000 potentially regulated facilities nationwide. A full analysis of the voluntary survey data can be found in Appendix B of the RIA, included in the docket for this action.

F. Comments on Alternative Regulatory Options Considered

1. Prevention Program

The Agency considered proposing a CWA HS discharge prevention and containment program that would include provisions to address all nine prevention program elements: Safety information, hazard review, maintenance/mechanical integrity, personnel training, incident investigations, compliance audits, secondary containment, emergency response plan, and coordination with state and local responders. Following an analysis of the existing framework and of the frequency of CWA HS discharges and the causes and impact of such discharges, EPA chose not to propose this approach, in part because the data suggest that the existing framework of regulatory requirements adequately serves to prevent and contain CWA HS discharges. The EPA requested comment on whether to develop a CWA HS prevention program.

Many commenters supported adoption of a Prevention Program, with the Agency receiving similar comments in a mass mailer that facilities handling hazardous substances should develop comprehensive plans to prevent discharges into water. One commenter further urged EPA to issue regulations that at a minimum prevent spills, ensure spills are contained and cleaned up expeditiously, and ensure the public has the information that the commenter believes it needs to avoid harm. The commenter stated that an ideal prevention program would include all nine program elements. Additionally, the commenter stated that a prevention program should include: annual reporting of Tier II type information to EPA for facilities covered and not covered by EPCRA Tier II; an SPCC-like plan approved by facility management that is updated every five years or as the result of changes at the facility (*e.g.,* stored materials); mechanical integrity standards and annual inspection of all storage areas, tanks, and secondary containment devices and structures by a third-party professional engineer (PE), compliance audits every three years by a PE, and third-party incident investigations reports provided to EPA, state, and local emergency response committees; secondary containment measures aligned with ''good engineering practices'' and suitable for the hazardous substances stored; public notification of spills, including notification to local and state emergency response commissions, EPA, local public health agencies, and local public water providers, and the identification of individuals responsible for notification; and financial bond requirements for covered facilities to pre-fund, or otherwise pre-arrange for response and cleanup activities. Another commenter urged EPA to reconsider the option of a prevention program that would credit a company's prevention efforts in compliance with another federal or state regulation, stating that such a program would ensure a coordinated prevention program that addresses the production, storage, and use of hazardous substances.

The EPCRA Inventory reporting regulation establishes reporting requirements for facilities to provide state and local officials with information on hazardous chemicals present at the facility, including CWA HS. The information submitted by the facilities must be submitted to the LEPC, the SERC, and the local fire department. The EPA believes that an additional burden of annual reporting of similar information to the Agency would not further reduce CWA HS discharges and their impacts.

The Agency identified CWA HS discharges in the NRC data where a CWA listed hazardous substance, such as PCBs, were mixed with oil (*e.g.,* transformer oil). The Agency included the SPCC regulation in its review of regulatory programs that address discharge or accident prevention requirements because, while applicable to oil, it also regulates oil mixed with other substances, including CWA HS. Storage and handling of PCB-laden transformer oil containers are subject to several of the regulatory elements of the SPCC regulation when a facility meets the applicability criteria of 40 CFR part 112. The SPCC regulation requires facilities to submit a report to the Regional Administrator and to certain state regulatory agencies after certain oil discharges impacting jurisdictional waters (40 CFR 112.4). The report includes information to assist the EPA with evaluating the efficacy of the SPCC plan and to identify potential amendments to the plan that may be required. The elements in the report include information related to the oil discharge's cause, corrective actions taken, failure analysis, and other preventative measures to minimize the reoccurrence of the discharge. Overall, the SPCC regulation includes various elements to prevent oil discharges, including discharges of oil mixed with CWA HS, including a facility diagram, oil discharge predictions, secondary containment or diversionary structures, bulk storage overfill prevention, requirements for piping and bulk container inspections, transfer procedures, reporting requirements, discharge response/planning elements, personnel training, PE review of amendments and a five-year plan review. Many of these elements were also identified in other EPA regulatory programs. For example, EPA identified six other EPA regulations that have secondary containment provisions as key program elements because, when properly designed and maintained, secondary containment systems can prevent discharges to waters subject to CWA jurisdiction. While the Agency recognizes the SPCC regulation has PE plan certification, secondary containment, and mechanical integrity and inspections for bulk containers requirements for certain plan holders, the SPCC regulation does not otherwise require: (1) Mechanical integrity standards and annual inspection of all oil storage areas, all containers, and secondary containment devices and structures by a third-party PE; (2) compliance audits every three years by a PE; and (3) third-party incident investigations with the cause of the spill, corrective action, and recommendations for additional corrective action, with such reports provided to EPA, state, and local emergency response committees. Notwithstanding the applicability of its provisions, EPA believes the SPCC regulation is a critical regulatory program that, along with the other EPA regulatory programs identified, serve as existing cumulative EPA regulatory requirements for accident and discharge prevention relevant to CWA HS.

The Agency agrees that notification of discharges is a key element in a prevention program. There are existing notification requirements under EPA regulations (and other federal regulations) that already serve this need. For example, 40 CFR 117.21 provides that any person in charge of a vessel or an onshore or an offshore facility shall, as soon as he has knowledge of any discharge of a CWA HS in quantities equal to or exceeding in any 24-hour period the reportable quantity, immediately notify the appropriate agency of the United States Government of such discharge (see 33 CFR 153.203).

As highlighted in the proposed action, the EPCRA Emergency Planning regulation (Emergency Planning and Notification, 40 CFR part 355) requires emergency notification in the event of a release of a regulated chemical, including CWA HS. Furthermore, facility owners/operators must already designate a facility representative to provide notice to the LEPC (40 CFR 355.20(b)). The emergency release notification requirements in 40 CFR part 355 apply to facilities that produce, use, or store a hazardous chemical, and that also release a reportable quantity of either an EHS or a CERCLA hazardous substance, including all CWA HS. These EPA regulations serve as part of the basis for this action.

The EPA did not identify a program element in the regulatory programs that the Agency reviewed that requires covered facilities to post bond, pre-fund, or otherwise pre-arrange for response and cleanup activities. The Agency believes that CWA 311 already sufficiently addresses responsible party liability in cases of a discharge or a substantial threat of discharge.

Finally, the Agency chose not to finalize new regulations under CWA(j)(1)(C) following an analysis of the existing framework of EPA regulatory provisions, the frequency of CWA HS discharges and the causes and impacts of such discharges. This analysis suggests that the existing framework of EPA regulatory requirements adequately serves to prevent, contain and mitigate CWA HS discharges.

2. Targeted Prevention Requirements

The Agency considered proposing a limited set of requirements designed to prevent and contain CWA HS discharges and identified the following requirements that could be effective: Hazard review, mechanical integrity, personnel training, and secondary containment. However, the Agency believes that these provisions would add only minimal incremental value under a new regulation. While EPA did not propose this approach, EPA sought comment on whether it should adopt a narrowly targeted regulatory approach to prevent, contain and mitigate CWA HS discharges.

One commenter urged EPA to adopt a comprehensive prevention program instead of targeted prevention requirements, stating that simply because the NRC database does not list reported causes of spills that correspond directly to some spill prevention measures such as incident investigations, compliance audits, notification requirements, and emergency response planning is not a reasonable basis for EPA to reject those measures. In addition, this commenter wrote that EPA's basis for rejecting the targeted prevention approach is unreasonable, stating the Agency cannot refuse to issue regulations because some requirements issued under other statutory provisions apply to some hazardous substances at some facilities.

The Agency's review of cause data in the NRC database for past CWA HS discharges identified four key program elements for the targeted program that the Agency believed could more immediately address the identified discharge causes. The Agency did not reject spill prevention elements such as incident investigations, compliance audits, notification requirements, and emergency response planning on the basis that the NRC database does not identify reported causes of spills that could be prevented by that program element. Rather, the Agency did not finalize a targeted requirement approach because provisions reflective of key program elements frequently exist in EPA regulatory programs and because the Agency believes further regulation would provide only minimal incremental value.

3. Alternative Approach—Incorporate Existing Discharge Prevention Provisions Established Under Other Statutory Authorities Under a CWA Section 311(j)(1)(C) Program

The Agency requested comments on the concept of establishing a prevention program under CWA section 311(j)(1)(C) authority that incorporates existing discharge prevention provisions already established under other statutory authorities.

Three commenters expressed support for minimizing regulatory redundancies of a HS spill prevention regulation through recognizing actions from other regulatory requirements. One commenter agreed that EPA can and should minimize regulatory redundancies when the requirements under the new hazardous substance spill prevention regulations would be redundant of existing requirements. At the same time, the commenter asserted that EPA must maintain comprehensive hazardous substance spill prevention protection and stated that a patchwork of rules could create unforeseen gaps or loopholes. The commenter stated that alternative compliance would allow partial compliance with the new regulation by compliance with portions of existing regulations. The commenter also stated that any limitation in the scope of the hazardous substance spill prevention regulation based on redundancy or substituted compliance must be based on a specific comparison of each applicable regulation's requirements and effects. Finally, the commenter noted that they cannot comment on the reasonableness of any substitutions until EPA first determines the requirements under a new spill prevention regulation.

Another commenter urged EPA to reconsider the option of a prevention program that would credit a company's prevention efforts in compliance with another federal or state regulation, stating that a program that works with other regulations would ensure a coordinated prevention program that addresses the production, storage, and use of hazardous substances beyond those substances that end up in the waste stream. This alternative would require additional study of the causes and impacts of hazardous substances spills, informing an effective spill prevention, control, and countermeasure program.

As discussed elsewhere in this notice, one commenter supported EPA's targeted prevention requirements alternative and recommended that EPA collect data and further explore requiring facilities to comply with either the NPDES MSGP or the SPCC rule. This commenter believed that EPA's data successfully demonstrate that the targeted program elements are already in place in the NPDES MSGP, SPCC rules, and UST requirements. Facilities that already comply with the NPDES MSGP would need to take no further action; facilities that already comply with the SPCC regulations would be expected to adapt their SPCC plans as necessary to ensure that they address hazardous substances as well.

One commenter who submitted a comment to the NODA published in the **Federal Register** on February 19, 2019 (Docket number EPA–HQ–OLEM–2017–0444) stated that EPA already has experience with an available program focused on accident prevention in the Clean Air Act Section 112(r): Accidental Release Prevention/Risk Management Plan. The commenter stated that this program already requires OSHA's PSM standard as the accident prevention program as well as additional hazard assessment, management, and emergency response requirements for Program 3 facilities. The commenter added that there is no reason that EPA could not tier the CWA accident prevention rule just as it did for RMP and would not need to create a new program when it can adapt an existing program.

The EPA disagrees with the commenter's assertion that any

limitation of the scope of CWA HS spill prevention regulation based on redundancy or substituted compliance must be based on a specific comparison of each applicable regulation's requirements and effects, and that the commenter would not be afforded the opportunity to comment on the reasonableness of any substitutions until EPA first determines the requirements under a new spill prevention regulation. The Agency set forth to determine whether new regulatory requirements under CWA section 311(j)(1)(C) would be appropriate to prevent, contain and mitigate CWA HS discharges. The EPA identified an analytical framework of discharge prevention, containment, and mitigation provisions, or program elements, found in discharge and accident prevention regulatory programs. The EPA then conducted a review of existing EPA regulatory programs to determine which ones include these program elements and apply to CWA HS. The EPA believes it is reasonable to expect variations in the scope and provisions of existing EPA regulatory programs for accident and discharge prevention, even as the Agency's analysis showed there is an existing framework of cumulative requirements that adequately serves to prevent, contain and mitigate CWA HS discharges. Furthermore, the Agency reviewed cause data in the NRC database for past CWA HS discharges and identified four key program elements for the target program that can more immediately address the identified discharge causes in consideration of targeted prevention requirements. The Agency chose not to finalize this option because these provisions were frequently identified in existing EPA regulatory programs and because the Agency believes it would provide only minimal incremental value by requiring these provisions in a new regulation. The Agency also requested information that it may use to revise or supplement the Agency's analysis regarding any facilities which are using, storing, producing, and/or otherwise handling CWA HS. While the Agency received additional information on reported impacts of CWA HS through the voluntary survey, the Agency did not receive information that pointed to a need for additional review of the causes of hazardous substance discharges. Based on the reported frequency and impacts of identified CWA HS discharges, and the Agency's evaluation of the existing framework of EPA regulatory requirements relevant to preventing CWA HS discharges, EPA has determined that the existing cumulative framework of regulatory requirements adequately serves to prevent and contain CWA HS discharges, and therefore, the alternative approach to incorporate existing discharge prevention provisions established under other statutory authorities under a CWA section 311(j)(1)(C) program is not necessary at this time.

As discussed above, the Agency considered an alternative approach for targeted accident prevention provisions; such an approach could also serve as the basis for a tiered approach similar to the RMP regulation. However, the Agency's determination not to issue any new regulatory requirements at this time is not based solely on an evaluation of the existing framework of EPA regulatory requirements relevant to discharge prevention and containment, but also on the analysis of the reported frequency and impacts of identified CWA HS discharges. One commenter opposed the possibility of promulgating ''drop-in'' requirements for hazardous substances into the existing SPCC framework. The commenter noted that the SPCC provisions would be expanded to apply to hundreds of different substances whose physical and chemical properties are as varied as the facilities and equipment employed to manage them. Additionally, the commenter raised concerns that there likely are thousands of facilities, especially those that are operated by small businesses, that may store chemicals but do not store oil and would come into the SPCC program for the first time. The commenter saw the costs of SPCC ''drop-in'' requirements significantly outweighing any corresponding benefit.

The EPA agrees that promulgating ''drop-in'' requirements for CWA HS whose physical and chemical properties vary into an existing SPCC framework tailored to oil would expand the current SPCC facility universe to include facilities not previously subject to 40 CFR part 112. The EPA did not propose a ''drop-in'' requirement and therefore did not include such analysis in the RIA for the proposed action.

4. Alternative Approach—Applicability Criteria for Alternative Options Considered (Facilities, Thresholds)

The Agency requested comments on appropriate applicability criteria or thresholds for alternative options, if the Agency were to finalize an alternative option that established a regulatory program that applied to facilities producing, storing, processing, using, transferring or otherwise handling CWA HS.

One commenter noted that EPA did not provide applicability criteria or thresholds in the proposed action. In the absence of such criteria, the commenter suggested that EPA set an applicability threshold for each non-transportation-related onshore facility that stores CWA HS matching the chemical-specific thresholds for reporting hazardous substance spills under 40 CFR 117.3. The commenter suggested two alternative methods of applying these thresholds: Set the thresholds to apply to the entire regulation, such that a facility that is over the threshold for a single CWA HS must comply with all requirements; or set different applicability thresholds for separate subparts of the regulation. The commenter stated that EPA should consider setting more stringent thresholds for facilities in sensitive areas, such as those where a spill could affect water bodies that serve as public drinking water supplies, recreation sites, or ecologically sensitive habitats. The commenter asserted that, in addition to reporting requirements, regulated facilities must take precautions to prevent and respond to discharges.

The Agency recognizes there are various approaches to setting applicability criteria or thresholds for a prevention regulatory program, such as those based on reportable quantities under 40 CFR 117.3. However, given that the Agency is not finalizing either a prevention program, targeted requirements, or any other alternative regulatory option, it is not establishing any applicability criteria in this final action. Each of the EPA prevention programs identified as part of the existing prevention and containment framework already have specific applicability criteria. This framework of existing EPA regulatory requirements adequately serves to prevent and contain CWA HS discharges. Therefore, EPA believes there is no need to establish additional or superseding applicability criteria or thresholds under CWA section 311(j)(1)(C) at this time.

5. Alternative Approach—Other Suggested Options

In response to the Agency's request for comments on any alternative approaches not specifically identified in the proposed action, six commenters suggested alternative spill prevention program options in addition to those presented in the proposed action.

Two commenters suggested approaches that would address the

potential impact of discharges on drinking water systems. One commenter recommended that EPA clearly define a drinking water utility as an authorized recipient of EPCRA Tier II information to support emergency planning, notification, and response. The commenter stated that such changes would mitigate the potential impact on treatment operations and require that the potentially impacted community water systems receive timely notification of a hazardous substance release under section 311 of the CWA. This commenter also noted the importance of prevention measures such as mitigating risks and consequences of hazardous substance releases. They requested a comprehensive assessment of the full universe of CWA HSs that would include additional applicability to both SPCC and TSCA. Another commenter expressed that EPA should further investigate alternatives that are both feasible and cost-effective, without being an economic burden. They urged EPA to develop a mandatory notification process for downstream utilities following a hazardous chemical spill, to facilitate utilities obtaining EPCRA information, and to clarify existing requirements and develop guidance for utilities to better utilize the program.

One commenter suggested EPA establish improved enforcement and stricter consequences for facilities, noting that enforcement should include facility inspection for secondary containment and third-party audits, and provide consequences for facilities that do not honor water quality standards. The commenter also expressed concern that water providers do not have necessary information to determine the location of potential chemical contamination sources, and consequently cannot develop adequate response programs or procedures. The commenter suggested that EPA could develop a GIS interface to better disclose such facilities to utilities and the public so that facilities and communities could prepare response plans for worst case scenarios.

Noting the number of CWA HS spills, another commenter recommended a flexible plan where States create State Implementation Plans to reduce the number of hazardous substance spills, without harming economic growth.

One commenter stated that EPA should promulgate a rule requiring detailed spill prevention requirements including: Plans that are publicly disclosed, have enforcement criteria, include regular internal and external inspections of storage tanks containing hazardous substances; specify regular third-party inspections and safety audits; primary storage specification such as tank design and size limitations based on the type of chemical); secondary containment; immediate public notification; bonds for or pre-fund response and cleanup costs; and public disclosure of the location and size of aboveground storage tanks, their last inspection date, and the identity of the hazardous substance.

Another commenter suggested an alternative that includes spill mitigation and prevention activities in line with the inspection and documentation of accident prevention programs identified by the U.S. Chemical Safety Board. The commenter suggested strategic coordination between facility owners/operators and third parties such as local emergency response officials and LEPCs.

The EPA recognizes recent statutory amendments to EPCRA to require state and tribal emergency response commissions to notify the applicable State agency (*i.e.,* the drinking water primacy agency) of any reportable releases and provide community water systems with hazardous chemical inventory data. The EPA published a factsheet [18] on its website that provides information on these amendments for SERCs, TERCs, and LEPCs.

For the purposes of this action, the term ''hazardous substance'' is defined in CWA section 311(a)(14). The EPA has promulgated a list of CWA HS in 40 CFR part 116. To estimate the universe of potentially subject facilities, EPA took a conservative approach and assumed that all facilities identified through the EPCRA Tier II data as having CWA HS would have the potential to discharge to jurisdictional waters. The Agency could not identify, for the purposes of this final action, an appropriate method to estimate, and exclude from the analysis, the number of facilities that would not have the potential to discharge to waters subject to CWA jurisdiction.

The Agency disagrees with comments relative to the flexible plans, including States establishing State Implementation Plans to reduce the number of hazardous substance spills. CWA section 311(j)(1)(C) authorities are not delegable to states. However, nothing in the final action prevents states from developing their own prevention programs.

Note that for all EPA regulatory programs identified the Agency enforces regulatory requirements in accordance with its specific statutory authorities. While EPA did not identify a specific program element relative to posting bonds, pre-funding, or otherwise pre-arranging for response and cleanup activities, the Agency believes that CWA 311 already addresses responsible party liability in cases of a discharge or a substantial threat of discharge. Finally, while CWA 311(j)(1)(C) authorities are not delegable to states, nothing in the final action prevents states from developing their own prevention programs.

As highlighted in the FR Notices and supporting documentation to the proposed and final action, the identified framework of EPA programs already includes requirements similar to those highlighted by the commenters. For example, the RMP regulation requires facilities that use certain listed, regulated substances to develop and implement a risk management program, and to submit to EPA an RMP Plan for all covered processes. The RMP must be reviewed and revised, as appropriate, and the RMP Plan summarizing the facility's program must be resubmitted every five years. Likewise, the SPCC regulation requires an SPCC Plan comprised of several elements, including a facility diagram, oil discharge predictions, secondary containment or diversionary structures, overfill prevention, requirements for inspections, transfer procedures, personnel training, and a five-year plan review, mechanical integrity and inspections for bulk containers, secondary containment, and PE plan certification requirements for certain plan-holders. Finally, the Agency addresses in this document similar statements about what some commenters believe should be included in detailed spill prevention requirements in the discussion of the individual prevention programs elements, as well as in the discussion of each existing EPA regulatory program identified as part of the framework (*e.g.,* public disclosure of plans; public disclosure of the location and size of aboveground storage tanks, their last inspection date, and the identity of the hazardous substance; storage tank compatibility and specification; enforcement criteria, including regular internal and external inspections of hazardous substance-containing storage tanks, regular third-party inspections and safety audits; secondary containment; immediate public notification of discharges; and bonds for, or pre-funding of, response and cleanup costs).

The Agency identified nine program elements that are commonly contained

[18] *https://www.epa.gov/sites/production/files/2019-04/documents/awia_epcra_fact_sheet_draft_508_serc_terc_lepc_final_4-10-19.pdf.*

in EPA regulatory programs provisions, and that adequately serve to prevent, contain, or mitigate CWA HS. The EPA believes these key program elements capture mitigation actions such as employee training, maintenance cycles, management of change, and programs to properly manage contractors and similar programs the commenter stated are identified by the U.S. Chemical Safety Board. For example, the *BID* and *Supplemental BID* describe the personnel training element as training programs for employees and/or contractors help ensure they are aware of proper and/or safe operating procedures, chemical hazards, discharge prevention and containment measures, and response procedures. The EPA believes a training program that aims to reduce operator errors that could lead to CWA HS discharges and educate operators on the proper implementation of discharge prevention measures would capture the employee training action identified by the commenter.

The Agency believes a framework for strategic coordination between facility owners/operators and third parties, such as local emergency response officials and LEPCs, already exists under programs such as EPCRA. The EPCRA Emergency Planning and Notification regulation [19] requires regulated facilities to provide information necessary for developing and implementing state and local emergency response plans. It also requires emergency notification in the event of a release of a regulated chemical. The facility owner/operator must designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator and provide notice to the LEPC. The LEPCs include representatives from the local community (including elected state and local officials; police, fire, civil defense, and public health professionals; facility representatives; and community group representatives). The LEPCs develop an emergency response plan for the community and provide information about chemicals in the community to citizens. Where there is no active LEPC, different entities such as fire departments, emergency management agencies, police departments, or public health agencies may be planning for and/or assisting in an incident response. Likewise, the EPCRA Inventory reporting regulation [20] establishes reporting requirements for facilities to provide state and local officials with information on hazardous chemicals present at the facility. The information submitted by the facilities must also be made available to the public.

G. Comments on Legal Authority

CWA section 311(j)(1)(C) directs the President to issue regulations establishing procedures, methods, and equipment; and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges. 33 U.S.C. 1321(j)(1)(C). The President has delegated to EPA the authority to regulate non-transportation-related onshore facilities (see Section 2(b)(1) of Executive Order 12777, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990). Pursuant to section 2(i) of Executive Order 12777, DOI has redelegated CWA section 311(j)(1)(C) authority to regulate non-transportation related offshore facilities landward of the coastline to EPA.

On July 21, 2015, the Environmental Justice Health Alliance for Chemical Policy Reform, People Concerned About Chemical Safety, and the Natural Resources Defense Council filed a lawsuit against EPA for failing to comply with an alleged duty to issue regulations to prevent and contain CWA HS discharges originating from non-transportation-related onshore facilities, including aboveground storage tanks, under CWA section 311(j)(1)(C). On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between EPA and the litigants establishing a schedule under which EPA is to sign ''a notice of proposed rulemaking pertaining to the issuance of the Hazardous Substance Regulations,'' and requiring EPA to take final action after notice and comment on the notice. The EPA issued a notice of proposed rulemaking on June 25, 2018 (83 FR 29499) in which, based on the existing framework of EPA regulatory requirements, in conjunction with an analysis of the frequency and impacts of reported CWA HS discharges, the Agency did not propose any new spill prevention and containment regulatory requirements under CWA section 311(j)(1)(C) at this time.

Several commenters stated that the Agency has the discretion and inherent authority to interpret CWA section 311(j)(1)(C) as having already been fulfilled by other federal statutory and regulatory programs implemented after the CWA's amendment of the Federal Water Pollution Control Act in 1972. Some commenters further asserted it would be arbitrary and capricious for the EPA to ignore the statutory and regulatory programs that have been adopted in the 40 years since, and that already achieve the same ends as any potential new regulation, regardless of whether they were issued with reference to section 311(j)(1)(C). Some commenters pointed to a ''de minimis doctrine'' that allows an agency to decline to take a regulatory action when the totality of circumstances indicates that issuing the regulation would provide no significant benefit, and not just when there would be no benefit at all. One commenter questioned whether EPA holds the authority to unilaterally revise section 311 of the CWA to include products outside the provision's current scope and applicability, and without the direction of the Congress. Another stated that while the Consent Decree required that EPA issue proposed rules to further regulate the prevention and containment of hazardous substance spills under CWA section 311(j)(1)(C), neither the litigation nor the Consent Decree included any input from the many stakeholders that would be affected by the promulgation of such rules, and notably did not involve any of the entities that would be subject to potential new regulations. Other commenters pointed to case law in support of the Agency's proposed action.

Based on an evaluation of the existing framework of EPA regulatory requirements, and the reported frequency and impacts of CWA HS discharges, the Agency is not finalizing any new spill prevention and containment requirements under CWA section 311(j)(1)(C) at this time. EPA believes there would be only minimal incremental value in requiring new prevention regulatory provisions. Further, there is no reason to believe that establishing what may be redundant provisions would alleviate discharges from facilities that disregard existing regulations. For this determination, the Agency evaluated statutory and regulatory programs adopted since Congress enacted CWA section 311(j)(1)(C), contrasting existing requirements relevant to preventing CWA HS discharges with the frequency and reported impacts of CWA HS discharges. The Agency believes it has a demonstrated record of acting in accordance with the law and of meeting its obligations relative to CWA section 311(j)(1)(C).

The President delegated to the EPA Administrator those functions in CWA section 311(j)(1)(C) pertaining to

[19] Emergency Planning and Notification, 40 CFR part 355.

[20] Hazardous Chemical Reporting: Community Right to Know, 40 CFR part 370.

establishing procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from non-transportation-related onshore facilities (Section 2(b)(1) of Executive Order 12777, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990); the Department of the Interior has redelegated the authority to regulate non-transportation-related offshore facilities landward of the coastline to EPA (see 40 CFR part 112, Appendix B). Therefore, this action considers requirements promulgated by EPA when assessing whether the existing regulatory framework adequately serves to prevent, contain and mitigate CWA HS discharges.

The Agency does not have the authority to unilaterally revise CWA statutory language. EPA is taking this action to comply with the Consent Decree and the requirements of CWA section 311(j)(1)(C). The Agency provided an opportunity for public notice and comment on its approach to CWA HS regulations under section 311(j)(1)(C). EPA acknowledges commenters supporting this approach. The Agency has appropriately considered cost and benefit implications for this action in accordance with Executive Order 12866. The Agency developed this action in accordance with the Administrative Procedure Act (APA) and consistent with applicable Executive Orders.

Alternatively, some commenters asserted that the proposed action requiring no new requirements violates the CWA mandate that the President ''shall issue regulations . . . establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of . . . hazardous substances'' from non-transportation-related onshore facilities, ''and to contain such discharges.'' One commenter stated that the current regulatory framework does not fully mitigate the risk of CWA HS discharges when hazardous substances are stored in close proximity to drinking water sources. Some commenters asserted that when Congress intends to give EPA discretion regarding whether to issue a regulation, it does so explicitly, and that Congress did not grant such discretion in CWA section 311(j)(1)(C). Some commenters stated the proposed approach to not issue new regulatory requirements under CWA section 311(j)(1) is not consistent with the intent of the Consent Decree. Other commenters pointed to existing case law to oppose the Agency's proposed action.

In the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, multiple statutory and regulatory requirements under different federal authorities have been established that generally serve to, directly or indirectly, prevent and contain CWA HS discharges. The EPA recognizes the need for prevention requirements; to this end, the Agency specifically identified existing regulatory requirements for procedures, methods, and equipment to prevent and contain discharges of hazardous substances from non-transportation-related facilities located both onshore and offshore landward of the coastline. Given this existing framework of EPA regulatory programs, and the analysis of frequency and impacts of reported CWA HS discharges, the Agency believes there would be only minimal incremental value in promulgating new prevention regulations. The Agency again notes this action is not based on any individual provision and/or standalone regulatory program preventing CWA HS discharges. The analysis demonstrated how the cumulative framework of key prevention and containment elements, as implemented through those existing EPA regulatory programs identified, meet the requirement to regulate CWA HS under section 311(j)(1)(C). The Agency considered whether it was appropriate to issue new regulatory requirements under CWA section 311(j)(1)(C) for hazardous substances and determined, as provided in the final action and supported by the record, that at this time EPA has met its statutory obligations.

The EPA is taking this action to comply with the Consent Decree and with CWA section 311(j)(1)(C). The Agency has provided an opportunity for public notice and comment on the approach to satisfy the CWA requirements under section 311(j)(1)(C). The Agency developed this action in accordance with the Administrative Procedure Act (APA) and consistent with applicable Executive Orders. The Agency analysis demonstrates that there would be only minimal incremental value at this time in promulgating new regulatory requirements.

The applicability of the individual prevention programs or regulatory requirements varies depending on the covered CWA HS and on the scope of coverage over specific facilities that produce, store, or use the regulated CWA HS. While the Agency recognizes this variability, the analysis shows the identified EPA regulatory programs address the universe of CWA HS. Furthermore, this action is not based on any individual provision, applicability thresholds, and/or standalone regulatory program for the prevention of CWA HS discharges. Rather, this action is based on the cumulative framework of key prevention elements, as implemented through the existing EPA regulatory programs identified herein, that have demonstrated at this time to offer adequate protections to prevent and contain CWA HS discharges at the universe of potentially CWA regulated facilities.

H. Comments on Economic Analysis and Executive Orders

1. Economic Analysis

The EPA prepared an economic analysis of the potential costs and benefits associated with the three regulatory options considered for the proposed action. Several commenters agreed with EPA's conclusion for the proposed action that the existing framework of regulatory requirements serves to prevent and contain CWA HS discharges and that the benefits may not justify the costs of any of the targeted program elements. One commenter stated that EPA reasonably concluded that additional regulations to address releases of CWA HS were liable to be extremely costly to implement with little or no spill prevention benefit, redundant of existing regulations, and/or in conflict with existing regulations. Another commenter stated that additional new requirements would increase cost and recordkeeping requirements without any environmental benefits, while yet another commenter stated that no regulatory program, regardless of how stringent it is, will prevent all discharges from regulated facilities, and EPA is not obligated to impose regulations with that objective in mind.

One commenter stated that a new rule that would impose new procedural and other substantive requirements would have significant costs and that the benefits may not justify these costs. The commenter asked EPA to explain more fully EPA's authority to consider costs and benefits before deciding to adopt new regulations. The commenter also stated that just because EPA issues a new regulation intended to reduce the chance of an uncontained spill does not mean that facilities will have any significantly greater incentive to prevent and contain spills than already exists. This commenter stated that EPA should emphasize in its final action that cost-benefit balancing does not justify any new regulations addressing CWA HS releases.

Two commenters stated that EPA is not prohibited by law from considering costs and benefits of proposed rules and that recent case law has shown that EPA has the discretion to do so. One of the commenters stated that the Supreme Court has further shown that, if EPA fails to consider cost in determining whether to regulate—and in particular, whether to add new regulations on top of existing requirements—it is vulnerable to an arbitrariness challenge. The commenter stated that the Supreme Court found that even though there was no explicit statutory mandate to consider costs and benefits, issuing a rule without doing so was arbitrary and capricious, and unreasonable. In addition, these commenters noted that E.O. 12866 and E.O. 13563 instruct agencies to consider quantitative cost-benefit balancing and that nothing in the CWA prevents EPA from following those directives.

One commenter agreed with EPA's conclusion that existing federal and state regulations and industry standards already contain the regulatory standards that EPA would impose but disagreed with EPA's assessment about the burdens associated with duplicative regulation. This commenter stated that while EPA suggests that the burdens of duplicative regulations are fairly minor, this might be accurate only with perfect coordination among states, federal agencies, and industry standard-setting organizations. In practice, this commenter noted, it is more likely that requirements will be inconsistent or contradictory, resulting in few if any burden reductions in having to comply with two separate regulatory programs. This commenter disagreed with EPA's statement that the cost assessments are significant overestimates because many facilities will already be fulfilling these requirements under a wide variety of existing regulations and urged EPA to reconsider its conclusion about the regulatory burdens associated with duplicative regulations.

One commenter expressed appreciation for EPA's efforts to evaluate the monetized damages associated with CWA HS discharges but was concerned that the monetized damages overestimated the direct costs associated with the discharges. The commenter also noted that other federal statutes and regulatory programs are appropriate mechanisms to address other types of damages associated with chemical releases, and damages caused by discharges of CWA HS are most accurately assessed by limiting evaluation to those impacts directly caused by discharges of CWA HS to water. The commenter asserted that just because a chemical release reaches water does not necessarily mean that the chemical reaching the water caused the other site impacts. The commenter asserted that it is not clear whether some impacts, such as sheltering in place and fatalities, are caused directly by hazardous substances reaching water. The commenter added that the 2014 fatality included in the Regulatory Impacts Analysis (RIA) appeared to have been caused by incidents unrelated to the discharge of a hazardous substance to water and it is likely that the other two fatalities were not directly caused by CWA HS reaching jurisdictional waters. This commenter suggested that the fatality in 2014 which EPA included in its assessment of impact in the RIA for the proposed action should not be included, and that it would be more appropriate for the fatality in EPA's assessment of impacts in 2014 to be considered in an evaluation of chemical accidents subject to OSHA or RMP regulations. The commenter noted that in its review, removing one of the three included fatalities would decrease the monetized damages in the RIA by approximately one-third. Furthermore, the commenter stated that removing all three fatalities from the cost data in the RIA would reduce EPA's annualized cost impacts by 90 percent. The remaining estimated annualized cost of impacts from hazardous substance discharges across the nation would then be below EPA's estimated cost of compliance for a single large facility.

The Agency acknowledges the commenters' support for its determination not to promulgate new regulations at this time. EPA has determined that the regulatory alternatives it considered would create only minimal incremental value and is not finalizing new regulatory requirements at this time. Regarding the comment that the monetized damages overestimated the direct costs associated with the discharges, EPA agrees with the commenter that not all the monetized impacts may be the direct result of CWA HS discharges to water and stated such in the RIA for the proposed action. For example, the number of individuals evacuated represents evacuees from the facility resulting from the reported incident. EPA has no information regarding whether the evacuations were caused by the discharges to water.

EPA also agrees with the commenters that the fatalities reported to the NRC database may not be the direct result of CWA HS discharges to water. For example, the information reported to the NRC database on the 2014 fatality states, ''Caller is reporting an 18-gallon release of transformer oil onto the ground and into storm drain along Connecticut Ave which leads to the Reynolds Canal. Transformer exploded and released the material from the bottom of the unit.'' Based on this description, EPA cannot confirm that the reported fatality in 2014 was the direct result of a CWA HS discharge to water. However, EPA is being conservative to ensure inclusivity and is attributing the fatalities to a CWA HS discharge to water. As described in the Discharge Universe Limitations section of the RIA for the final action, while the NRC database is the best available source of information on CWA HS discharges in the United States, EPA recognizes the limitations of this database. Because the NRC database may contain inaccuracies due both to under- and over-reporting, and because EPA has no information to assess the extent to of any under- or over-reporting, EPA used the NRC data as reported. The RIA for the final action reiterates this limitation as it relates to reported fatalities and other reported impacts.

In addition to the monetized damages, the RIA discusses other quantitative and qualitative damages. Quantified, but not monetized, damages include sheltering in place, waterway closures, water contamination, and fish kills. Damages that were described qualitatively in the RIA due to a lack of data include other potential water quality impacts, lost productivity due to a facility or process shutting down resulting from a discharge, emergency response costs, and property value impacts.

A commenter opposed EPA's consideration of costs and benefits, stating that EPA's analysis is incomplete because it does not consider environmental impacts and associated impacts to treaty resources. This commenter stated that the economic assessment does not account for the following: Sheltering in place, waterway closures, water supply contamination, environmental impacts, lost productivity, emergency response costs, transaction costs, and property value impacts. The commenter noted that the Elk River Spill contaminated the drinking water of over 300,000 people, closed schools, essentially eliminated the local economy, and caused an estimated $61 million in losses to local business. This commenter urged EPA to reevaluate the costs associated with a hazardous substance spill to incorporate the suite of economic, social, environmental, and cultural costs. The commenter also noted that EPA must fulfill its Trust Responsibility in protecting the treaty-protected resources

of the Makah Tribe, in part via the CWA, and the current regulatory and economic analysis does not consider the impacts to treaty resources from a hazardous substance discharge.

Two commenters provided additional information to support an analysis of the cost of water supply contamination and stated their dissatisfaction with EPA's calculations. These commenters noted that FEMA's valuation for disruption of water service is $111 per person per day (2018 dollars; $93/person/day in 2008 dollars) and identified an upper bound estimate of $238 per person per day (2018 dollars; $208/person/day in 2008 dollars). These commenters also cited an analysis conducted on the high-profile incident in Charleston, WV, where the costs to the community were approximately $19 million per day for the first four days following the incident, totaling $61 million. One of these commenters stated that while the chemical substances that affected 300,000 residents and business in Charleston, WV are not listed as CWA HS, the impact on that community is unquestionable, and is due almost exclusively to the spill's impact on the community's drinking water supply.

One commenter did not believe EPA's cost-benefit analyses adequately accounted for the potential impacts to drinking water utilities and communities. The commenter believed that water supply contamination can be a major cost to a community, since costs are incurred by the utility and its rate payers as well as taxpayers. The commenter further described several costs that can be incurred when drinking water supplies are disrupted, including: Extensive remediation and potential public health consequences when downstream utilities draw in contaminated water through surface water intakes; economic losses from cessation of potable water production and sewerage service interruption; cracks, collapses in the distribution system, loss of fire protection, and pipe bursts due to depressurization in mains and pipes without water in distribution system; cost to community of developing new raw water source if remediation is not possible; and outreach costs incurred by utilities when spill occurs to inform customers of advisories. This commenter noted that EPA identified 49 instances of water contamination and requested that EPA provide further details of their cost-benefits analysis and explain why impacts like water supply contamination were excluded from the monetized damages summary. The commenter encouraged EPA to include the monetary costs of this water contamination in its assessment of costs.

The EPA disagrees with these comments opposing its approach not to finalize new regulatory requirements, as the analysis pointed to minimal incremental value. Additionally, EPA based its decision on the frequency and impacts of reported CWA HS discharges to jurisdictional waters and an analysis of the existing framework of EPA regulatory requirements. In addition, the Agency recognizes there are other federal and state agency programs and other industry standards that may be effective in preventing discharges of CWA HS.

A regulatory impact analysis (RIA) is included in the record. However, because EPA was unable to determine the number of potentially regulated facilities currently undertaking various prevention activities in the baseline, EPA was unable to estimate either total costs per facility or total program costs across facilities.

As discussed in Section III.B, to estimate historical CWA HS discharges and impacts, EPA reviewed release notifications received by the NRC. The NRC is the designated federal point of contact for reporting all oil, chemical, radiological, biological, and etiological releases into the environment anywhere in the United States and its territories. The EPA supplemented the NRC database with data on impacts from the ATSDR's NTSIP, which collects and combines information about harmful releases from many sources into a central location. In June 2018, EPA requested additional information through the CWA HS Spill Prevention Information Collection Request (ICR). EPA sent a voluntary survey to states, tribes, and U.S. territories requesting information on EPCRA Tier II facilities, discharges of hazardous substances to surface waters from 2007 to 2016, as well as existing state programs in place to help prevent and mitigate the impacts of discharges of hazardous substances to surface waters. The EPA received data from 15 states in response to the survey. The NRC, NTSIP, and voluntary survey data sources were used to estimate historical damages in the RIA for the final action.

The EPA acknowledges the RIA for the proposed action did not monetize the following historical damages: Sheltering in place, waterway closures, and water supply contamination (*e.g.,* economic losses from cessation of potable water production and sewerage service disruption); nor did it quantify historical damages from environmental impacts, lost productivity, emergency response costs, transaction costs, and property value impacts. The EPA does not have the data required to monetize or quantify these historical damages, respectively. For example, the NTSIP database provided information on whether sheltering in place was ordered (via a yes/no field) but did not provide information on the number of people sheltered or the duration of the sheltering. Therefore, EPA was unable to monetize this impact in the RIA for the proposed or final action.

With respect to water supply contamination, in FEMA's 2009 BCA Reference Guide, FEMA values the economic impacts of complete loss of potable water service as $93 per person per day. However, EPA has no data on the size of the affected populations or the duration of any water supply contamination reported in the NRC database to enable it to apply FEMA's valuation of the economic impact of a complete loss of potable water service. EPA's information on water supply contamination, based on NRC data, indicates whether a drinking water source was contaminated by a release. However, the NRC data does not indicate whether there was a resulting loss of potable water service, and if so, the duration of the event. Similarly, two states reported impacts to public water systems through the voluntary survey but did not report on the population impacted or the duration of any shutdown. Therefore, EPA cannot apply FEMA's valuation of loss of water service to monetize the historical damages associated with water supply disruptions and contaminations from CWA HS discharges reported to the NRC.

The EPA recognizes that additional benefits that were not quantified may result from avoided discharges of CWA HS. As discussed in the RIA for the proposed action, these benefits include avoided impacts to water quality, avoided lost productivity due to a facility or process unit shutting down as a result of a discharge, avoided emergency response costs associated with responding to a CWA HS discharge, avoided transaction costs (such as the cost of litigation that may result if the public is impacted by a CWA HS discharge), and avoided property value impacts for nearby properties that may result due to changes in perceived risk, appeal, or reduced ecological services after a CWA HS discharge. The EPA does not have data to enable the Agency to quantify or monetize these potential avoided damages.

To supplement the NRC and NTSIP data used for the proposed action, EPA conducted a voluntary survey to obtain

additional information from states, tribes and U.S. territories, including information on CWA HS discharges and fish kills. The EPA received data on two additional injuries without hospitalizations, which were added to the historical damages in the RIA for the final action; however, after rounding, the total monetized damages over the 10-year period remained $33.1 million in 2016 dollars (see the RIA for the final action for discussion of damages from Maryland fish kill events).

2. Executive Orders

Commenters supported EPA's proposed action as consistent with President Trump's Executive Orders 13771, Reducing Regulation and Controlling Regulatory Costs and 13777, Enforcing the Regulatory Reform Agenda, which mandated that agencies across the federal government identify two regulations to repeal for every new significant regulation proposed. One commenter stated that EPA's proposed action for hazardous substances is responsive to these EOs, ensuring that additional, unnecessary regulatory requirements are not imposed. Another commenter stated that any expansion of a current SPCC rule not only usurps the states' regulatory authority but seems to be at odds with President Trump's Executive Order 13777, Enforcing the Regulatory Reform Agenda, as the order explicitly directed agencies to identify regulations that are unnecessary or impose costs that exceed benefits.

The EPA acknowledges the comments supporting its decision not to finalize new regulatory requirements. The Agency is basing this decision on the frequency and impacts of reported CWA HS discharges and a review of existing framework of EPA regulatory requirements to prevent and contain CWA HS discharges.

With regard to Executive Order 13132, a commenter stated that EPA should reconsider its proposal to take no further action and work within the scheme of cooperative federalism established by the CWA and consult with the states and tribes to establish an effective prevention, control, and countermeasures program that meets the charge of section 311(j)(1)(C) of the CWA. The commenter added that under its CWA authority, EPA may, at any time, consult with a state on an initiative under the CWA and may request to establish a government-to-government consultation with tribes potentially impacted by upstream activities.

The Agency disagrees that it should reconsider its decision to take no further action at this time. In addition to the opportunity to comment on the proposed action, EPA provided an opportunity for states and tribes to provide additional data through a voluntary survey EPA sent to states, tribes, and U.S. territories in June 2018. The survey requested information on EPCRA Tier II facilities, information on discharges of hazardous substances to surface waters from 2007 to 2016, as well as existing state programs in place to help prevent and mitigate the impacts of discharges of hazardous substances to surface waters. EPA received data from 15 states in response to the survey, which was analyzed and included in the RIA for the final action. EPA acknowledges that while further consultation may be allowed under the CWA, it is not required. Additionally, cooperative federalism does not directly apply to this section of the statute, which contemplates a direct federal program that does not allow for delegation of authority to states.

A commenter opposed EPA's determination that this action would have no significant impacts on Indian tribes under E.O. 13175: Consultation and Coordination with Indian Tribal Governments, especially with over 42 hazardous substance sites in Washington State alone. The commenter stated that EPA's determination has profound impacts on the United States Federal Government and EPA's fundamental ability to fulfill its Trust Responsibility in protecting the treaty protected resources of the Makah Tribe. The commenter stated that failing to incorporate environmental impacts to Treaty Resources results in a failure to consider the potential impacts to the rights of Indian Tribal Governments of a hazardous substance spill. The commenter further stated that federally-recognized Indian Tribes are sovereign governments and are required to be given the opportunity to determine whether an action will have an impact on their sovereign interests via government-to-government consultation as stated in the EPA Policy on Consultation and Coordination with Indian Tribes.

The Agency disagrees with this comment on the Agency's determination that this action would have no significant impacts on Indian tribes. Tribes were provided the opportunity to comment on EPA's proposed action through a tribal consultation call on July 19, 2018. During the consultation call, EPA presented information on the proposed action. The Agency received tribal input on multiple issues, including resource impacts, existing state regulations and the proposed action's supporting analysis (*e.g.,* concerns regarding information gaps). After taking these and other comments, and the survey data, into consideration, and based on an analysis of the frequency and impacts of reported CWA HS discharges and the existing framework of EPA regulatory requirements, the Agency is not finalizing new regulatory requirements at this time.

With regard to E.O. 12898: Environmental Justice, some commenters opposed EPA's approach in the proposed action based on environmental justice concerns. A commenter asserted that overwhelmingly, and across the country, low-income and communities of color are living adjacent to hazardous substance sites, putting them at greater risk for human health and environmental impacts as a result of a hazardous substance spills. The commenter further asserted that continuing with the status quo of minimal regulation of these hazardous substance facilities is not only directly contrary to the Consent Decree issued to the EPA by the US District Court in New York, it is antithetical to the very mission of the EPA as an agency. The commenter specifically highlighted the poor health outcomes of Indian communities.

Another commenter stated that the people who are most likely to be impacted by these kinds of events are low-income communities and communities of color because they are disproportionately located near facilities storing hazardous materials that pollute our air, land and water. The commenter added that failure to implement rules that prevent spills of hazardous substances that protect vulnerable communities only exacerbates the unequal protection that EPA provides to our communities.

A commenter stated that, despite Congress' goal of no hazardous waste discharges, EPA treats the hundreds of hazardous substance spills that are reported to the NRC each year (and the many more that are not) as inevitable and inconsequential, and that EPA does not address the significant health risks from exposure to hazardous substances. The commenter asserted that some of the most commonly spilled hazardous substances are known to cause a range of acute and chronic health problems, and that EPA often ignores serious health risks from hazardous substances spills in favor of numerical analysis based on incomplete and unreliable spill data. This commenter stated that hazardous substance spills have a disparate impact on communities of color and low-income communities.

Further, the commenter disagreed that E.O. 12898 is not applicable, stating that by proposing no additional action, EPA maintains the existing, documented environmental injustices associated with CWA HS spills. This commenter urged EPA to consider these disparate impacts and adopt a final rule that provides robust public health and environmental protections for environmental justice communities. Similarly, another commenter stated that the EPA and the states have a moral and legal obligation to gather more data on documented and potential environmental justice impacts to better understand and mitigate the risks associated with non-transportation related facilities.

The EPA disagrees with these comments. Executive Order 12898 (59 FR 7629, February 11, 1994) directs that, to the greatest extent practicable and permitted by law, each Federal agency make the achievement of environmental justice (EJ) part of its mission. Executive Order 12898 provides that each federal Agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures such programs, policies, and activities do not have the effect of (1) excluding persons (including populations) from participation in; or (2) denying persons (including populations) the benefits of; or (3) subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

The EPA considered in the development of this action whether it would have a disproportionately high and adverse human health or environmental effects on minority, low-income populations and/or indigenous peoples, as specified in Executive Order 12898. In its analysis for this final action, the Agency identified an existing framework of EPA regulatory requirements which adequately serves to prevent and contain CWA HS discharges. In addition, the Agency has identified only a small number of discharges that might be affected by a new regulation (see Section II.A) and there are insufficient data about this universe to assess any disproportionate impact of such discharges on individual communities, including environmental justice communities. Furthermore, the Agency has concluded that any final regulatory action under this CWA authority would have a minimal incremental effect on spills of CWA HS with the potential to reach water. Thus, EPA concludes that the final action likely does not have disproportionately high and adverse human health or environmental effects on minority, low-income populations and/or indigenous peoples, as specified in Executive Order 12898. The Agency is not finalizing new regulatory requirements at this time, and therefore, the final action does not disproportionally affect environmental justice communities.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/lawsregulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose any regulatory requirements or contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities because this action does not impose any regulatory requirements.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 because it does not impose any regulatory requirements. Thus, Executive Order 13175 does not apply to this action. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials during the development of this action. Tribes were provided opportunities to comment on EPA's proposed action through a tribal consultation call on July 19, 2018. During the consultation call, EPA presented information on the proposed action. The Agency received tribal input on multiple issues, including resource impacts, existing state regulations and the proposed action's supporting analysis (*e.g.,* concerns regarding information gaps). The Agency considered this input in its decision not to finalize new regulatory requirements at this time.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, since this action imposes no regulatory requirements.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard.

The Agency is not establishing at this time new CWA HS prevention and

containment regulatory requirements under CWA section 311(j)(1)(C). Therefore, the final action does not establish an environmental health or safety standard, imposes no regulatory requirements with costs or benefits, and does not disproportionally adversely affect environmental justice communities as specified in Executive Order 12898.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: August 22, 2019.

Andrew R. Wheeler,

Administrator.

[FR Doc. 2019–18706 Filed 8–30–19; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Site Remediation Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0833; FRL–9998–13–OAR]

RIN 2060–AU19

National Emission Standards for Hazardous Air Pollutants: Site Remediation Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Site Remediation source category. This proposal presents the results of the residual risk and technology review (RTR) conducted as required under the Clean Air Act (CAA). Based on the results of the residual risk review, the EPA is proposing that risks due to emissions of air toxics are acceptable and that no revision to the standards is required to provide an ample margin of safety to protect public health. Based on the technology review, we are proposing to amend the requirements for leak detection and repair (LDAR). In addition, the EPA is proposing amendments to revise regulatory provisions pertaining to emissions during periods of startup, shutdown and malfunction (SSM), including adding requirements for pressure relief devices; to add requirements for electronic submittal of semiannual reports and performance test results; to clarify provisions pertaining to open-ended valves and lines; and to make minor clarifications and corrections. The proposed revisions to the rule would increase the level of emissions control and environmental protection provided by the Site Remediation NESHAP. We are also requesting additional comment related to subcategorization of sources relating to certain exemption provisions of the original rule that were proposed for removal in 2016.

DATES:

Comments. Comments must be received on or before October 18, 2019. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before October 3, 2019.

Public hearing. If anyone contacts us requesting a public hearing on or before September 9, 2019, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document and posted at *https://www.epa.gov/stationary-sources-air-pollution/site-remediation-national-emission-standards-hazardous-air.* See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2018–0833, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2018–0833 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2018–0833.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2018–0833, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation 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 **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Matthew Witosky, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2865; fax number: (919) 541–0516; and email address: *witosky.matthew@epa.gov.* For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov.* For questions about monitoring and testing requirements, contact Theresa Lowe, Sector Policies and Programs Division (D143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–4786; fax number: (919) 541–4991; and email address: *Lowe.Theresa@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–7042; and email address: *Mia.Marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public hearing. Please contact Virginia Hunt at (919) 541–0832 or by email at *hunt.virginia@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2018–0833. All documents in the docket are listed in *Regulations.gov.* Although listed, some information is not publicly available, *e.g.,* CBI (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. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue 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 EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2018–0833. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov/* or email. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. 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://www2.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

The EPA is soliciting comment on numerous aspects of the proposed rule. The EPA has indexed each comment solicitation with an alpha-numeric identifier (*e.g.,* ''C–1,'' ''C–2,'' ''C–3'') to provide a consistent framework for effective and efficient provision of comments. Accordingly, the EPA asks that commenters include the identifier in either a heading, or within the text of each comment (*e.g.,* ''In response to solicitation of comment C–1, . . .'') to make clear which comment solicitation is being addressed. The EPA emphasizes that the Agency is not limiting comment to these identified areas and encourages provision of any other comments on topics within the scope of this proposal.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2018–0833.

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
BACT best available control technology
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
GACT generally achievable control technology
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEM–3 Human Exposure Model
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IRIS Integrated Risk Information System
km kilometer
LAER lowest achievable emission rate
MACT maximum achievable control technology
mg/kg-day milligrams per kilogram per day
mg/m^3 milligrams per cubic meter
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NRC National Research Council
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbons
PB-HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM particulate matter
POM polycyclic organic matter
ppm parts per million
RACT reasonably available control technology
RBLC RACT/BACT/LAER clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SAB Science Advisory Board
SBA Small Business Administration
SIC Standard Industrial Classification
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
UF uncertainty factor
µg/m^3 microgram per cubic meter
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standards

Organization of this document. The information in this preamble is organized as follows:

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H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities conducting site remediations subject to the Site Remediation NESHAP may be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992), the Site Remediation source category is any facility engaged in the cleanup of sites that possess contaminated media. Sites undergoing remediation of contaminated media include, but are not limited to, any facility at which organic materials currently are or have been in the past stored, processed, treated, or otherwise managed at the facility. These facilities include organic liquid storage terminals, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated site remediation activities. Units requiring cleanup can include hazardous waste dumps, industrial surface impoundments, leaking tanks, and municipal, industrial, and combined landfills. Site remediation includes, but is not limited to, the following activities: Contaminated soils cleaning; soil vapor extraction (SVE); groundwater cleanup; oil recovery from below ground; surface flow control; waste material removal from the site; treatment of waste material after removal; and cleansing of water mains, sewers, wetlands, and water bodies that have been contaminated by wastes. Site remediation does not include the installation of controls to municipal solid waste landfills to comply with the new source performance standards or Clean Air Act (CAA) section 111(d) emission guidelines.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Industry	40 CFR part 63, subpart GGGGG	325211, 325192, 325188, 32411, 49311, 49319, 48611, 42269, 42271.
Federal Government		Federal agency facilities that conduct site remediation activities.

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/site-remediation-national-emission-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website. Information on the overall RTR program is available at *https://www3.epa.gov/ttn/atw/rrisk/rtpg.html.*

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833).

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of hazardous air pollutants (HAP) from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating those standards that are based on maximum achievable control technology (MACT) to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate

to incorporate into the standards. This review is commonly referred to as the ''technology review.'' When the two reviews are combined into a single rulemaking, it is commonly referred to as the ''risk and technology review.'' The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements. A more comprehensive discussion appears in the document titled *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* in the docket for this rulemaking.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor. Standards more stringent than the floor are commonly referred to as beyond-the-floor standards. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards where it is not feasible to prescribe or enforce a numerical emission standard. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

The second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). For source categories subject to MACT standards, section 112(f)(2) of the CAA requires the EPA to determine whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. Section 112(d)(5) of the CAA provides that this residual risk review is not required for categories of area sources subject to GACT standards. Section 112(f)(2)(B) of the CAA further expressly preserves the EPA's use of the two-step approach for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the Risk Report that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

The approach incorporated into the CAA and used by the EPA to evaluate residual risk and to develop standards under CAA section 112(f)(2) is a two-step approach. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [1] of approximately 1 in 10 thousand.'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to reduce risk to an acceptable level without considering costs. In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1 in 1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

CAA section 112(d)(6) separately requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years. In conducting this review, which we call the ''technology review,'' the EPA is not required to recalculate the MACT floor. *NRDC* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).

B. What is this source category?

The EPA promulgated the final Site Remediation NESHAP at 40 CFR part 63, subpart GGGGG on October 8, 2003. The NESHAP applies to ''remediation material.'' Site remediation means one or more activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material. Monitoring or measuring of contamination levels in media, whether by using wells, sampling, or other means, is not considered to be a site remediation. The rule applies only to active remedial operations at sites that are major sources with affected facilities subject to another MACT standard. The Site Remediation NESHAP applies to various types of affected sources including process vents, remediation material management units, and equipment leaks. The affected source for process vents is the entire group of process vents associated with the in-situ and ex-situ remediation processes used at the site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material. Examples of process vents for in-situ remediation processes include the discharge vents to the atmosphere used for SVE and underground bioremediation processes. Examples of process vents for ex-situ remediation processes include vents for thermal desorption, bioremediation, and stripping processes (air or steam stripping). The affected source for remediation material management units is the entire group of tanks, surface

[1] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk if an individual were exposed to the maximum level of a pollutant for a lifetime.

impoundments, containers, oil-water separators, and transfer systems used for the site remediation activities involving clean-up of remediation material. The affected source for equipment leaks is the entire group of remediation equipment components (pumps, valves, etc.) that is intended to operate for 300 hours or more during a calendar year in remediation material service and that contains or contacts remediation material having a concentration of regulated HAP equal to or greater than 10 percent by weight.

The Site Remediation MACT standards include a combination of equipment standards, work practice standards, operational standards, and performance standards for each of the affected emission sources noted above.

C. What data collection activities were conducted to support this action?

The primary sources of data for the risk assessment are EPA databases. These include the EPA's Enforcement and Compliance History Online (ECHO) database, which was queried to identify facilities potentially subject to the Site Remediation NESHAP. Information from this search was then used in a query of the EPA's National Emissions Inventory (NEI) to identify site remediation emission sources, quantities of emissions, and emissions release characteristics. The EPA also reviewed the Toxic Release Inventory to determine whether that data would be useful in supplementing the information extracted from the NEI.

We reviewed a variety of data sources in our investigation of potential practices, processes, or controls to consider in the technology review and to provide further information for the risk assessment. These included the Reasonably Available Control Technology (RACT)/Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Clearinghouse (RBLC), NESHAP for various industries that were promulgated since the Site Remediation NESHAP was promulgated, major source operating permits, minor and synthetic minor source operating permits, and academic and trade literature.

The RBLC provides a central database of air pollution control technology information and can help identify appropriate technologies to mitigate most air pollutant emission streams: *https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information.* As site remediation may include sources from any industrial activity, we searched the RBLC with a focus on control of off-gasses in disparate applications, including processes in three broad categories: Miscellaneous Combustion, Waste Combustion and Waste Disposal, and Other Waste Processing and Disposal. Each of these three categories was further searched more specifically. For Miscellaneous Combustion, the EPA searched emission control afterburners and incinerators, digester and landfill gas flares, and other miscellaneous combustion. For Waste Combustion and Waste Disposal categories, the search included mixed/other waste combustion/incineration. Finally, the search under Other Waste Processing and Disposal included contaminated soil treatment, hazardous waste treatment, storage, and disposal facilities, and other waste processing and disposal facilities.

The EPA also reviewed the NESHAP for various industries that were promulgated since the Site Remediation NESHAP was promulgated. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes, and control technologies considered in these efforts that could be applied to emission sources in the Site Remediation source category, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies.

The EPA searched available state databases for minor source permits and synthetic minor source permits of facilities performing remediation. The Technology Review memorandum in the docket lists the permits reviewed and summarizes key findings about the remediation projects and emissions controls in use. Other scientific literature was reviewed for new and novel control technologies in use at site remediation sources and similar sources to control volatile organic compounds (VOC) and HAP air emissions. Literature for controls in use for land farming applications and material extraction activities was also reviewed. For a list of material reviewed, see the memorandum, *CAA section 112(d)(6) Technology Review for the Site Remediation Source Category,* which is available in the docket for this action.

D. What other relevant background information and data are available?

Documents from previous rulemakings for the Site Remediation source category can be found in the docket under Docket ID No. EPA–HQ–OAR–2002–0021.

III. Analytical Procedures and Decision-Making

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

A. How do we consider risk in our decision-making?

As discussed in section II.A of this preamble and in the Benzene NESHAP, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step approach to determine whether or not risks are acceptable and to determine if the standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. The EPA conducts a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.[2] The assessment also provides estimates of the distribution of cancer risk within the exposed populations, cancer incidence, and an evaluation of the potential for an adverse environmental effect. The scope of the EPA's risk analysis is consistent with the EPA's response to comments on our policy under the Benzene NESHAP where the EPA explained that:

[2] The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential exposure concentration to the noncancer dose-response value; the HI is the sum of HQs for HAP that affect the same target organ or organ system.

[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will 'protect the public health'.

See 54 FR 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risk. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes an MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify the HAP risk that may be associated with emissions from other facilities that do not include the source category under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the category.

The EPA understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing noncancer risk, where pollutant-specific exposure health reference levels (*e.g.,* reference concentrations (RfCs)) are based on the assumption that thresholds exist for adverse health effects. For example, the EPA recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse noncancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in an increased risk of adverse noncancer health effects. In May 2010, the Science Advisory Board (SAB) advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [3]

In response to the SAB recommendations, the EPA incorporates cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The Agency (1) conducts facility-wide assessments, which include source category emission points, as well as other emission points within the facilities; (2) combines exposures from multiple sources in the same category that could affect the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzes the ingestion route of exposure. In addition, the RTR risk assessments consider aggregate cancer risk from all carcinogens and aggregated noncancer HQs for all noncarcinogens affecting the same target organ or target organ system.

Although we are interested in placing source category and facility-wide HAP risk in the context of total HAP risk from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Estimates of total HAP risk from emission sources other than those that we have studied in depth during this RTR review would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

B. How do we perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is ''necessary'' to revise the emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we last updated the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. See sections II.C and II.D of this preamble for information on the specific data

[3] Recommendations of the SAB Risk and Technology Review Panel are provided in their report, which is available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

sources that were reviewed as part of the technology review.

C. How do we estimate post-MACT risk posed by the source category?

In this section, we provide a complete description of the types of analyses that we generally perform during the risk assessment process. In some cases, we do not perform a specific analysis because it is not relevant. For example, in the absence of emissions of HAP known to be persistent and bioaccumulative in the environment (PB–HAP), we would not perform a multipathway exposure assessment. Where we do not perform an analysis, we state that we do not and provide the reason. While we present all of our risk assessment methods, we only present risk assessment results for the analyses actually conducted (see section IV.B of this preamble).

The EPA conducts a risk assessment that provides estimates of the MIR for cancer posed by the HAP emissions from each source in the source category, the HI for chronic exposures to HAP with the potential to cause noncancer health effects, and the HQ for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risk within the exposed populations, cancer incidence, and an evaluation of the potential for an adverse environmental effect. The eight sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule.* The methods used to assess risk (as described in the eight primary steps below) are consistent with those described by the EPA in the document reviewed by a panel of the EPA's SAB in 2009;[4] and described in the SAB review report issued in 2010. They are also consistent with the key recommendations contained in that report.

[4] U.S. EPA. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing.* (EPA–452/R–09–006; June 2009.) *https://www3.epa.gov/airtoxics/rrisk/rtrpg.html.*

1. How did we estimate actual emissions and identify the emissions release characteristics?

a. Sources Subject to the Site Remediation NESHAP

The EPA began compiling the list of facilities for the risk review by searching for facilities identified as being subject to the Site Remediation NESHAP in the EPA's ECHO database. There are currently 102 facilities identified as ''subject to NESHAP GGGGG'' in ECHO. This list of facilities was used as the basis for a query into the NEI to obtain facility and emissions data for the 2014 reporting year.

Of the 102 facilities with data retrieved from the 2014 NEI, six facilities reported emissions under the Source Classification Code (SCC) for site remediation, and 96 reported emissions only from their primary activity and did not report any emissions for remediation activities. We attribute the absence of site remediation data for these 96 facilities to either the facilities' completion of site remediation activities or reporting of site remediation emissions data under other SCCs in the NEI. The EPA chose to model all 102 facilities rather than only the six for which remediation data was reported, in order to take the broadest possible approach to the risk assessment. For example, while a remediation may not have been occuring in 2014 that would be reported in the 2014 inventory, the EPA assumed that a remediation would have taken place at some point at all 102 facilities since adoption of the Site Remediation NESHAP. By including all 102 facilities, the EPA attempted to estimate the risk of anyone who may have been exposed to risk from a remediation at an affected source, regardless of the current (as of 2014) status of a specific remediation action.

To address the lack of apparent site remediation emissions data for these 96 facilities, the EPA developed a profile of site remediation emissions for each facility based on the facility's primary processes. Since site remediation projects occur at many different types of industrial facilities, ranging from petroleum refineries to federal facilities, and the emissions from the site remediation are likely a subset of HAP emitted by the facility, this emissions profile approach was used to account for the disparate nature of sources with site remediation activities. To develop the emission profiles for each facility, the EPA used the six facilities that reported HAP emissions both from their remediation activities and from their whole facility in the NEI and determined the proportion of remediation HAP emissions to facility-wide HAP emissions for each facility. Of the six facilities, the highest proportion of remediation to whole-facility HAP emissions was 0.79 percent. For the other 96 facilities, the EPA used this proportion to assign 0.79 percent of the total amount of each HAP reported in the NEI for the whole facility to the Site Remediation source category for each facility, arriving at a unique profile of site remediation emissions for each facility.

With respect to the risk analysis, the EPA considers this to be a conservative approach to addressing the lack of remediation emissions reported in the NEI. First, the data show that remediation emissions are generally small compared to major source emissions at affected facilities, and the highest proportion of remediation emissions from the six facilities was chosen for the remediation emissions profiles. Second, all process pollutants emitted by a facility were included as the universe of potential pollutants emitted during remediation. While site remediation projects likely emit only a subset of the HAP emitted by the facility, this assumption was made to ensure no specific pollutant was excluded that could represent risk from that facility. For several facilities, we found that the emissions profile approach had resulted in estimated site remediation emissions that included ethylene oxide. These ethylene oxide emissions were removed from the source category risk analysis because the EPA considered that ethylene oxide would be unlikely to persist in contaminated media long enough to be emitted during a site remediation. Additional details on this determination can be found in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Proposed Rule,* which is available in the docket for this action. The EPA requests comment on this model plant approach to address data gaps in the RTR, and HAP emissions from the Site Remediation source category. (C–1)

b. Sources Exempt From the Site Remediation NESHAP

The Site Remediation NESHAP currently exempts site remediation activities conducted under federal oversight authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or Resource Conservation and Recovery Act (RCRA) corrective action or other required RCRA order (see 40 CFR 63.7881(b)(3)). In 2016, in response to a petition for

reconsideration regarding this exemption and other aspects of the NESHAP, the EPA proposed to revise the NESHAP to remove the exemption for site remediation activities conducted under the authority of CERCLA or RCRA (81 FR 29821, May 13, 2016). At proposal, the EPA developed a list of 125 facilities that could potentially become subject to the rule upon promulgation if the exemption for remediation projects subject to RCRA or CERCLA standards was removed.[5] Although exempt from the regulatory requirements of the Site Remediation NESHAP, these facilities are part of the Site Remediation source category. To understand both the risks from the facilities already subject to the Site Remediation NESHAP requirements and the risks from the facilities exempt from the Site Remediation NESHAP requirements, these groups of facilities were kept separate for the purposes of the risk assessment.

A process similar to that used to estimate emissions from affected facilities was used for the exempt facilities. The EPA began with the list of 125 facilities previously developed and queried the NEI to obtain facility and emissions data for the 2014 reporting-year. Information was available in the NEI for 118 of these facilities.[6] Of the 118 facilities with data retrieved from the NEI, 10 facilities reported emissions under the SCC for site remediation, and 108 reported emissions only from their production activity and did not report any emissions for remediation activities. For these 108 facilities, the EPA applied the same site remediation emissions ratio as that used for affected sources to the whole-facility HAP emissions to arrive at a unique site remediation emission profile for each facility. For these facilities, we used the same assumptions with respect to ethylene oxide emissions as were made in the affected facility modeling.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during a specified annual time period. These ''actual'' emission levels are often lower than the emission levels allowed under the requirements of the current MACT standards. The emissions allowed under the MACT standards are referred to as the ''MACT-allowable'' emissions. We discussed the consideration of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP RTR (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risk at the MACT-allowable level is inherently reasonable since that risk reflects the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

For the Site Remediation source category, the EPA treated actual emissions as allowable emissions. Allowable emissions under typical MACT standards are the emissions that would occur under full-capacity potential operating conditions and as allowed under the applicable MACT standards. These are the conditions included in the title V permit for the facility. In the case of site remediation, most remediation projects do not appear in the title V permit or appear there for approximately the duration of the remediation and are then removed. Since most facilities performing remediation have the incentive to conclude remediation expeditiously, the EPA assumed that actual emissions would equal allowed emissions under a facility permit. Where no permit condition was available, the EPA assumed the remediation was being conducted at full capacity to complete the remediation as soon as possible. Based on the NEI data available and the relatively little information found in title V permits for remediation projects, the EPA modeled actual emissions as allowable emissions.

3. How do we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risk?

Both long-term and short-term inhalation exposure concentrations and health risk from the source category addressed in this proposal were estimated using the Human Exposure Model (HEM–3).[7] The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risk using the exposure estimates and quantitative dose-response information.

a. Dispersion Modeling

The air dispersion model AERMOD, used by the HEM–3 model, is one of the EPA's preferred models for assessing air pollutant concentrations from industrial facilities.[8] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations from 824 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[9] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant-specific dose-response values is used to estimate health risk. These are discussed below.

b. Risk From Chronic Exposure to HAP

In developing the risk assessment for chronic exposures, we use the estimated annual average ambient air concentrations of each HAP emitted by each source in the source category. The HAP air concentrations at each nearby census block centroid located within 50 km of the facility are a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

[5] Stobert, L. EC/R Inc. to Hirtz, J., EPA/OAQPS. *National Impacts Associated with the Proposed Amendments to Remove the Exemption for Facilities Performing Site Remediations under CERCLA or RCRA in the NESHAP for Site Remediation.* February 4, 2016. EPA Docket Item No. EPA–HQ–OAR–2002–0021–0055. The EPA estimated in 2016 that of the 125 facilities listed, only 69 would likely become subject to the rule. For the purpose of the risk review, the EPA modeled the 118 facilities that could be identified in the NEI.

[6] Seven of the 125 facilities were unable to be clearly identified in the NEI and were not modeled.

[7] For more information about HEM–3, go to *https://www.epa.gov/fera/risk-assessment-and-modeling-human-exposure-model-hem.*

[8] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[9] A census block is the smallest geographic area for which census statistics are tabulated.

For each facility, we calculate the MIR as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, 52 weeks per year, 70 years) exposure to the maximum concentration at the centroid of each inhabited census block. We calculate individual cancer risk by multiplying the estimated lifetime exposure to the ambient concentration of each HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper-bound estimate of an individual's incremental risk of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) UREs, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate. The pollutant-specific dose-response values used to estimate health risk are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

To estimate individual lifetime cancer risks associated with exposure to HAP emissions from each facility in the source category, we sum the risks for each of the carcinogenic HAP [10] emitted by the modeled facility. We estimate cancer risk at every census block within 50 km of every facility in the source category. The MIR is the highest individual lifetime cancer risk estimated for any of those census blocks. In addition to calculating the MIR, we estimate the distribution of individual cancer risks for the source category by summing the number of individuals within 50 km of the sources whose estimated risk falls within a specified risk range. We also estimate annual cancer incidence by multiplying the estimated lifetime cancer risk at each census block by the number of people residing in that block, summing results for all of the census blocks, and then dividing this result by a 70-year lifetime.

To assess the risk of noncancer health effects from chronic exposure to HAP, we calculate either an HQ or a target organ-specific hazard index (TOSHI). We calculate an HQ when a single noncancer HAP is emitted. Where more than one noncancer HAP is emitted, we sum the HQ for each of the HAP that affects a common target organ or target organ system to obtain a TOSHI. The HQ is the estimated exposure divided by the chronic noncancer dose-response value, which is a value selected from one of several sources. The preferred chronic noncancer dose-response value is the EPA RfC, defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime'' (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&vocabName=IRIS%20Glossary*). In cases where an RfC from the EPA's IRIS is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic noncancer dose-response value can be a value from the following prioritized sources, which define their dose-response values similarly to the EPA: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*https://www.atsdr.cdc.gov/mrls/index.asp*); (2) the CalEPA Chronic Reference Exposure Level (REL) (*https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*); or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA. The pollutant-specific dose-response values used to estimate health risks are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

c. Risk From Acute Exposure to HAP That May Cause Health Effects Other Than Cancer

For each HAP for which appropriate acute inhalation dose-response values are available, the EPA also assesses the potential health risks due to acute exposure. For these assessments, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. In this proposed rulemaking, as part of our efforts to continually improve our methodologies to evaluate the risks that HAP emitted from categories of industrial sources pose to human health and the environment,[11] we are revising our treatment of meteorological data to use reasonable worst-case air dispersion conditions in our acute risk screening assessments instead of worst-case air dispersion conditions. This revised treatment of meteorological data and the supporting rationale are described in more detail in *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Technical Support Document for Acute Risk Screening Assessment.* We will be applying this revision in RTR rulemakings proposed on or after June 3, 2019.

To assess the potential acute risk to the maximally exposed individual, we use the peak hourly emission rate for each emission point,[12] reasonable worst-case air dispersion conditions (*i.e.,* 99th percentile), and the point of highest off-site exposure. Specifically, we assume that peak emissions from the source category and reasonable worst-case air dispersion conditions co-occur and that a person is present at the point of maximum exposure.

To characterize the potential health risks associated with estimated acute

[10] The EPA's 2005 *Guidelines for Carcinogen Risk Assessment* classifies carcinogens as: ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' and ''suggestive evidence of carcinogenic potential.'' These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document, *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002), was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recorddisplay.cfm?deid=20533&CFID=70315376&CFTOKEN=71597944.* Summing the risk of these individual compounds to obtain the cumulative cancer risk is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) titled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *https://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

[11] U.S. EPA. *Screening Methodologies to Support Risk and Technology Reviews (RTR): A Case Study Analysis* (Draft Report, May 2017. *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html*).

[12] In the absence of hourly emission data, we develop estimates of maximum hourly emission rates by multiplying the average actual annual emissions rates by a factor (either a category-specific factor or a default factor of 10) to account for variability. This is documented in *Residual Risk Assessment for Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Technical Support Document for Acute Risk Screening Assessment.* Both are available in the docket for this rulemaking.

inhalation exposures to a HAP, we generally use multiple acute dose-response values, including acute RELs, acute exposure guideline levels (AEGLs), and emergency response planning guidelines (ERPG) for 1-hour exposure durations), if available, to calculate acute HQs. The acute HQ is calculated by dividing the estimated acute exposure concentration by the acute dose-response value. For each HAP for which acute dose-response values are available, the EPA calculates acute HQs.

An acute REL is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' [13] Acute RELs are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. They are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact. AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[14] They are guideline levels for ''once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. The AEGL–1 is specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' The document also notes that ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* AEGL–2 are defined as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPGs are ''developed for emergency planning and are intended as health-based guideline concentrations for single exposures to chemicals.'' [15] *Id.* at 1. The ERPG–1 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

An acute REL for 1-hour exposure durations is typically lower than its corresponding AEGL–1 and ERPG–1. Even though their definitions are slightly different, AEGL–1s are often the same as the corresponding ERPG–1s, and AEGL–2s are often equal to ERPG–2s. The maximum HQs from our acute inhalation screening risk assessment typically result when we use the acute REL for a HAP. In cases where the maximum acute HQ exceeds 1, we also report the HQ based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1).

For this source category, we used a default acute emissions multiplier of 10 as hourly emissions data from site remediation activities were generally not available.

In our acute inhalation screening risk assessment, acute impacts are deemed negligible for HAP for which acute HQs are less than or equal to 1, and no further analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, we assess the site-specific data to ensure the acute HQ is an off-site location.

4. How do we conduct the multipathway exposure and risk screening assessment?

The EPA conducts a tiered screening assessment examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determine whether any sources in the source category emit any PB–HAP, as identified in the EPA's Air Toxics Risk Assessment Library (see Volume 1, Appendix D, at *https://www.epa.gov/sites/production/files/2013-08/documents/volume_1_reflibrary.pdf*).

For the Site Remediation source category, we identified PB–HAP emissions of arsenic compounds, cadmium compounds, mercury compounds, polycyclic organic matter (POM), and lead compounds, so we proceeded to the next step of the evaluation. In this step, we determine whether the facility-specific emission rates of the emitted PB–HAP are large enough to create the potential for significant human health risk through ingestion exposure under reasonable worst-case conditions. To facilitate this step, we use previously developed screening threshold emission rates for several PB–HAP that are based on a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with screening threshold emission rates are arsenic compounds, cadmium compounds, chlorinated dibenzodioxins and furans, mercury compounds, and POM. Based on the EPA estimates of toxicity and bioaccumulation potential, the pollutants above represent a conservative list for inclusion in multipathway risk assessments for RTR rules. (See Volume 1, Appendix D at *https://www.epa.gov/sites/production/files/201308/documents/volume_1_reflibrary.pdf.*) In this assessment, we compare the facility-specific emission rates of these PB–HAP to the screening threshold emission rates for each PB–HAP to assess the potential for significant human health risks via the ingestion pathway (combined ingestion rates for a fisher and farmer scenario). We call this application of the TRIM.FaTE model the Tier 1 screening assessment. The ratio of a facility's actual emission rate to the Tier 1 screening threshold emission rate is a ''screening value.''

[13] CalEPA issues acute RELs as part of its Air Toxics Hot Spots Program, and the 1-hour and 8-hour values are documented in *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* which is available at *https://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary.*

[14] National Academy of Sciences, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2. Available at *https://www.epa.gov/sites/production/files/2015-09/documents/sop_final_standing_operating_procedures_2001.*pdf. Note that the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs, (*https://www.epa.gov/aegl*).

[15] American Industrial Hygiene Association. *ERPGS Procedures and Responsibilities.* March 2014. Available at: *https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf.*

We derive the Tier 1 screening threshold emission rates for these PB–HAP (other than lead compounds) to correspond to a maximum excess lifetime cancer risk of 1-in-1 million (*i.e.,* for arsenic compounds, polychlorinated dibenzodioxins and furans and POM) or, for HAP that cause noncancer health effects (*i.e.,* cadmium compounds and mercury compounds), a maximum HQ of 1. If the emission rate of any one PB–HAP or combination of carcinogenic PB–HAP in the Tier 1 screening assessment exceeds the Tier 1 screening threshold emission rate for any facility (*i.e.,* the screening value is greater than 1), we conduct a second screening assessment, which we call the Tier 2 screening assessment (ingestion rates are decoupled into separate upper-bound ingestion rates for the fisher, farmer, and gardener scenarios).

In the Tier 2 screening assessment, the location of each facility that exceeds a Tier 1 screening threshold emission rate is used to refine the assumptions associated with the Tier 1 fisher and farmer exposure scenarios at that facility. A key assumption in the Tier 1 screening assessment is that a lake and/or farm is located near the facility. As part of the Tier 2 screening assessment for the fisher scenario, we use a U.S. Geological Survey (USGS) database to identify actual waterbodies within 50 km of each facility and assume the fisher only consumes fish from lakes within that 50 km zone. For the Tier 2 farmer scenario, we assume the farmer consumes meat, eggs, vegetables, and fruit grown near the facility. If further Tier 2 screening is necessary for the farmer scenario, we may also assess the gardener scenario. For the gardener scenario, we assume the gardener only grows and consumes eggs, vegetables, and fruit at the same ingestion rate as the farmer. For Tier 2, we replace the meteorology used in the Tier 1 screening assessment with the local meteorology near each facility. We then adjust the previously-developed Tier 1 screening threshold emission rates for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with the use of local meteorology and USGS waterbody data. If the PB–HAP emission rates for a facility exceed the Tier 2 screening threshold emission rates and data are available, we may conduct a Tier 3 screening assessment, or if the screening values are excessively high, go straight to a site-specific assessment utilizing TRIM FaTE. If PB–HAP emission rates do not exceed a Tier 2 screening value of 1, we consider those PB–HAP emissions to pose risks below a level of concern.

There are several analyses that can be included in a Tier 3 screening assessment, depending upon the extent of refinement warranted, including validating that the lakes are fishable, considering plume-rise to estimate emissions lost above the mixing layer, and considering hourly effects of meteorology and plume rise on chemical fate and transport. If the Tier 3 screening assessment indicates that risks above levels of concern cannot be ruled out, the EPA may further refine the screening assessment through a site-specific assessment.

For further information on the multipathway assessment approach, see the *Residual Risk Assessment for the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action.

5. How do we assess risks considering emissions control options?

In addition to assessing baseline inhalation risks and screening for potential multipathway risks, we also estimate risks considering the potential emission reductions that would be achieved by the control options under consideration. In these cases, the expected emission reductions are applied to the specific HAP and emission points in the RTR emissions dataset to develop corresponding estimates of risk and incremental risk reductions.

6. How do we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect, Environmental HAP, and Ecological Benchmarks

The EPA conducts a screening assessment to examine the potential for an adverse environmental effect as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

The EPA focuses on eight HAP, which are referred to as ''environmental HAP,'' in its screening assessment: Six PB–HAP and two acid gases. The PB–HAP included in the screening assessment are arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. The acid gases included in the screening assessment are hydrochloric acid (HCl) and hydrogen fluoride (HF).

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The acid gases, HCl and HF, are included due to their well-documented potential to cause direct damage to terrestrial plants. In the environmental risk screening assessment, we evaluate the following four exposure media: Terrestrial soils, surface water bodies (includes water-column and benthic sediments), fish consumed by wildlife, and air. Within these four exposure media, we evaluate nine ecological assessment endpoints, which are defined by the ecological entity and its attributes. For PB–HAP (other than lead), both community-level and population-level endpoints are included. For acid gases, the ecological assessment evaluated is terrestrial plant communities.

An ecological benchmark represents a concentration of HAP that has been linked to a particular environmental effect level. For each environmental HAP, we identified the available ecological benchmarks for each assessment endpoint. We identified, where possible, ecological benchmarks at the following effect levels: Probable effect levels, lowest-observed-adverse-effect level, and no-observed-adverse-effect level. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

For further information on how the environmental risk screening assessment was conducted, including a discussion of the risk metrics used, how the environmental HAP were identified, and how the ecological benchmarks were selected, see Appendix 9 of the *Residual Risk Assessment for the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action.

b. Environmental Risk Screening Methodology

For the environmental risk screening assessment, the EPA first determined whether any facilities in the Site Remediation source category emitted any of the environmental HAP. For the Site Remediation source category, we identified emissions of arsenic

compounds, cadmium compounds, mercury compounds, POM, HCl, and hydrofluoric acid. Because one or more of the environmental HAP evaluated (arsenic compounds, cadmium compounds, mercury compounds, POM, lead compounds, and HCl, and hydrofluoric acid) are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.[16]

c. PB–HAP Methodology

The environmental screening assessment includes six PB–HAP, arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. With the exception of lead, the environmental risk screening assessment for PB–HAP consists of three tiers. The first tier of the environmental risk screening assessment uses the same health-protective conceptual model that is used for the Tier 1 human health screening assessment. TRIM.FaTE model simulations were used to back-calculate Tier 1 screening threshold emission rates. The screening threshold emission rates represent the emission rate in tons of pollutant per year that results in media concentrations at the facility that equal the relevant ecological benchmark. To assess emissions from each facility in the category, the reported emission rate for each PB–HAP was compared to the Tier 1 screening threshold emission rate for that PB–HAP for each assessment endpoint and effect level. If emissions from a facility do not exceed the Tier 1 screening threshold emission rate, the facility ''passes'' the screening assessment, and, therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier 1 screening threshold emission rate, we evaluate the facility further in Tier 2.

In Tier 2 of the environmental screening assessment, the screening threshold emission rates are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier 1 screening assessment. For soils, we evaluate the average soil concentration for all soil parcels within a 7.5-km radius for each facility and PB–HAP. For the water, sediment, and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier 2 screening threshold emission rate, the facility ''passes'' the screening assessment and typically is not evaluated further. If emissions from a facility exceed the Tier 2 screening threshold emission rate, we evaluate the facility further in Tier 3.

As in the multipathway human health risk assessment, in Tier 3 of the environmental screening assessment, we examine the suitability of the lakes around the facilities to support life and remove those that are not suitable (*e.g.,* lakes that have been filled in or are industrial ponds), adjust emissions for plume-rise, and conduct hour-by-hour time-series assessments. If these Tier 3 adjustments to the screening threshold emission rates still indicate the potential for an adverse environmental effect (*i.e.,* facility emission rate exceeds the screening threshold emission rate), we may elect to conduct a more refined assessment using more site-specific information. If, after additional refinement, the facility emission rate still exceeds the screening threshold emission rate, the facility may have the potential to cause an adverse environmental effect.

To evaluate the potential for an adverse environmental effect from lead, we compared the average modeled air concentrations (from HEM–3) of lead around each facility in the source category to the level of the secondary National Ambient Air Quality Standards (NAAQS) for lead. The secondary lead NAAQS is a reasonable means of evaluating environmental risk because it is set to provide substantial protection against adverse welfare effects which can include ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

d. Acid Gas Environmental Risk Methodology

The environmental screening assessment for acid gases evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to HF and HCl. The environmental risk screening methodology for acid gases is a single-tier screening assessment that compares modeled ambient air concentrations (from AERMOD) to the ecological benchmarks for each acid gas. To identify a potential adverse environmental effect (as defined in section 112(a)(7) of the CAA) from emissions of HF and HCl, we evaluate the following metrics: the size of the modeled area around each facility that exceeds the ecological benchmark for each acid gas, in acres and km^2; the percentage of the modeled area around each facility that exceeds the ecological benchmark for each acid gas; and the area-weighted average screening value around each facility (Calculated by dividing the area-weighted average concentration over the 50-km modeling domain by the ecological benchmark for each acid gas). For further information on the environmental screening assessment approach, see Appendix 9 of the *Residual Risk Assessment for the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action.

7. How do we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data.

For this source category, we conducted the facility-wide assessment using a dataset that the EPA compiled from the 2014 NEI. We used the NEI data for the facility and did not adjust any category or ''non-category'' data. Therefore, there could be differences in the dataset from that used for the source category assessments described in this preamble. We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, we made a reasonable attempt to identify the source category risks, and these risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We also specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses,

[16] The environmental HAP emitted by facilities modeled were not attributed to Site Remediation source category emissions, but rather were emitted from other emission points at the facility. These pollutants were profiled as part of model plant emissions because the facility otherwise emits environmental HAP.

including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

8. How do we consider uncertainties in risk assessment?

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. Also included are those uncertainties specific to our acute screening assessments, multipathway screening assessments, and our environmental risk screening assessments. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action. If a multipathway site-specific assessment was performed for this source category, a full discussion of the uncertainties associated with that assessment can be found in Appendix 11 of that document, *Site-Specific Human Health Multipathway Residual Risk Assessment Report.*

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations. We also note that the selection of meteorology dataset location could have an impact on the risk estimates. As we continue to update and expand our library of meteorological station data used in our risk assessments, we expect to reduce this variability.

c. Uncertainties in Inhalation Exposure Assessment

Although every effort is made to identify all of the relevant facilities and emission points, as well as to develop accurate estimates of the annual emission rates for all relevant HAP, the uncertainties in our emission inventory likely dominate the uncertainties in the exposure assessment. Some uncertainties in our exposure assessment include human mobility, using the centroid of each census block, assuming lifetime exposure, and assuming only outdoor exposures. For most of these factors, there is neither an under nor overestimate when looking at the maximum individual risk or the incidence, but the shape of the distribution of risks may be affected. With respect to outdoor exposures, actual exposures may not be as high if people spend time indoors, especially for very reactive pollutants or larger particles. For all factors, we reduce uncertainty when possible. For example, with respect to census-block centroids, we analyze large blocks using aerial imagery and adjust locations of the block centroids to better represent the population in the blocks. We also add additional receptor locations where the population of a block is not well represented by a single location.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties are generally expressed quantitatively, and others are generally expressed in qualitative terms. We note, as a preface to this discussion, a point on dose-response uncertainty that is stated in the EPA's *2005 Guidelines for Carcinogen Risk Assessment;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (the EPA's *2005 Guidelines for Carcinogen Risk Assessment,* page 1–7). This is the approach followed here as summarized in the next paragraphs.

Cancer UREs used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk.[17] That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit). In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[18] Chronic noncancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. To derive dose-response values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach,[19] which considers uncertainty, variability, and gaps in the available data. The UFs are applied to derive dose-response values that are intended to protect against appreciable risk of deleterious effects.

Many of the UFs used to account for variability and uncertainty in the development of acute dose-response values are quite similar to those

[17] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

[18] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[19] See *A Review of the Reference Dose and Reference Concentration Processes, U.S. EPA, December 2002, and Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry,* U.S. EPA, 1994.

developed for chronic durations. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute dose-response value at another exposure duration (*e.g.,* 1 hour). Not all acute dose-response values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the dose-response value or values being exceeded. Where relevant to the estimated exposures, the lack of acute dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Uncertainty also exists in the selection of ecological benchmarks for the environmental risk screening assessment. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. We searched for benchmarks for three effect levels (*i.e.,* no-effects level, threshold-effect level, and probable effect level), but not all combinations of ecological assessment/environmental HAP had benchmarks for all three effect levels. Where multiple effect levels were available for a particular HAP and assessment endpoint, we used all of the available effect levels to help us determine whether risk exists and whether the risk could be considered significant and widespread.

Although we make every effort to identify appropriate human health effect dose-response values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for an IRIS assessment for that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified dose-response value, we also apply the most protective dose-response value from the other compounds in the group to estimate risk.

e. Uncertainties in Acute Inhalation Screening Assessments

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of a person. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and reasonable worst-case air dispersion conditions (*i.e.,* 99th percentile) co-occur. We then include the additional assumption that a person is located at this point at the same time. For this source category, together, these assumptions represent a reasonable worst-case exposure scenario. In most cases, it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and reasonable worst-case air dispersion conditions occur simultaneously.

f. Uncertainties in the Multipathway and Environmental Risk Screening Assessments

For each source category, we generally rely on site-specific levels of PB–HAP or environmental HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary or whether it is necessary to perform an environmental screening assessment. This determination is based on the results of a three-tiered screening assessment that relies on the outputs from models—TRIM.FaTE and AERMOD—that estimate environmental pollutant concentrations and human exposures for five PB–HAP (dioxins, POM, mercury, cadmium, and arsenic) and two acid gases (HF and hydrogen chloride). For lead, we use AERMOD to determine ambient air concentrations, which are then compared to the secondary NAAQS standard for lead. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[20]

Model uncertainty concerns whether the model adequately represents the actual processes (*e.g.,* movement and accumulation) that might occur in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screening assessments are appropriate and state-of-the-art for the multipathway and environmental screening risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the multipathway and environmental screening assessments, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water, soil characteristics, and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier 2 of the multipathway and environmental screening assessments, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier 1. By refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in

[20] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

environmental media are overestimated, thereby increasing the usefulness of the screening assessment. In Tier 3 of the screening assessments, we refine the model inputs again to account for hour-by-hour plume rise and the height of the mixing layer. We can also use those hour-by-hour meteorological data in a TRIM.FaTE run using the screening configuration corresponding to the lake location. These refinements produce a more accurate estimate of chemical concentrations in the media of interest, thereby reducing the uncertainty with those estimates. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for all three tiers.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For all tiers of the multipathway and environmental screening assessments, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do not exceed screening threshold emission rates (*i.e.,* screen out), we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do exceed screening threshold emission rates, it does not mean that impacts are significant, only that we cannot rule out that possibility and that a refined assessment for the site might be necessary to obtain a more accurate risk characterization for the source category.

The EPA evaluates the following HAP in the multipathway and/or environmental risk screening assessments, where applicable: Arsenic, cadmium, dioxins/furans, lead, mercury (both inorganic and methyl mercury), POM, HCl, and HF. These HAP represent pollutants that can cause adverse impacts either through direct exposure to HAP in the air or through exposure to HAP that are deposited from the air onto soils and surface waters and then through the environment into the food web. These HAP represent those HAP for which we can conduct a meaningful multipathway or environmental screening risk assessment. For other HAP not included in our screening assessments, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond these that we are evaluating may have the potential to cause adverse effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

IV. Analytical Results and Proposed Decisions

A. What actions are we taking pursuant to CAA sections 112(d)(2) and 112(d)(3)?

To ensure that CAA section 112 standards apply at all times, the EPA is proposing to add provisions for pressure relief device (PRD) releases and for bypass lines on closed vent systems. The results and proposed decisions based on the analyses performed pursuant to CAA section 112(d)(2) and (3) are presented below.

The acronym ''PRD'' means pressure relief device and is common vernacular to describe the variety of devices regulated as PRDs or valves (see the end of this section for our proposed addition of the definition for ''pressure relief device'' or ''valve,'' to provide clarity). PRDs are designed to remain closed during normal operation, but they may ''actuate'' (*e.g.,* the valve seat opens or a rupture disk ruptures) in the event of an overpressure in the system caused by operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that results in immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage. For the Site Remediation source category, emissions vented directly to the atmosphere from a PRD actuation in remediation material service may contain HAP that would have been subject to control under the Site Remediation NESHAP, if the PRD actuation had not occurred (*e.g.,* through a process vent standard). However, the EPA recognizes that the characteristics of a release from a PRD may be different from HAP emission generated from remediation processes under typical operating conditions (*i.e.,* non malfunction) and which are routed through a process vent.

The Site Remediation NESHAP currently regulates fugitive emissions from PRDs, when they are seated, through the equipment leak provisions. The equipment leak provisions also require that the PRD be returned to a condition of no detectable emissions, after a pressure release; however, these equipment leak provisions do not establish a standard for emissions releases from a PRD when the PRD actuates. In addition, the current Site Remediation NESHAP follows the EPA's previous practice of exempting SSM events from otherwise applicable emission standards. Consequently, with emissions releases from a PRD release actuation event treated as a type of malfunction, the Site Remediation NESHAP did not restrict emissions releases from a PRD actuation event to the atmosphere (*i.e.,* they were exempt from the otherwise applicable emission standards). In *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court determined SSM exemptions in section 112 standards violate the CAA. Section IV.E.2 of this preamble contains additional discussions on the removal of the SSM exemptions for this source category.

We evaluated the Site Remediation NESHAP provisions for PRDs to ensure a standard continuously applies during malfunctions that result in an emissions release from a PRD actuation event, consistent with the *Sierra Club* v. *EPA* decision. First, we determined that emissions releases from PRD actuation events that vent to a closed vent system and control device are appropriately regulated. We are proposing at 40 CFR 63.7923 that emissions releases from a PRD actuation event routed through a closed vent system to a control device or to a process, fuel gas system, or drain system must meet the requirements at 40 CFR 63.7925 to 40 CFR 63.7928 for the applicable control system.

Second, the EPA determined that emissions from PRD actuation events that vent directly to the atmosphere as the result of a malfunction may not meet an applicable emission standard for this source category. Therefore, we examined whether it would be feasible to establish a numeric emission standard for emissions releases from PRD actuation events that vent directly to the atmosphere.

As detailed here, we determined it is not feasible to regulate emissions from PRD actuation events through a numeric emission standard, and, therefore, it is more appropriate to regulate emissions releases from PRD events that vent to the atmosphere through work practice standards under CAA section 112(h), established consistent with CAA section 112(d)(2) and (3). The EPA is proposing work practice standards at 40 CFR 63.7923 that are intended to reduce the number of emissions releases from PRD actuation events and will incentivize

owners or operators to eliminate the causes of emissions releases from PRD actuation events that vent directly to the atmosphere.

When the EPA initially promulgated the Site Remediation NESHAP, it did not consider malfunction events when establishing emissions standards for the various emissions sources at site remediation facilities. In undertaking that consideration now, we propose that it is not feasible to regulate emissions releases from PRD actuation events that vent to the atmosphere using numeric emission limits due to technological and economic limitations that make it impracticable to measure emissions from PRDs which have actuated. CAA section 112(h)(1) states that the EPA may prescribe a work practice standard or other requirement, consistent with the provisions of CAA sections 112(d) or (f), in those cases where, in the judgment of the Administrator, it is not feasible to enforce an emission standard. CAA section 112(h)(2)(B) further defines the term ''not feasible'' in this context as meaning that ''the application of measurement technology to a particular class of sources is not practicable due to technological and economic limitations.'' We consider it appropriate to establish a work practice standard for emissions releases from PRD actuation events that vent to the atmosphere as provided in CAA section 112(h), because the application of a measurement methodology for emissions releases from PRD actuation events that vent directly to the atmosphere is not practicable due to technological and economic limitations. As discussed previously, PRDs are designed to remain closed during normal operations and release emissions only during nonroutine and unplanned events, and the venting time can be very short and may vary widely in emissions composition and flow rate.

Additionally, it would be economically prohibitive to construct an appropriate conveyance and install and operate continuous monitoring systems for each individual PRD that vents directly to the atmosphere in order to attempt to quantitatively measure an actuation release event that may occur infrequently. See *U.S.* v. *Sugar Corp.,* 830 F.3d 579, 664–67 (D.C. Cir. 2016). Further, we have not identified any available, technically feasible continuous emission monitoring system that can accurately determine a mass release quantity of HAP given the flow, composition, and compositional variability of potential PRD releases that vent directly to the atmosphere from remediation units. Rather, we have identified only monitoring systems capable of alerting an owner or operator when an emissions release from a PRD actuation event occurs. Consequently, we propose that it is appropriate to establish a work practice standard for emissions releases from PRD actuation event that vent directly to the atmosphere as provided in CAA section 112(h).

We next reviewed information about site remediation facilities to determine how the best performers are minimizing emissions releases from PRD actuation events that vent directly to the atmosphere. A review of the title V operating permits for facilities subject to the Site Remediation NESHAP indicated that many facilities are subject to the Chemical Accident Prevention Provisions (CAP) rule (40 CFR 68.215 requires permits to list 40 CFR part 68 as an applicable requirement, if subject) for at least some portion of the facility. As a result, we further reviewed this rule for consideration in developing a PRD work practice standard.

The CAP rule requires facilities to develop a Risk Management Plan that includes a hazard assessment, an accident prevention program and an emergency response program. The CAP rule includes three program levels which dictate the requirements for the hazard assessment, accident prevention program and emergency response program based on the types of chemicals and processes used at a facility. If the applicability of the CAP rule extends to site remediation affected facilities, the facilities would fall under either prevention program level 1 or 3 (depending on a facility's NAICS code). We evaluated program 3, which is more stringent, because based on a review of the rule's applicability requirements and preamble rationale, it is our understanding that site remediation facilities may not be subject to the program 1 criteria. We also chose to evaluate program 3 because if any facility is subject to program 3 and the Site Remediation NESHAP, those sources would be the best performers in the source category, requisite for a MACT determination. The program 3 prevention program includes: Documentation of process safety information, conducting a hazard analysis, documentation of operating procedures, employee training, on-going maintenance, and incident investigations. The process safety information documented must include information pertaining to the hazards of the regulated substances in the process, the technology of the process, and the process equipment (including relief valves). When conducting the hazard analysis, facilities must identify, evaluate, and control the hazards in the process. Facilities that use controls may consider the application of detection methodologies (*e.g.,* process monitoring and control instrumentation) to provide early warning of releases. The operating procedures must address multiple operating scenarios (*e.g.,* normal operations, startup, emergency shutdown) and provide instructions for safely conducting process activities. The acts of conducting the hazard analysis and documenting operating procedures are similar to prevention measures, discussed below, though we note a specific number of measures or controls is not specified for the program 3 prevention program. Incident investigations must document the factors that contributed to an incident and any resolutions and corrective actions (incident investigations are consistent with analysis of the cause of the release and corrective measures, discussed below). Facilities are also required to document this information in a Risk Management Plan that must be updated at least every 5 years.

Next, we considered that some companies operating site remediation facilities also own and operate petroleum refineries or chemical production facilities and may have established company-wide best practices as a result of specific state and Federal requirements. For example, petroleum refineries located in certain counties in California are subject to and complying with specific requirements for PRDs such as the Bay Area Air Quality Management District (BAAQMD) Rule 8–28–304 and South Coast Air Quality Management District (SCAQMD) Rule 1173. These rules also formed the basis of the work practice standards promulgated for emissions releases from PRD actuation events at petroleum refineries in the recent Petroleum Refinery Sector RTR performed by the EPA (80 FR 75178, December 1, 2015).

Considering our review of the EPA's Chemical Accident Prevention Provisions and company-wide best practices that site remediation facilities may have implemented, we expect that the best performing site remediation facilities have implemented a program for emissions releases from PRD actuation events that vent directly to the atmosphere that consists of conducting an analysis of the cause of the PRD actuation event and the implementation of corrective measures. We used this information as the basis of the work practice standards that we are proposing at 40 CFR 63.7923.

Specifically, we are proposing a limit on the number of emissions releases

from PRD actuation events that if exceeded, would result in a violation to the work practice standard for emissions releases for PRD actuation events that vent directly to the atmosphere. We believe setting criteria to determine a deviation is necessary for the work practice to be effective. We considered limits on the number of emissions releases from PRD actuation events over a 3-year period. Based on a Monte Carlo analysis of random rare events (conducted for the Petroleum Refinery Sector MACT), we note that a facility is likely to have two or three events in an average 5-year period when a long time-horizon (*e.g.,* 20 years) is considered. Therefore, we are proposing to limit the number of emissions releases from a PRD actuation event from a single PRD to either two or three (depending on the PRD release actuation event cause) in a 3-year period as the basis of a deviation of the work practice standard. We considered it reasonable to use a 3-year period rather than a 5-year period given that company-wide best practices forming the basis of the work practice standards promulgated for emissions releases from PRD actuation events at petroleum refineries are also our underlying basis for the proposed work practice standards at site remediation facilities. We are proposing that it is a deviation of the work practice standard if a single PRD that vents emissions from an actuation event directly to the atmosphere has two releases within a 3-year period due to the same cause. We believe this provision will help ensure that analyses and corrective actions are conducted effectively. Otherwise, we are proposing that it is a deviation of the work practice standard if a single PRD that vents emissions from an actuation event directly to the atmosphere has three releases within a 3-year period for any reason. In addition, we are proposing that any emissions release directly to the atmosphere from a PRD actuation event for which the cause was determined to be operator error or poor maintenance is a violation of the work practice standard. We are proposing that ''force majeure'' events would not be included when counting the number of releases. We are proposing to define ''Force majeure'' as including events resulting from natural disasters, acts of war or terrorism, or external power curtailment beyond the facility's control. These types of events are beyond the control of the owner or operator. We are providing that these events should not be included in the event count, but that they would be subject to the PRD actuation event cause analysis in order to confirm or determine whether the release was due to a force majeure event.

In addition, consistent with our treatment of site remediation process vents (in general, an open PRD is essentially the same as a site remediation process vent that is vented directly to the atmosphere), we believe it is appropriate to exclude certain types of PRDs that have very low potential to emit based on their type of service, size, and/or pressure from the proposed work practice standard for PRD releases that vent directly to the atmosphere. Both the CAP and the California petroleum refinery PRD rules also exempt or impose simpler requirements for certain PRDs. We are proposing at 40 CFR 63.7923 that the following types of PRDs would not be subject to the work practice standard for PRDs that vent directly to the atmosphere: (1) PRDs in heavy liquid service; (2) PRDs that are designed solely to release due to liquid thermal expansion; and (3) pilot-operated and balanced bellows PRDs if the primary release valve associated with the PRD is vented through a control system. With regard to PRDs in heavy liquid service and thermal relief valves, any release of HAP to the atmosphere from a PRD in heavy liquid service would be expected to be small. We are also proposing that pilot-operated PRDs (where emissions from actuation events can be released to the atmosphere through a pilot discharge vent) and balanced bellow PRDs (where emissions can be released to the atmosphere through a bonnet vent) are not subject to the work practice standard, if the primary release valve associated with the PRD is vented through a control system. Due to its design, which includes a bellows to shield the pressure relief stem and top portion of the valve seat from the discharge vent pressure, a balanced bellows PRD will not discharge gas to the atmosphere during a pressure release actuation event, except for potential leaks through the bonnet vent due to bellows failure or fatigue which are not considered PRD actuation. Pilot-operated PRDs use a small pilot safety valve that discharges to the atmosphere to actuate the primary valve or piston, which then discharges to a control system. The EPA considers balanced bellows and pilot operated PRDs to be equipment that safely controls the primary PRD release and reduces HAP emissions to the atmosphere.

The PRDs subject to the Site Remediation NESHAP that vent to a control device are exempt from LDAR. The PRDs that vent to the atmosphere are subject to the LDAR provisions of either 40 CFR part 63, subpart TT or UU. Similar to the current provisions, the proposed LDAR provisions for PRDs require all PRDs that vent to the atmosphere be tested using EPA Method 21 to ensure the PRD is not leaking above the detection threshold during normal operation and to ensure it properly reseats if a release does occur. Those PRDs that vent to control systems would still be exempt from LDAR requirements given that if a release were to occur from this specific class of PRDs, it would vent to a closed vent system and control device.

Finally, to ensure compliance with the proposed work practice standard for emissions released from PRD actuation events that vent directly to the atmosphere, we are also proposing to require that sources monitor these PRDs using a system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a pressure release is occurring. Pressure release actuation events from PRDs that vent directly to the atmosphere have the potential to emit large quantities of HAP. When a pressure release occurs, it is important to identify and mitigate it as quickly as possible. We are proposing to allow owners and operators to use a range of methods to satisfy the PRD actuation detection requirements, including the use of a parameter monitoring system (that may already be in place) on the process that is sufficient to indicate that a pressure release has occurred as well as record the time and duration of that pressure release. For the purposes of estimating the costs of this requirement, we assume that all PRDs that would become subject to the proposed standards already have a process or parameter monitoring system that will indicate the time that a pressure release has occurred and the duration of the release.

As part of these proposed provisions, we are proposing to add definitions for ''pressure release actuation event'' and ''pressure relief device or valve,'' to 40 CFR part 63, subpart GGGGG. We are also proposing to remove the definition of ''safety device'' and the provisions related to safety devices from 40 CFR part 63, subpart GGGGG, which would overlap and be redundant with parts of the proposed definition of ''pressure relief device or valve'' and the provisions related to these devices. To our knowledge, pressure relief devices or valves are the only relevant safety devices used in site remediation processes.

The Agency recognizes that the treatment of PRDs should be appropriate to the characteristics of the relevant source category and need not be

uniform across all source categories. In developing this proposal, the EPA was mindful of the limited information it has with respect to PRDs in site remediation and the diversity of site characteristics. The EPA seeks comment on whether there are PRDs associated with affected facility process vents, tanks, containers, separators, or closed vent systems, and whether PRDs associated with those affected facilities are routed to a control device through a closed vent system or vent to the atmosphere. The EPA seeks comment on whether facilities that are subject to the Site Remediation NESHAP are also subject to EPA's CAP at 40 CFR part 68, OSHA's Process Safety Management rule at 29 CFR 1910.119, BAAQMD Rule 8–28–304, or SCAQMD Rule 1173, and if the latter set of rules extend to cover PRDs associated with site remediation. The EPA has proposed MACT work practice standards for PRDs that vent to the atmosphere based on the best performing sources that are subject to the other similar NESHAP (40 CFR part 63, subpart CC-Petroleum Refineries, and 40 CFR part 63, subpart DD—Offsite Waste and Recovery Operations). The EPA seeks comment on whether these MACT work practice standards for PRDs are appropriate for site remediation.

For the purposes of estimating the costs of this requirement, we have assumed that operators have existing systems that are capable of identifying a pressure release to the atmosphere and recording the time and duration of the event. The EPA has further assumed there is one PRD per site remediation facility, and one pressure event every 3 years that would cause the PRD to actuate, triggering an analysis of the cause of the pressure release actuation event and the need for corrective measures. The EPA seeks comment on these assumptions. (Comment C–2) Whether or not data and comments substantiate that there are currently PRDs at site remediation facilities, the EPA may adopt provisions addressing PRDs if we conclude that future site-remediation affected facilities may use these devices.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled *Review of Regulatory Alternatives for Certain Vent Streams in the Site Remediation Source Category,* which is in Docket ID No. EPA–HQ–OAR–2018–0833.

B. What are the results of the risk assessment and analyses for affected sources?

As described above, for the Site Remediation source category, we conducted an inhalation risk assessment for all HAP emitted, a multipathway screening assessment for the PB–HAP emitted, and an environmental risk screening assessment for the PB–HAP and acid gases (*e.g.,* HCl) emitted from affected sources. We present results of the risk assessment briefly below and in more detail in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

1. Chronic Inhalation Risk Assessment Results

The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by the Site Remediation source category is 1-in-1 million driven by site remediation model plant emissions of arsenic compounds and chromium (VI) compounds. The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer cases per year, or 1 case every 1,000 years. The population exposed to cancer risks greater than or equal to 1-in-1 million considering actual and allowable emissions is 400 (see Table 2 of this preamble). In addition, the maximum chronic noncancer HI (TOSHI) is less than 1.

TABLE 2—SITE REMEDIATION INHALATION RISK ASSESSMENT RESULTS FOR AFFECTED SOURCES

Number of facilities [1]	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
	Based on Actual Emissions Level [2 3]				
102	1	400	0.001	0.1	HQ_{REL} = 1 (arsenic compounds).
	Based on Whole Facility Emissions				
	1,000	2,300,000	0.5	5	

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

2. Screening Level Acute Risk Assessment Results

As presented in Table 2 of this preamble, acute exposure to emissions from affected sources in the Site Remediation source category result in a maximum HQ of 1 based on the REL for arsenic compounds. For more detailed acute risk results refer to the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

3. Multipathway Risk Screening Results

The results of the multipathway risk screening assessment indicate all Tier 2 screening values for PB–HAP emitted from the source category (arsenic compounds, cadmium compounds, mercury compounds, and POM) are less than 1. Based on these results, we are confident that the cancer risks due to multipathway exposures to these chemicals are lower than 1-in-1 million and the noncancer HIs are less than 1.

In the case of lead, the multipathway risks were assessed by comparing modeled ambient lead concentrations against the primary NAAQS for lead. The results of this analysis indicate that, based on actual and allowable emissions, the maximum annual off-site ambient lead concentration is 0.0001 μg/m^3, well below the primary NAAQS of 0.15 μg/m^3.

4. Environmental Risk Screening Results

The ecological risk screening assessment indicated all modeled points were below the Tier 1 screening thresholds based on actual and allowable emissions of PB–HAP (arsenic compounds, cadmium compounds, mercury compounds, and POM) and acid gases (HCl and HF) emitted by the source category.

In the case of lead, the environmental risks were assessed by comparing modeled ambient lead concentrations against the secondary NAAQS for lead. The results of this analysis indicate that, based on actual and allowable emissions, the maximum annual off-site ambient lead concentrations were below the secondary NAAQS.

Based on the results of the environmental risk screening assessment, we would not expect environmental risks due to emissions from this source category.

5. Facility-Wide Risk Results

An assessment of whole-facility (or ''facility-wide) risks was performed as described above to characterize the source category risk in the context of facility-wide risks.[21] Facility-wide risks were estimated using the NEI-based data. The maximum lifetime individual cancer risk posed by the 102 facilities, based on facility-wide emissions, is 1,000-in-1 million, with ethylene oxide emissions from facility-wide flares, transfer racks, vents, and fugitive emissions driving the risk. The total estimated cancer incidence based on whole facility emissions is 0.5 excess cancer cases per year, or one excess case in every 2 years. Approximately 2,300,000 people are estimated to have cancer risks above 1-in-1 million from facility-wide HAP emissions. Facility-wide lifetime individual cancer risks are estimated to be greater than or equal to 100-in-1 million at three facilities and 55,000 people would be exposed at or above this risk level. Additional details on this determination can be found in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Proposed Rule,* which is available in the docket for this action.

Regarding the facility-wide risks due to ethylene oxide (described above), which are due to emission sources that are not part of the Site Remediation source category, we intend to evaluate those facility-wide estimated emissions and risks further and may address these in a separate future action, as appropriate. In particular, the EPA is addressing ethylene oxide based on the results of the latest NATA released in August 2018, which identified the chemical as a potential concern in several areas across the country. (NATA is the Agency's nationwide air toxics screening tool, designed to help the EPA and state, local, and tribal air agencies identify areas, pollutants, or types of sources for further examination.) The latest NATA estimates that ethylene oxide significantly contributes to potential elevated cancer risks in some census tracts across the U.S. (less than 1 percent of the total number of tracts). These elevated risks are largely driven by an EPA risk value that was updated in late 2016. The EPA will work with industry and state, local, and tribal air agencies as the EPA takes a two-pronged approach to address ethylene oxide emissions: (1) Reviewing and, as appropriate, revising CAA regulations for facilities that emit ethylene oxide—starting with air toxics emissions standards for miscellaneous organic chemical manufacturing facilities and commercial sterilizers; and (2) conducting site-specific risk assessments and, as necessary, implementing emission control strategies for targeted high-risk facilities. The EPA will post updates on its work to address ethylene oxide on its website at: *https://www.epa.gov/ethylene-oxide.* Regarding the noncancer risk assessment, the maximum chronic noncancer HI associated with facility-wide emissions is estimated to be 5 due to natural gas external combustion boiler emissions of chlorine. A total of three facilities had a facility-wide chronic noncancer HI greater than 1; two due to emissions of chlorine and one due to emissions of trichloroethylene.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risk from the Site Remediation source category across different demographic groups within the populations living near facilities.[22]

The results of the demographic analysis are summarized in Table 3 below. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

TABLE 3—SITE REMEDIATION: DEMOGRAPHIC ASSESSMENT RESULTS—50 KM STUDY AREA RADIUS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to site remediation	Population with chronic hi above 1 due to site remediation
Total Population	317,746,049	374	0
Race by Percent			
White	62	83	0
Minority	38	17	0
Minority by Percent			
African American	12	14	0
Native American	0.8	0.4	0

[21] The facility-wide risk assessment includes all emission points within the Site Remediation source category (including those for which there are no standards) as well as other emission points covered by other NESHAP.

[22] Demographic groups included in the analysis are: White, African American, Native American, Hispanic or Latino, other races and multiracial, people living below the poverty level, people living above the poverty level, adults without a high school diploma, adults with a high school diploma, and linguistically isolated people.

TABLE 3—SITE REMEDIATION: DEMOGRAPHIC ASSESSMENT RESULTS—50 KM STUDY AREA RADIUS—Continued

	Nationwide	Population with cancer risk at or above 1-in-1 million due to site remediation	Population with chronic hi above 1 due to site remediation
Hispanic or Latino (includes white and nonwhite)	18	0	0
Other and Multiracial	7	2	0
Income by Percent			
Below Poverty Level	14	13	0
Above Poverty Level	86	87	0
Education by Percent			
Over 25 and without High School Diploma	14	11	0
Over 25 and with a High School Diploma	86	89	0
Linguistically Isolated by Percent			
Linguistically Isolated	6	0	0

The results of the Site Remediation source category demographic analysis indicate that emissions from the source category expose approximately 400 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in each demographic group (except for White) are similar to or lower than their respective nationwide percentages with the exception of the African American, Above Poverty Level, and Over 25 and with a High School Diploma demographic groups, which are slightly higher than their respective nationwide percentages.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations,* available in the docket for this action.

C. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effect?

1. Risk Acceptability

We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, the number of persons in various cancer and noncancer risk ranges, cancer incidence, the maximum noncancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risk, the distribution of cancer and noncancer risks in the exposed population, and risk estimation uncertainties (54 FR 38044, September 14, 1989).

For the Site Remediation source category, the risk analysis indicates that for affected sources, the cancer risk to the individual most exposed is 1-in-1 million from both actual and allowable emissions. These risks are considerably less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The risk analysis for affected sources also estimated a cancer incidence of 0.001 excess cancer cases per year, or 1 case every 1,000 years. Exposures to HAP with noncancer health effects are estimated to result in a maximum chronic noncancer TOSHI below 1 (0.1), as well as a maximum acute HQ value of 1. Multipathway screening values for affected sources are below a level of concern for both carcinogenic and non-carcinogenic PB–HAP as well as emissions of lead compounds. Considering all the health risk information and factors discussed above, including the uncertainties, we propose to find that risk from the affected facilities in the Site Remediation source category subject to the Site Remediation NESHAP is acceptable.

2. Ample Margin of Safety Analysis

Under the ample margin of safety analysis, we evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied in this source category to further reduce the risks (or potential risks) due to emissions of HAP.

As discussed above, we are proposing that the risks from this source category are acceptable. For affected sources, the maximum cancer risk to the individual most exposed is 1-in-1 million from both actual and allowable emissions from site remediation processes and activities. Of the affected sources, two facilities had cancer risks equal to 1-in-1 million. Neither of these facilities had site remediation emissions reported to the NEI, and instead risks for both were based on estimated emissions.

In our ample margin of safety analysis, we identified three control options that could further reduce HAP emissions from the source category. We evaluated those options to determine whether any of the three options is required to provide an ample margin of safety to protect public health. For process vents at affected sources, as discussed in section IV.D of this preamble, we identified an emissions control option requiring compliance with a 98-percent reduction rather than a 95-percent reduction in HAP emissions. To assess the maximum potential for risk reduction that could result from this process vent control option, we assumed that the maximum risks for the site remediation source category are due to emissions from a process vent with emissions controlled at 95-percent. In this scenario, we estimate that compliance with a requirement that process vents be 98-percent controlled could result in reducing source category HAP emissions by between 0.09 and 0.18 tpy from current emissions levels, with an incremental cost effectiveness ranging between $1 million to $2 million/ton HAP reduction (section IV.D of this preamble provides further discussion of the EPA's cost analysis). We estimate this option would reduce the MIR at the MACT-allowable emissions level for the source category from 1-in-1 million to 0.4-in-1 million, thus, would reduce the number of people with cancer risks

greater than or equal to 1-in-1 million from 400 to 0. Although the maximum chronic noncancer TOSHI was less than 1, this option would further reduce it from 0.1 to 0.04. We are proposing that the considerable cost of this option is not reasonable in light of the minimal risk reduction achieved. Considering all of the health risks and other health information considered in our determination of risk acceptability, the minimal risk reductions associated with this option, the uncertainty associated with the estimated potential risk reductions, and the costs associated with this option, we are proposing that additional HAP emissions controls for site remediation process vents are not necessary to provide an ample margin of safety to protect public health.

For equipment leaks at affected sources, as discussed in section IV.D of this preamble, we identified two emission control options: Option 1 would require the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps, rather than the thresholds of 40 CFR part 63, subpart TT; Option 2 would require the same as Option 1 but would also include the connector LDAR requirements of 40 CFR part 63, subpart UU. Since actual and MACT-allowable emissions from equipment leaks are estimated to be the same, the risk due to equipment leaks at the MACT-allowable level are estimated to be the same as risk due to equipment leaks at actual emissions levels. In addition, based on our analysis of estimated baseline equipment leak emissions,[23] we assumed that half of the equipment leak emissions are from non-connector components (*i.e.,* pumps and valves), and the other half are from connectors. Under Option 1, we estimate the HAP reduction would be 4.7 tpy from the baseline actual emissions level, with a cost effectiveness of $2,000/ton HAP reduction. However, baseline risks associated with equipment leaks are low, and there would be little change in any of the risk metrics under Option 1. This option would reduce the MIR from 1-in-1 million to 0.8-in-1 million, and reduce the maximum chronic noncancer TOSHI from 0.1 to 0.08. In the context of our ample margin of safety analysis, we are proposing that imposing this option is not reasonable in light of the minimal risk reduction achieved. Although this option is not required to provide an ample margin of safety to protect public health, we are proposing this option as a cost-effective development under our technology review. Under Option 2 for equipment leaks, we estimate the incremental HAP reduction would be 5 tpy more than Option 1, with an overall cost effectiveness of $19,000/ton HAP reduction and a cost effectiveness incremental to Option 1 of $35,000/ton HAP reduction. Similar to option 1, we found that the control measure would provide little change to the estimated risks, but at even higher cost. Therefore, we are proposing that the cost of the Option 2 standards is not reasonable when weighed against the minimal risk reduction achieved.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with the costs of emissions controls and technological feasibility, in making our ample margin of safety determination. Considering the health risk information and the little potential for risk reduction from control options identified for this source category, as well as the high relative cost of that risk reduction, we propose that the standards for the Site Remediation source category provide an ample margin of safety to protect public health. We request comments on the ample margin of safety analysis for this source category.

3. Adverse Environmental Effect

Considering the results of our environmental risk screening, we do not expect an adverse environmental effect as a result of HAP emissions from this source category, and we are proposing that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

D. Additional Modeling for Site Remediation

In addition to assessing risk from affected facilities, we also conducted an inhalation risk assessment for all HAP emitted, a multipathway screening assessment for the PB–HAP emitted, and an environmental risk screening assessment for the PB–HAP and acid gases (*e.g.,* HCl) emitted from the CERCLA/RCRA exempt sources. Although exempt from the regulatory requirements of the Site Remediation NESHAP, these facilities are part of the Site Remediation source category. To understand the risks from the facilities exempt from the Site Remediation NESHAP requirements, these facilities were analyzed separately for the purposes of the risk assessment. We present results of the risk assessment briefly below and in more detail in the *Residual Risk Assessment for Exempt Sources in the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

1. Chronic Inhalation Risk Assessment Results

The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by exempt sources in the Site Remediation source category is 4-in-1 million driven by site remediation model plant emissions of chromium (VI) compounds. The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer cases per year, or 1 case every 1,000 years. The population exposed to cancer risks greater than or equal to 1-in-1 million considering actual and allowable emissions is 1,100 (see Table 4 of this preamble). In addition, the maximum chronic noncancer HI (TOSHI) is less than 1.

[23] See *Technology Review and Cost Impacts for the Proposed Amendments to the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

TABLE 4—SITE REMEDIATION SOURCES INHALATION RISK ASSESSMENT RESULTS FOR EXEMPT SOURCES

Number of facilities [1]	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
.....	Based on Actual Emissions Level [2 3]				
118	4	1,100	0.001	0.3	<1
.....	Based on Whole Facility Emissions				
	2,000	9,000,000	1	7	.....

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from exempt sources in the source category.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

2. Screening Level Acute Risk Assessment Results

As presented in Table 4 of this preamble, acute exposure to emissions from exempt sources in the Site Remediation source category result in a maximum HQ less than 1. For more detailed acute risk results refer to the *Residual Risk Assessment for Exempt Sources in the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

3. Multipathway Risk Screening Results

The results of the multipathway risk screening assessment indicate all Tier 2 screening values for PB–HAP emitted from exempt sources in the source category (arsenic compounds, cadmium compounds, mercury compounds, and POM) are less than 1. Based on these results, we are confident that the cancer risks due to multipathway exposures to these chemicals are lower than 1-in-1 million and the noncancer HIs are less than 1.

In the case of lead, the multipathway risks were assessed by comparing modeled ambient lead concentrations against the primary NAAQS for lead. The results of this analysis indicate that, based on actual and allowable emissions, the maximum annual off-site ambient lead concentration is 0.004 μg/m^3, well below the primary NAAQS of 0.15 μg/m^3.

4. Environmental Risk Screening Results

The ecological risk screening assessment indicated all modeled points were below the Tier 1 screening thresholds based on actual and allowable emissions of PB–HAP (arsenic compounds, cadmium compounds, mercury compounds, and POM) and acid gases (HCl and HF) emitted by exempt sources in the source category.

In the case of lead, the environmental risks were assessed by comparing modeled ambient lead concentrations against the secondary NAAQS for lead. The results of this analysis indicate that, based on actual and allowable emissions, the maximum annual off-site ambient lead concentrations were below the secondary NAAQS.

Based on the results of the environmental risk screening assessment, we would not expect environmental risks due to emissions from these sources.

5. Facility-Wide Risk Results

An assessment of whole-facility (or ''facility-wide'') risks was performed as described above to characterize the exempt source risk in the context of facility-wide risks.[24] Facility-wide risks were estimated using the NEI-based data. The maximum lifetime individual cancer risk posed by the 118 facilities, based on facility-wide emissions, is 2,000-in-1 million with ethylene oxide from facility-wide flare emissions driving the risk. The total estimated cancer incidence from the whole facility is one excess cancer case per year. Approximately 9,000,000 people are estimated to have cancer risks above 1-in-1 million from facility-wide HAP emissions. Eleven facilities and 98,000 people have facility-wide lifetime individual cancer risk greater than or equal to 100-in-1 million. Additional details on this determination can be found in the *Residual Risk Assessment for Facilities Exempt from the Site Remediation Source Category in Support of the 2019 Risk and Technology Proposed Rule,* which is available in the docket for this action.

Regarding the facility-wide risks from exempt facilities due to ethylene oxide (described above), which are due to emission sources that are not part of the Site Remediation source category, we intend to evaluate those facility-wide estimated emissions and risks further and may address these in a separate future action, as appropriate. In particular, the EPA is addressing ethylene oxide based on the results of the latest NATA released in August 2018, which identified the chemical as a potential concern in several areas across the country. (NATA is the Agency's nationwide air toxics screening tool, designed to help the EPA and state, local, and tribal air agencies identify areas, pollutants, or types of sources for further examination.) The latest NATA estimates that ethylene oxide significantly contributes to potential elevated cancer risks in some census tracts across the U.S. (less than 1 percent of the total number of tracts). These elevated risks are largely driven by an EPA risk value that was updated in late 2016. The EPA will work with industry and state, local, and tribal air agencies as the EPA takes a two-pronged approach to address ethylene oxide emissions: (1) Reviewing and, as appropriate, revising CAA regulations for facilities that emit ethylene oxide—starting with air toxics emissions standards for miscellaneous organic chemical manufacturing facilities and commercial sterilizers; and (2) conducting site-specific risk assessments and, as necessary, implementing emission control strategies for targeted high-risk facilities. The EPA will post updates on its work to address ethylene oxide on its website at: *https://www.epa.gov/ethylene-oxide.*

Regarding the noncancer risk assessment, the maximum chronic noncancer HI associated with facility-wide emissions is estimated to be 7 due to chemical manufacturing wastewater treatment emissions of chlorine. A total of eight facilities had a facility-wide

[24] The facility-wide risk assessment includes all emission points from exempt facilities within the Site Remediation source category (including those for which there are no standards) as well as other emission points covered by other NESHAP.

chronic noncancer HI greater than 1 due to emissions of one or more of the following HAP: chlorine; 2,4-toluene diisocyanate; hexamethylene-1,6-diisocyanate; acrolein; propionaldehyde; acetaldehyde; and benzo[a]pyrene.

As discussed in section VI.A.1 of this preamble, we are not proposing requirements for facilities exempt from the emissions control requirements of the Site Remediation NESHAP in this action.

E. What are the results and proposed decisions based on our technology review?

As described in section III.B of this preamble, our technology review focused on identifying developments in practices, processes, and control technologies for the emission sources in the Site Remediation source category. To identify such developments since the MACT standards were promulgated, we consulted the EPA's RBLC, reviewed subsequent regulatory development efforts, reviewed major source operating permits and minor and synthetic minor source operating permits, and reviewed academic and trade literature for control technologies used in the industry.

For the Site Remediation source category, we did not identify any developments in practices, processes, or control technologies for storage tanks, containers, surface impoundments, oil-water separators, organic-water separators, transfer systems, land treatment, or material extraction activities beyond what is currently required in the rule. For process vents and equipment leaks, we identified additional control options, and the following sections summarize the results of our technology review for these emissions sources.

To perform the technology review, we needed information that was not included in the RTR emissions dataset used for modeling site remediation risks. Specifically, to evaluate the costs and cost effectiveness of various control options, we used a model plant approach for development of estimates for leaking components. This model plant analysis is not comparable to the model plant approach used in the risk analysis. The model plant for the technology review created the basis for evaluating the options of revising the LDAR standards. We model the number of potential leaking components, the leak rates applicable to such plants, and the level of emissions from leaking components under different standards. The component count and leak rates are the basis for evaluating the relative costs and benefits of changes that were considered for the LDAR program. Therefore, the model plant approach we used resulted in baseline emission estimates different from those included in the risk modeling dataset, which included its own inventory of emissions due to leaks. Additional information about our technology review and model plant approach can be found in the memorandum titled *CAA section 112(d)(6) Technology Review for the Site Remediation Source Category,* which is available in the docket for this action.

1. Process Vents

The current Site Remediation MACT standards at 40 CFR 63.7890 require emissions from process vents at existing and new affected sources to be routed through a closed vent system to a control device achieving at least 95-percent control. While some control devices, such as carbon adsorption, are assumed to have a control efficiency of 95-percent, other technologies are capable of achieving greater emissions control, such as thermal oxidizers. Several of these devices have been demonstrated to achieve a control efficiency of 98-percent or greater. Based on the combination of reported control efficiencies for these devices and known application to low concentration organic vapor gas streams, we investigated the use of a catalytic thermal oxidizer with a control efficiency of 98-percent as a potential control option.

Table 5 presents the emission reductions and costs of the 98-percent control option considered for process vents at existing affected sources in the Site Remediation source category under the technology review. Data collected through our search of title V permits indicate that only some facilities have process vents, and based on these data, we estimate that approximately six site remediation facilities have process vents that would require additional control to reduce emissions by 98 percent. As site remediations vary in the amount and type of contamination that is being abated, we used two example remediations to estimate the amount of HAP that could be removed through the emissions controls. We estimated the capital and annual costs of complying with an increase from 95- to 98-percent HAP control for process vents to be the same for either example, with total capital costs estimated at approximately $400,000 and the total annualized costs estimated to be approximately $185,000. Based on the two example facilities, the HAP emissions reduction beyond the current control requirements could range between 0.09 and 0.18 tpy for the source category, and the cost effectiveness could range from approximately $31,000 to $66,000. The incremental cost effectiveness in going to 98-percent control from 95-percent control could range from approximately $1 million to $2 million per ton HAP removed.

TABLE 5—SITE REMEDIATION PROCESS VENT OPTION EMISSION REDUCTIONS AND COSTS

Regulatory alternative	Example facility	HAP emissions reduction (tpy)	Capital cost ($)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
98-percent control	1	0.09	400,000	185,000	65,000	2,145,000
	2	0.18	400,000	185,000	30,000	1,000,000

Based on our estimate of costs and HAP reduction, we do not consider increasing the emission reduction to 98-percent to be reasonable, and we are not proposing to revise the Site Remediation MACT standards for process vents pursuant to CAA section 112(d)(6) to require this level of emissions control. We solicit comment on our analysis and conclusion regarding all aspects of this control option (Comment C–3).

2. Equipment Leaks

The Site Remediation MACT standards at 40 CFR 63.7920 currently require compliance with either 40 CFR part 63, subpart TT, or 40 CFR part 63, subpart UU, to control emissions from equipment leaks at existing and new affected sources. While many provisions of these two standards are the same or similar, 40 CFR part 63, subpart UU, requires the use of a more stringent leak definition for valves in gas and vapor

service and in light liquid service, pumps in light liquid service, and connectors. Specifically, 40 CFR part 63, subpart UU, lowers the leak definition for valves from 10,000 ppm (in 40 CFR part 63, subpart TT) to 500 ppm, lowers the leak definition for pump seals from 10,000 ppm (in 40 CFR part 63, subpart TT) to 1,000 ppm, and requires periodic instrument monitoring of connectors with a leak definition of 500 ppm, as opposed to instrument monitoring only being required if a potential leak is detected by visual, audible, olfactory, or other detection method (in 40 CFR part 63, subpart TT). We identified the more stringent leak definitions of 40 CFR part 63, subpart UU as a development in practices, processes, or control technologies. The more stringent definitions have, in the years since original promulgation of the Site Remediation NESHAP in 2003, become widely adopted and are frequently already required for sources in the Site Remediation source category under the other applicable NESHAP requirements at these sources. Making the more stringent level of leak detection more uniform across a facility will also enhance regulatory consistency, clarity, and certainty and enhance compliance.

Assuming conservatively that each of the site remediation facilities currently complies with 40 CFR part 63, subpart TT and does not already comply with 40 CFR part 63, subpart UU, we analyzed the costs and emission reductions of two options: Option 1—requiring the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps; Option 2—requiring the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps and, in addition, requiring connector monitoring under 40 CFR part 63, subpart UU. The estimated costs and emissions reductions associated with these two options for the site remediation source category are shown in Table 6. For Option 1 (40 CFR part 63, subpart UU valve and pump leak detection thresholds), we estimated the capital costs to be approximately $26,000 and the total annualized costs to be approximately $10,000. The estimated HAP emissions reduction is approximately 4.7 tpy, and the cost effectiveness is approximately $2,000/ton. For Option 2 (40 CFR part 63, subpart UU valve and pump leak detection thresholds and connector monitoring), we estimated the capital costs to be approximately $95,000 and the total annualized costs to be approximately $188,000. The estimated HAP emissions reduction is approximately 9.7 tpy, and the cost effectiveness is approximately $19,000/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $35,000.

TABLE 6—SITE REMEDIATION EQUIPMENT LEAK OPTIONS EMISSION REDUCTIONS AND COSTS

Regulatory alternatives	HAP emissions reduction (tpy)	Capital cost ($)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
Option 1: 40 CFR part 63, subpart UU valve and pump leak thresholds only	4.7	26,000	10,000	2,000	.....
Option 2: 40 CFR part 63, subpart UU valve and pump leak detection thresholds and connector monitoring	9.7	95,000	188,000	19,000	35,000

Based on our analysis, the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We do not believe the costs of Option 2 are reasonable, given the level of HAP emissions reduction it would achieve relative to a much higher incremental cost per ton above Option 1. Therefore, we are proposing to revise the Site Remediation MACT standards in accordance with Option 1 for equipment leaks. We solicit comment on our assessment and conclusions regarding all aspects of both options (Comment C–4).

F. What other actions are we proposing?

In addition to the proposed actions described above, we are proposing additional revisions to the NESHAP, and requesting information on two issues for which the EPA has been petitioned for reconsideration. We are proposing revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing various other changes to require electronic reporting of emissions test results and to make several minor technical corrections to the regulation text of 40 CFR part 63, subpart GGGGG. Our analyses and proposed changes related to these issues are discussed below.

1. Standards for Inorganic HAP and Metal Emissions

In the May 13, 2016, proposal on reconsideration, the EPA stated that it would consider the issue of regulating metals and inorganic HAP emissions during the risk review. 81 FR 29824. The EPA is proposing to not set standards for metals and inorganic HAP from site remediation sources subject to the Site Remediation NESHAP because we do not have data indicating that remediation sources subject to the rule emit these pollutants. In the EPA's development of the risk modeling emissions data, we found six facilities with emissions data in the NEI that were labeled under the SCC as being from a site remediation. None of these facilities reported inorganic HAP emissions or metal emissions. The EPA is, therefore, proposing no action at this time to set standards for inorganic HAP and metals in the absence of data indicating such emissions occur at affected facilities. The EPA is requesting data demonstrating whether or not any affected site remediation sources emit inorganic HAP or metals (Comment C–5).

2. SSM

a. Background

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1) holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that a section 112 standard apply at all times.

We are proposing to eliminate the SSM exemption in the Site Remediation NESHAP. Consistent with *Sierra Club* v. *EPA,* we are proposing standards in this rule that apply at all times. We are also proposing several revisions to Table 3 (the General Provisions Applicability Table) as is explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to eliminate provisions that are inappropriate, unnecessary, or redundant in the absence of the SSM exemption in this proposal. We are specifically seeking comment on whether we have successfully done so (Comment C–6).

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods.

Based on the types of site remediation processes and equipment for this source category, the EPA has assumed that emissions during periods of startup and shutdown are the same as or lower than during normal operations. As it is possible to stop processing remediation material until any control devices are fully operating and able to effectively control emissions, the EPA has determined that separate standards for periods of startup and shutdown are not necessary and are not being proposed. We solicit comment on this conclusion regarding periods of startup and shutdown at site remediation facilities (Comment C–7).

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner. . .'' (40 CFR 63.2). The EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 112 standards. Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the EPA to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the Court has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of sources'' says nothing about how the performance of the best units is to be calculated. *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting standards based on ''best performers.''

Further, accounting for malfunctions in setting emissions standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.'' '') (internal quotation omitted). See also *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, the goal of a ''best controlled or best performing source'' is to operate in such a way as to avoid malfunctions of the source and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.2 (definition of malfunction). Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action, and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In several prior rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulations, to ensure adequate compliance, while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. *Compare Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate) *with Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under

the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. In 2014, the Court vacated such an affirmative defense in one of the EPA's CAA section 112(d) regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014) (vacating affirmative defense provisions in a CAA section 112(d) rule establishing emission standards for Portland cement kilns). The Court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts lies exclusively with the courts, not the EPA. Specifically, the Court found, ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' 749 F.3d at 1063; see also *Id.* (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.''). In light of *NRDC,* the EPA is not including a regulatory affirmative defense provision in this proposed rule. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the Court recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. See *Id.* at 1064 (noting arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same logic applies to EPA administrative enforcement actions.

b. Specific SSM-Related Proposed Changes

To address the United States Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, we are proposing revisions and additions to certain provisions of the Site Remediation NESHAP. As described in detail below, we are proposing to revise the General Provisions applicability table (Table 3 to 40 CFR part 63, subpart GGGGG) in several of the references related to requirements that apply during periods of SSM. We are also proposing revisions related to the following provisions of the Site Remediation NESHAP: (1) The general duty to minimize emissions at all times; (2) the requirement for sources to comply with the emission limits in the rule at all times; (3) performance testing conditions requirements; (4) excused monitoring excursions provisions; and (5) malfunction recordkeeping and reporting requirements.

(1.) General Duty

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.6(e) by adding rows specifically for 40 CFR 63.6(e)(1)(i), 63.6(e)(1)(ii), and 63.6(e)(1)(iii), and to include a ''no'' in the applicability column for the 40 CFR 63.6(e)(1)(i) entry. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.7935(b) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.7935(b) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to include a ''no'' in the applicability column for the newly added entry for 40 CFR 63.6(e)(1)(ii). Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.7935(b).

The provisions of 40 CFR 63.6(e)(1)(iii) still apply, and we are keeping the ''yes'' in the applicability column for that section. For 40 CFR 63.6(e)(2), we are proposing to include a ''no'' in the applicability column for that section because it is a reserved section in the General Provisions.

(2.) SSM Plan

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' to ''no'' in the applicability column. Generally, this paragraph requires development of an SSM plan and specifies SSM recordkeeping and reporting requirements related to the SSM plan. As previously noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan requirements are no longer necessary.

(3.) Compliance With Standards

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in the applicability column to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standard apply at all times. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

(4.) Performance Testing

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in the applicability column to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.7941(b)(2). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption. However, consistent with 40 CFR 63.7(e)(1), performance tests conducted under this subpart should be based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' upon request but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record and report the information.

(5.) Monitoring

We are proposing to revise the General Provisions table (Table 3) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in the applicability column to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

(6.) Recordkeeping

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.10(b)(2)(i)–(iv) by adding separate entries for 40 CFR 63.10(b)(2)(i)–(ii), 63.10(b)(2)(iii) and 63.10(b)(2)(iv)–(v) and changing the ''yes'' in the applicability column to a ''no'' for 40 CFR 63.10(b)(2)(i)–(ii) and 63.10(b)(2)(iv)–(v). Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is proposing that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods. Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is proposing to add such requirements to 40 CFR 63.7952(a)(2). The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is proposing that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add to 40 CFR 63.7952(a)(2) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the volume of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard. Section 63.10(b)(2)(iv) requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.7952(a)(2). Section 63.10(b)(2)(v) requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

(7.) Reporting

We are proposing to revise the General Provisions table (Table 3) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in the applicability column to ''no.'' Section 63.10(d)(5)(i) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirements, the EPA is proposing to add electronic reporting requirements to 40 CFR 63.7951(c). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual summary report already required under this rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdowns, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

3. Electronic Reporting

Through this proposal, the EPA is proposing that owners and operators of site remediation facilities submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0833. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [25] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of

[25] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

the ERT. Similarly, performance evaluation results of CMS measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For semi-annual summary compliance reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed template for this report is included in the docket for this rulemaking.[26] The EPA specifically requests comment on the content, layout, and overall design of the template.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.7951(e). The situation where an extension may be warranted due to a force majeure event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR63.7951(e). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements, and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [27] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [28] developed in response to the White House's Digital Government Strategy.[29] For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0833.

4. Open-Ended Valves and Lines

The Site Remediation NESHAP in 40 CFR 63.7920(b) requires an owner or operator to control emissions from equipment leaks according to the requirements of either 40 CFR part 63, subpart TT, or 40 CFR part 63, subpart UU. For open-ended valves and lines, both subpart TT in 40 CFR 63.1014(b)(1) and subpart UU in 40 CFR 63.1033(b)(1) require that the open end be equipped with a cap, blind flange, plug, or second valve that shall ''seal the open end.'' However, ''seal'' is not defined in either subpart, leading to uncertainty for the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain open-ended lines may be equipped with a cap, blind flange, plug, or second valve, these are not providing a ''seal'' as the EPA interprets the term.[30] In response to this uncertainty, we are proposing to amend 40 CFR 63.7920(b) to clarify what ''seal the open end'' means for open-ended valves and lines. This proposed clarification explains that for the purpose of complying with the requirements of 40 CFR 63.1014(b)(1) (subpart TT), and 40 CFR 63.1033(b)(1) (subpart UU), open-ended valves and lines are ''sealed'' by the cap, blind flange, plug, or second valve if instrument monitoring of the open-ended valve or line conducted according to EPA Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

In addition, 40 CFR 63.1014(c) of subpart TT and 40 CFR 63.1033(c) of subpart UU exempt open-ended valves and lines that are in an emergency shutdown system, and which are designed to open automatically, from the requirements to be equipped with a cap, blind flange, plug, or second valve that seals the open end. We are proposing that these open-ended valves and lines follow the requirements of 40 CFR 63.7920(b)(3)(ii) for bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere, which would require that each such open-ended line be equipped with either a flow indicator or a seal or locking device. We are also proposing recordkeeping and reporting requirements in 40 CFR 63.7951(g)(3) and 40 CFR 63.7952(a)(2)(v)(B) for these open-ended values and lines.

We solicit comments on our proposed approach to reducing the compliance uncertainty associated with ''sealed'' open-ended valves and lines and our proposed requirements for open-ended valves and lines that are in an emergency shutdown system and are designed to open automatically (Comment C–8).

5. Technical Corrections

In this rulemaking, we are proposing four technical corrections to improve the clarity of the Site Remediation NESHAP requirements.

First, the original Site Remediation NESHAP, promulgated in October 2003 (68 FR 58172), incorporated two voluntary consensus standards (VCS) by reference, as specified in 40 CFR 63.14. However, while the paragraphs in 40 CFR 63.14 for these three VCS include references to the NESHAP for which they are approved to be used, these references omit citations to 40 CFR 63, subpart GGGGG. In 40 CFR 63.14, we

[26] See *40_CFR_Part_63_Subpart_GGGGG_Site_Remediation_Spreadsheet_Template_Draft.xlsm,* available at Docket ID No. EPA–HQ–OAR–2018–0833.

[27] EPA's *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[28] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[29] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

[30] See *Region V OEL Data for VV Rulemaking,* available in the docket for this action, available at Docket ID No. EPA–HQ–OAR–2018–0833.

are adding citations to 40 CFR 63.7944 for the two following consensus standards: American Petroleum Institute (API) Publication 2517, Evaporative Loss From External Floating-Roof Tanks, and American Society for Testing and Materials (ASTM) Method D2879–83.

Second, we are correcting a citation reference to 40 CFR 63.7(3) in 40 CFR 63.7942. The correct citation is to 40 CFR 63.7(a)(3).

Third, we are correcting a citation reference to 40 CFR 63.7890(a)(1)(i) in 40 CFR 63.7941. The correct citation is to 40 CFR 63.7890(b).

Fourth, we are correcting several citation references to 40 CFR 63.7990 in 40 CFR 63.7901(a), 40 CFR 63.7901(b)(1), and 40 CFR 63.7903(a) and (b). The correct citations are to 40 CFR 63.7900.

G. What compliance dates are we proposing?

Under CAA section 112(d), the proposed compliance date for new and existing affected sources for the revised SSM requirements, electronic reporting requirements, the operating and pressure release management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is the effective date of the final amendments. We are proposing this compliance date because available information indicates these new and revised requirements should be immediately implementable by the facilities.

We are proposing that for existing affected sources subject to the Site Remediation MACT standards, the compliance date for the PRD pressure release actuation event reporting requirements is 1 year from the effective date of the final amendments. This time is needed regardless of whether an owner or operator of a facility chooses to comply with the PRD pressure release actuation event reporting provisions by installing PRD release indicator systems, employing parameter monitoring, routing releases to a control device, or choosing another compliance option as permitted under the proposed provisions. This time period will allow site remediation facility owners and operators to research equipment and vendors, and to purchase, install, test, and properly operate any necessary equipment by the compliance date. For new affected sources, the proposed compliance date for PRD pressure release actuation event reporting requirements is the effective date of the final amendments.

Finally, we are proposing revised requirements for equipment leaks under CAA section 112(d)(6). The EPA generally understands the steps needed for site remediation facilities to comply with the proposed standards for equipment leaks, and believes 1 year represents a reasonable amount of time it will take these facilities to take these steps. Therefore, we are proposing that a one-year compliance period from the date of promulgation is necessary for the revised equipment leak requirements to allow existing affected sources that are currently complying with 40 CFR part 63, subpart TT, adequate time to modify their existing LDAR programs to comply with the revised standards for pumps and valves. For new affected sources, the proposed compliance date for the equipment leak standards is the effective date of the final amendments.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

We estimate that there are approximately 63 major source site remediation facilities. Based on available permit information, 33 facilities are expected to be subject to a limited set of the rule requirements under 40 CFR 63.7881(c)(1) due to the low annual quantity of HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed during the site remediations conducted at the facilities. These facilities are only required to prepare and maintain written documentation to support the determination that the total annual quantity of the HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed at the facility is less than 1 megagram per year. They are not subject to any other emissions limits, work practices, monitoring, reporting, or recordkeeping requirements. While new site remediations are likely to be conducted in the future, we are currently not aware of any specific new site remediation facilities that are expected to be constructed.

B. What are the air quality impacts?

For equipment leaks, we are proposing to revise the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the HAP emission reduction for this change to be approximately 4.7 tpy. We do not anticipate any HAP emission reduction from our proposed clarification of the rule provision ''seal the open end'' (in the context of open-ended valves and lines) or the requirement to electronically report the results of emissions testing. For the proposed revisions to the MACT standards regarding SSM, including monitoring of PRDs in remediation material service, we were not able to quantify the possible emission reductions, so none are included in our assessment of air quality impacts.

Therefore, the estimated total HAP emission reductions for the proposed rule revisions for the Site Remediation source category are estimated to be 4.7 tpy.

C. What are the cost impacts?

For equipment leaks, we are proposing to revise the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the nationwide capital costs to be $26,000 and the annual costs to be $10,000.

We do not anticipate any quantifiable capital or annual costs for our proposed requirements to electronically report the results of emissions testing, or the requirements to monitor PRDs. For PRDs, we are also proposing to require facilities to conduct analyses of the causes of PRD pressure release actuation events and to implement of corrective measures. We estimate the nationwide annualized costs for the analysis of actuation events to be $13,000. This cost represents the estimated labor hours we anticipate would be required to determine the cause of a typical actuation event and to implement any corrective measure suggested by the analysis of the cause. We estimate an increase in reporting and recordkeeping associated with the proposed requirements for equipment leaks and PRDs of approximately $7,000 per year nationwide. Therefore, the total capital costs for the proposed standards for the Site Remediation source category are approximately $26,000, and the total annualized costs are approximately $30,000.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a proposed rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a proposed rule. The total capital costs associated with this proposed rule are estimated to be approximately $26,000, and the estimated annualized cost is approximately $30,000. We expect these costs to be borne by 30 facilities, with

an estimated annualized cost of approximately $1,000 per facility per year. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

We have estimated that this action will achieve HAP emissions reductions of 4.7 tpy. The proposed standards will result in reductions in the actual and MACT-allowable emissions of HAP and may reduce the actual and potential cancer risks and noncancer health effects due to emissions of HAP from this source category, as discussed in section IV.B.2 of this preamble. We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution of these emissions.

VI. Request for Comment

A. Request for Comment Regarding CERCLA/RCRA Exempt Sources

1. Introduction

The EPA is using this RTR proposal separately to solicit comment on ways in which the Site Remediation NESHAP could be amended with respect to facilities currently exempt under 40 CFR 63.7881(b)(2) and (3), under a scenario where the EPA removes the exemption. The exemption applies to facilities subject to federally-enforceable oversight under the CERCLA or the RCRA. In particular, in light of comments received on our 2016 proposal to remove the exemption, the Agency seeks additional comment regarding subcategorization or other methods of distinguishing among appropriate requirements for such sources, as well as whether the issues raised by commenters may be applicable more generally for all affected facilities in this source category. The EPA is seeking comment on how, if the exemption was removed, these formerly exempt sources would be able to implement the Site Remediation NESHAP effectively and efficiently while meeting the requirements of RCRA, CERCLA, and the CAA. We seek comment on how this could be reflected in the applicability, monitoring, recordkeeping, reporting, and compliance demonstration requirements. The EPA seeks comment on how to efficiently implement the rule for cleanups conducted under CERCLA or RCRA authority. For example, this could include look-up tables for commonly used remediation alternatives and associated BACT and LAER compliant technologies that would minimize emissions to be consistent with the rule. We are seeking ideas on what tools or metrics could be developed that would aid to streamline the implementation of the regulation on a site-specific basis.

It is not the EPA's intention to take final action with respect to the exemption in this action, but to use this opportunity to gather additional information in anticipation of addressing these issues through a separate action (Comment C–9).

2. Background

Section 112(c)(1) of the CAA requires EPA to publish and regularly update (at least every 8 years) ''a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b).'' In 1992, the EPA included site remediation on the initial CAA 112(c)(1) source category list and defined the source category to include the cleanup of sites that possess contaminated media, including National Priorities List sites and Corrective Action sites. See the EPA, July 1992 Final Report. The listing assumed that remediation cleanups conducted under specific cleanup authorities could be major sources. Section 112(c)(2) of the CAA states that the EPA ''shall establish emissions standards under [section 112(d)]'' for the categories and subcategories the Administrator lists. The D.C. Circuit has described this as a mandatory obligation. See, *e.g., NRDC* v. *EPA,* 489 F.3d. 1364, 1368 (2007).

3. Promulgation of Rule and Petition for Reconsideration

In 2003, the EPA promulgated a final rule under CAA section 112 which established MACT standards for HAP emissions at major sources where remediation technologies and practices are used to clean up contaminated media (*e.g.,* soils, groundwater, or surface water) or certain stored or disposed materials (68 FR 58172, October 8, 2003). The rule exempted from the MACT standard remediations performed under federal oversight pursuant to CERCLA or the RCRA corrective action program, on the basis that such regulated cleanups provided the ''functional equivalent'' of the MACT standards. *Id.* at 58176.

The EPA stated that CERCLA Superfund and RCRA corrective action programs provide an ''appropriate and effective regulatory approach'' to address air emissions, because these statutes require consideration of the same HAP emissions and include a public input process. *Id.* at 58183. EPA noted the RCRA corrective action and CERCLA Superfund assessment and clean-up processes are already subject to federal regulatory oversight; further, remediation actions are designed and managed based on site-specific conditions; and, they include public participation mechanisms. *Id.* Note that the EPA did not extend the RCRA and CERCLA exemption to sites handled under state and voluntary cleanup programs, brownfields cleanups, and other types of site remediation that are not subject to the oversight provided for RCRA corrective action or CERCLA Superfund actions, see *Id.* at 58183–84. The EPA concluded that imposing the NESHAP requirements on remediations already overseen pursuant to CERCLA or RCRA would have limited impact and could add administrative burden to the remediation process under those programs for little or no environmental benefit. *Id.*

The Sierra Club filed a petition for judicial review of the rule in the Court as well as an administrative petition for reconsideration under the CAA on two issues in the final rule, one of which was the exemption for CERCLA and RCRA sites. The other issue raised by petitioners concerned control of heavy metals and other inorganic HAP from this source category. This issue is addressed in section IV.E.1 of this preamble. The petition for reconsideration stated that the public did not have an opportunity to comment specifically on the EPA's ''functional equivalent'' argument because the EPA raised it for the first time in the final rule preamble. Petitioners further stated that there is no CAA authority to exempt these sources, and CAA section 112(c) and (d) require that the EPA establish MACT standards for them. Petitioners asserted that CERCLA and RCRA applicable requirements are not the functional equivalent of the MACT standards for this source category, and that the EPA had not demonstrated that they are.

In January 2004, the Court granted a joint motion to hold the case in abeyance so the parties could discuss possible settlement. Settlement discussions were ultimately unsuccessful. In October 2014, the Court ordered the parties to show cause why the case should not be administratively terminated. The EPA and Sierra Club filed a joint response stating that the parties were exploring a new approach to settlement. In March 2015, the EPA granted reconsideration on the issues raised in the petition via letter.

In May 2016, the EPA proposed to remove the exemption from the Site Remediation MACT rule for CERCLA Superfund and RCRA corrective action sites (81 FR 29821 May 13, 2016). The EPA has not taken final action on the proposed rule, and the EPA now is seeking further comment and information relating to this issue.

4. 2016 Proposal on Reconsideration

On May 13, 2016, the EPA proposed to amend the Site Remediation NESHAP by removing exemptions from the rule for site remediation activities performed under federally-enforceable oversight authority of CERCLA or RCRA. 81 FR 29821.The EPA also proposed removing the applicability requirement that site remediations be co-located with at least one other stationary source regulated by another NESHAP. The EPA has not taken final action on that proposal and is not proposing to do so in this notice. However, in conjunction with this proposal for the RTR, the EPA is seeking additional comment and information related to the EPA's previous proposal to remove the exemptions for remediations under RCRA and CERCLA programs. The EPA is not seeking further comment on the proposal to remove the applicability requirement that site remediations be co-located with at least one other stationary source regulated by another NESHAP.

In response to our 2016 proposal, the EPA received comments both in support of and in opposition to our proposal to remove the exemption provisions. The EPA has reviewed the comments received in response to our 2016 proposal and does not believe it has sufficient information to proceed with a final rule at this time. The comments received in opposition to the proposal to remove the exemptions suggested that the proposal to remove the RCRA and CERCLA exemptions alone, without further consideration of modification of other provisions, may apply the NESHAP to sources that we did not intend to regulate, or apply the NESHAP in a way that compliance is impractical given the nature of the remediation effort facing the source.

These comments, briefly summarized below (and available in the proposal docket at EPA–HQ–OAR–2002–0021), have led the EPA to determine that additional information and comment are appropriate before taking further action. The EPA is not proposing any regulatory action on removing the RCRA and CERCLA exemptions in this RTR proposal. Rather, the EPA is using this proposal as an opportune time to solicit further information and data in response to the comments on our prior proposal. The comments and information we receive with respect to the exemptions will be added to the information available for a subsequent rulemaking after the EPA has finalized the RTR.

5. Discussion and Request for Comment

The 2016 proposal to eliminate the exemption included no other changes to the rule, although the proposal would have the effect of applying the rule to approximately 125 facilities at which a site remediation is conducted, an inclusion that would, in turn, cover an even greater number of operable units. The EPA received comments from facilities from across the spectrum of exempt sources likely to be subject to the rule after removing the exemptions. This broad range of sources and their diversity indicate that the EPA should consider sub-categorization or other methods of differentiating among sources under the Site Remediation NESHAP.

Under CAA section 112(c), the EPA may establish subcategories based on size, type, or class of affected source, such that standards applicable to each subcategory achieve reductions required by the CAA, but in a manner appropriate to that subgroup of sources. In general, the EPA has established subcategories based on the material inputs or the nature of the products being produced which in turn inform the nature of the requirements that apply. In other cases, the EPA created subcategories for different process equipment that required air pollution control of fundamentally different operating parameters and mechanisms, and which, in turn, required monitoring or testing of different types to demonstrate compliance.

The EPA understands the comments on the May 2016 proposal to indicate that the EPA should consider subcategorizing or differentiating among remediations in some way. While the Site Remediation NESHAP already reflects certain differences in remedial actions, in commenters' view, there are other considerations that warrant further consideration of how the rule is structured.

Commenters described the site remediation in ways that suggested that applying the Site Remediation NESHAP is unlike applying other NESHAP. For example, when a typical major source is constructed, the owner-operator is fully aware of the processes they will perform, the equipment that will be needed, and the techniques and practices that will be employed to comply with applicable standards. If a source is not able to determine applicability based on their own comparison of potentially applicable standards and their industrial processes, the facility can request an applicability determination from the EPA.

In contrast, an entity that is initiating a site remediation must contend with a level of uncertainty and incomplete information about the remediation that eventually will occur. These differences have a material impact on the way sources determine applicability and implement specific provisions of the Site Remediation NESHAP. For example, 40 CFR 63.7886(c)(1) has provisions that require that a source conduct a site investigation to substantiate specific subsurface quantities of pollutants to be remediated, to determine whether a given remediation will be subject to the rule.

To make this determination, the extent of contamination must be estimated, but these quantities may not be known until a future (and often extended) period for a single operable unit. This is further complicated when a facility consists of many individual operable units dispersed over hundreds of acres. A facility with a series of operable units that will be in remediation in sequence is not required to know the pollutant quantities at all operable units at the outset of the first remediation, unless the facility is compelled to make an applicability determination under the Site Remediation NESHAP. When remediating a series of operable units, the remediation activity across units may not be active at the same time or may be intermittent or discontinued after a couple of months or years. This makes an applicability determination for a potentially affected source a greater hurdle than the EPA may have considered.

The EPA recognizes that the diversity of sites already subject to the NESHAP is a characteristic of the Site Remediation source category as a whole. However, we understand commenters' view to be that the size of the cleanup, and the typically greater scale, complexity, and diversity of remediation issues at sites that fall under the current RCRA and CERCLA exemption render the considerations discussed above particularly significant in establishing appropriate NESHAP requirements for such sites.

Another consideration highlighted by commenters for these typically large and complex remediation sites is that remediation is driven by the requirements of the RCRA and CERCLA programs, not by compliance with a NESHAP. For some affected sources, according to commenters, compliance

with certain requirements of the rule may have a negative impact on the execution of remediation conducted in compliance with RCRA and CERCLA. For example, RCRA and CERCLA cleanups may be ongoing at the time that the remediation becomes subject to the Site Remediation NESHAP. While the EPA has some flexibility in the applicability date of the NESHAP, commenters pointed out that the EPA provided no regulatory language to guide a facility to show whether or how the facility's adherence to corrective action requirements and approved remediation plans under RCRA and CERCLA demonstrate initial or continuing compliance with the Site Remediation NESHAP standards to allow a remediation to proceed.

The EPA will take these comments under advisement, to be acted upon at a later date. The EPA will proceed with the RTR notice and comment rulemaking to complete this requirement under CAA section 112 by the deadline. Please see sections IV.B and IV.D of this preamble, and technical support documents supplied in the docket, for how the EPA has evaluated exempt sources with respect to both the risk and technology reviews.

B. Request for Comment on All Aspects of the Risk and Technology Review

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR website at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR website, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2018–0833 (through the method described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility (or facilities). We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR website at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2062.07. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information requirements in this rulemaking are based on the notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports, and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

Respondents/affected entities: Unlike a specific industry sector or type of business, the respondents potentially affected by this ICR cannot be easily or definitively identified. Potentially, the Site Remediation rule may be applicable to any type of business or facility at which a site remediation is conducted to clean up media contaminated with organic HAP when the remediation activities are performed, the authority under which the remediation activities are performed, and the magnitude of the HAP in the remediation material meets the applicability criteria specified in the rule. A site remediation that is subject to this rule potentially may be conducted at any type of privately-owned or government-owned facility at which contamination has occurred due to past events or current activities at the facility. For site remediation performed at sites where the facility has been abandoned and there is no owner, a government agency takes responsibility for the cleanup.

Respondent's obligation to respond: Mandatory (42 U.S.C. 7414).

Estimated number of respondents: 30 total for the source category. These facilities are already respondents and no facilities are expected to become respondents as a result of this proposed action.

Frequency of response: Semiannual.

Total estimated burden: 19,700 total hours (per year) for the source category, of which 310 hours are estimated as a result of this proposed action. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The total estimated cost of the rule is $1.39 million (per year) for the source category. This includes $126,000 total annualized capital or operation and maintenance costs. We estimate that $36,000 of the $126,000 in total annualized capital or operation and

maintenance costs is a result of this proposed action. Recordkeeping and reporting costs of approximately $7,000 estimated as a result of this action are included in the $1.39 million in total costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 3, 2019. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are chemical and refining companies. The Agency has determined that two small entities, representing approximately 7 percent of the total number of entities subject to the proposal, may experience an impact of less than 0.1 percent of revenues. Details of this analysis are presented in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This proposed rule imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

F. Executive Oder 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). There are no site remediation facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits comment on this proposed action from tribal officials.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Because the proposed rule amendments would result in reduced emissions of HAP and reduced risk to anyone exposed, the EPA believes that the proposed rule amendments would provide additional protection to children. More information on the source category's risk can be found in section IV of this preamble. The complete risk analysis results and the details concerning its development are presented in the memorandum entitled *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833).

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HAP emitted by site remediation facilities.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA is formalizing the incorporation of two technical standards that were included in the October 2003 rule for which the EPA had previously not formally requested the Office of the Federal Register to include in 40 CFR 63.14 with a reference back to the sections in 40 CFR 63, subpart GGGGG. These two standards were already incorporated in 40 CFR 63.14 and were formally requested for other rules. These standards are API Publication 2517, ''Evaporative Loss from External Floating-Roof Tanks,'' Third Edition, February 1989, and ASTM D2879–83, ''Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope.'' The API Publication 2517 is used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature and is available to the public for free viewing online in the Read Online Documents section on API's website at *https://publications.api.org.* In addition to this free online viewing availability on API's website, hard copies and printable versions are available for purchase from API. The ASTM D2879–83 method is also used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature, and it is available to the public for free viewing online in the Reading Room section on ASTM's website at *https://www.astm.org/READINGLIBRARY/.* Hardcopies and printable versions are also available for purchase from ASTM. Additional information can be found at *http://www.api.org/*and *https://www.astm.org/Standard/standards-andpublications.html.*

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations.

To gain a better understanding of the source category and near source populations, the EPA conducted a demographic analysis for site remediation facilities to identify any overrepresentation of minority, low income, or indigenous populations with cancer risks above 1-in-1 million. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most

highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. More information on the source category's risk can be found in section IV of this preamble. The complete demographic analysis results and the details concerning its development are presented in the memorandum titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833).

For the Site Remediation source category, the demographic analysis revealed that for some demographic categories, the percentage of people with cancer risks greater than or equal to 1-in-1 million is above their corresponding national averages of the amount of people in that demographic category. These demographic categories are ''African American,'' ''Above Poverty Level,'' and ''Over 25 and With a High School Diploma.'' The ratio of African Americans with a cancer risk greater than or equal to 1-in-1 million due to site remediation is 17 percent higher than the national average percentage of people in that demographic category (14 percent versus 12 percent); the ratio of people living above the poverty line with a cancer risk greater than or equal to 1-in-1 million due to site remediation is 1 percent higher than the national average percentage of people in that demographic category (87 percent versus 86 percent); and the ratio of people over age 25 with a high school diploma with a cancer risk greater than or equal to 1-in-1 million due to site remediation is 3 percent higher than the national average percentage of people in that demographic category (89 percent versus 86 percent). However, as noted previously, risks from this source category were found to be acceptable for all populations.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: August 5, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63continues to read as follows:

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

■ 2. Section 63.14 is amended by revising paragraphs (c)(1) and (h)(31) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(c) * * *

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for §§ 63.111, 63.1402, 63.2406 and 63.7944.

* * * * *

(h) * * *

(31) ASTM D2879–83, Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for §§ 63.111, 63.1402, 63.2406, 63.7944, and 63.12005.

* * * * *

Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation

■ 3. Section 63.7883 is amended by revising paragraphs (a), (b) introductory text, (c) introductory text, and (d) introductory text, and adding paragraph (f) to read as follows:

§ 63.7883 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than October 9, 2006, except as provided in paragraph (f) of this section.

(b) If you have a new affected source that manages remediation material other than a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (b)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

* * * * *

(c) If you have a new affected source that manages remediation material that is a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (c)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

* * * * *

(d) If your facility is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP as defined in § 63.2, then you must meet the compliance dates specified in paragraphs (d)(1) and (2) of this section, except as provided in paragraph (f) of this section.

* * * * *

(f) Sources must comply with the equipment leak requirements of § 63.7920(b)(3) and (4) and the pressure relief device requirements of § 63.7920(d) and (e) as specified in paragraphs (f)(1) and (2) of this section.

(1) If the affected source's initial startup date is before [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], you must comply with the equipment leak requirements of § 63.7920(b)(3) and (4) and the pressure relief device requirements of § 63.7920(d) and (e) of this subpart on or before [DATE ONE YEAR AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

(2) If the affected source's initial startup date is on or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], you must comply with the equipment leak requirements of § 63.7920(b)(3) and (4) and the pressure relief device requirements of § 63.7920(d) and (e) of this subpart upon initial startup.

■ 4. Section 63.7895 is amended by revising paragraph (c) to read as follows:

§ 63.7895 What emissions limitations and work practice standards must I meet for tanks?

* * * * *

(c) If you use Tank Level 1 controls, you must install and operate a fixed roof according to the requirements in § 63.902, with the exceptions specified in paragraphs (c)(1) and (2) of this section. As an alternative to using this fixed roof, you may choose to use one of Tank Level 2 controls in paragraph (d) of this section.

(1) Where § 63.902(c)(2) provides an exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere, only a conservation vent is eligible for the exception for the purposes of this subpart.

(2) The provisions of § 63.902(c)(3) do not apply for the purposes of this subpart.

* * * * *

■ 5. Section 63.7896 is amended by revising paragraphs (c)(1) and (3) and (f)(1) to read as follows:

§ 63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(c) * * *

(1) Each tank using Tank Level 1 controls is equipped with a fixed roof and closure devices according to the requirements in § 63.902(b) and (c), with the exceptions specified in § 63.7895(c)(1) and (2), and you have records documenting the design.

* * * * *

(3) You will operate the fixed roof and closure devices according to the requirements in § 63.902, with the exceptions specified in § 63.7895(c)(1) and (2).

* * * * *

(f) * * *

(1) Each tank is equipped with a fixed roof and closure devices according to the requirements in § 63.685(g), with the exceptions specified in § 63.7895(c)(1) and (2), and you have records documenting the design.

* * * * *

■ 6. Section 63.7898 is amended by revising paragraph (c)(1) to read as follows:

§ 63.7898 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(c) * * *

(1) Operating and maintaining the fixed roof and closure devices according to the requirements in § 63.902(c), with the exceptions specified in § 63.7895(c)(1) and (2).

* * * * *

■ 7. Section 63.7900 is amended by revising paragraphs (b)(1) through (3) introductory text, (c), and (d) to read as follows:

§ 63.7900 What emissions limitations and work practice standards must I meet for containers?

* * * * *

(b) * * *

(1) If the design capacity of your container is less than or equal to 0.46 m^3, then you must use controls according to the standards for Container Level 1 controls as specified in § 63.922, except that § 63.922(d)(4) and (5) do not apply for the purposes of this subpart. As an alternative, you may choose to use controls according to either of the standards for Container Level 2 controls as specified in § 63.923.

(2) If the design capacity of your container is greater than 0.46 m^3, then you must use controls according to the standards for Container Level 2 controls as specified in § 63.923, except that § 63.923(d)(4) and (5) do not apply for the purposes of this subpart and except as provided for in paragraph (b)(3) of this section.

(3) As an alternative to meeting the standards in paragraph (b)(2) of this section for containers with a capacity greater than 0.46 m^3, if you determine that either of the conditions in paragraphs (b)(3)(i) or (ii) apply to the remediation material placed in your container, then you may use controls according to the standards for Container Level 1 controls as specified in § 63.922, except that § 63.922(d)(4) and (5) do not apply for the purposes of this subpart.

* * * * *

(c) At times when a container having a design capacity greater than 0.1 m^3 is used for treatment of a remediation material by a waste stabilization process as defined in § 63.7957, you must control air emissions from the container during the process whenever the remediation material in the container is exposed to the atmosphere according to the standards for Container Level 3 controls as specified in § 63.924, except that § 63.924(d) does not apply for the purposes of this subpart. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(d) As an alternative to meeting the requirements in paragraph (b) of this section, you may choose to use controls on your container according to the standards for Container Level 3 controls as specified in § 63.924, except that § 63.924(d) does not apply for the purposes of this subpart. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

* * * * *

■ 8. Section 63.7901 is amended by revising paragraphs (a), (b)(1), (c)(2), and (d)(3) to read as follows:

§ 63.7901 How do I demonstrate initial compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7900 that apply to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section, as applicable to your containers.

(b) * * *

(1) You have determined the applicable container control levels specified in § 63.7900 for the containers to be used for your site remediation.

* * * * *

(c) * * *

(2) You will operate each container cover and closure device according to the requirements in § 63.922(d), except that § 63.922(d)(4) and (5) do not apply for the purposes of this subpart.

(d) * * *

(3) You will operate and maintain the container covers and closure devices according to the requirements in § 63.923(d), except that § 63.923(d)(4) and (5) do not apply for the purposes of this subpart.

* * * * *

■ 9. Section 63.7903 is amended by revising paragraphs (a), (b) introductory text, (c)(1), and (d)(2) to read as follows:

§ 63.7903 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7900 applicable to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable container control level specified in § 63.7900(b) for each affected tank by meeting the requirements in paragraphs (b)(1) through (3) of this section.

* * * * *

(c) * * *

(1) Operating and maintaining covers for each container according to the requirements in § 63.922(d), except that § 63.922(d)(4) and (5) do not apply for the purposes of this subpart.

* * * * *

(d) * * *

(2) Operating and maintaining container covers according to the requirements in § 63.923(d), except that § 63.923(d)(4) and (5) do not apply for the purposes of this subpart.

* * * * *

■ 10. Section 63.7905 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.7905 What emissions limitations or work practice standards must I meet for surface impoundments?

* * * * *

(b) * * *

(1) Install and operate a floating membrane cover according to the requirements in § 63.942, except that § 63.942(c)(2) and (3) do not apply for the purposes of this subpart; or

(2) Install and operate a cover vented through a closed vent system to a control device according to the requirements in § 63.943, except that

§ 63.943(c)(2) does not apply for the purposes of this subpart. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

* * * * *

■ 11. Section 63.7906 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 63.7906 How do I demonstrate initial compliance with the emissions limitations or work practice standards for surface impoundments?

* * * * *

(b) * * *

(2) You will operate the cover and closure devices according to the requirements in § 63.942(c), except that § 63.942(c)(2) and (3) do not apply for the purposes of this subpart.

* * * * *

(c) * * *

(2) You will operate the cover and closure devices according to the requirements in § 63.943(c), except that § 63.943(c)(2) does not apply for the purposes of this subpart.

* * * * *

■ 12. Section 63.7908 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 63.7908 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for surface impoundments?

* * * * *

(b) * * *

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in § 63.942(c), except that § 63.942(c)(2) and (3) do not apply for the purposes of this subpart.

* * * * *

(c) * * *

(1) Operating and maintaining the cover and its closure devices according to the requirements in § 63.943(c), except that § 63.943(c)(2) does not apply for the purposes of this subpart.

* * * * *

■ 13. Section 63.7910 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 63.7910 What emissions limitations and work practice standards must I meet for separators?

* * * * *

(b) * * *

(1) Install and operate a floating roof according to the requirements in § 63.1043, except that § 63.1043(c)(2) does not apply for the purposes of this subpart. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, you must comply with the requirements specified in paragraph (b)(2) of this section.

(2) Install and operate a fixed roof vented through a closed vent system to a control device according to the requirements in § 63.1044, except that § 63.1044(c)(2) does not apply for the purposes of this subpart. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device.

(3) Install and operate a pressurized separator according to the requirements in § 63.1045 except that § 63.1045(b)(3)(i) does not apply for the purposes of this subpart.

* * * * *

■ 14. Section 63.7911 is amended by revising paragraphs (b)(2), (c)(2), and (d)(2) to read as follows:

§ 63.7911 How do I demonstrate initial compliance with the emissions limitations and work practice standards for separators?

* * * * *

(b) * * *

(2) You will operate the floating roof and closure devices according to the requirements in § 63.1043(c), except that § 63.1043(c)(2) does not apply for the purposes of this subpart.

* * * * *

(c) * * *

(2) You will operate the fixed roof and its closure devices according to the requirements in § 63.1042(c), except that § 63.1042(c)(2) does not apply for the purposes of this subpart.

* * * * *

(d) * * *

(2) You will operate the pressurized separator as a closed system according to the requirements in § 63.1045(b)(3), except that § 63.1045(b)(3)(i) does not apply for the purposes of this subpart.

■ 15. Section 63.7912 is amended by revising paragraph (c) to read as follows:

§ 63.7912 What are my inspection and monitoring requirements for separators?

* * * * *

(c) If you use a pressurized separator that operates as a closed system according to § 63.7910(b)(3), you must visually inspect each pressurized separator and closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.1045(b), except that § 63.1045(b)(3)(i) does not apply for the purposes of this subpart.

■ 16. Section 63.7913 is amended by revising paragraphs (c)(1) and (d)(1) to read as follows:

§ 63.7913 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for separators?

* * * * *

(c) * * *

(1) Operating and maintaining the fixed roof and its closure devices according to the requirements in § 63.1042, except that § 63.1042(c)(2) does not apply for the purposes of this subpart.

* * * * *

(d) * * *

(1) Operating the pressurized separator at all times according to the requirements in § 63.1045, except that § 63.1045(b)(3)(i) does not apply for the purposes of this subpart.

* * * * *

■ 17. Revise the undesignated center heading for §§ 63.7920 through 63.7922 to read as follows:

Equipment Leaks and Pressure Relief Devices

■ 18. Section 63.7920 is amended by:
■ a. Revising paragraphs (b)(1) and (2);
■ b. Adding paragraphs (b)(3) and (4);
■ c. Redesignating paragraph (d) as paragraph (f); and
■ d. Adding new paragraph (d) and paragraph (e) to read as follows:

§ 63.7920 What emissions limitations and work practice standards must I meet for equipment leaks?

* * * * *

(b) * * *

(1) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart TT—National Emission Standards for Equipment Leaks—Control Level 1, with the differences noted in paragraphs (b)(3) and (4) of this section for the purposes of this subpart; or

(2) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart UU—National Emission Standards for Equipment Leaks—Control Level 2, with the differences noted in paragraphs (b)(3) of this section for the purposes of this subpart

(3)(i) For the purpose of complying with the requirements of § 63.1014(b)(1) or § 63.1033(b)(1), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(ii) For the purpose of complying with the requirements of § 63.1014(c) or § 63.1033(c), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process

upset and that are exempt from the requirements in § 63.1014(b) or § 63.1033(b) must comply with the requirements in § 63.693(c)(2).

(4)(i) For the purpose of complying with the requirements of § 63.1006(b)(2), the instrument reading that defines a leak is 500 parts per million or greater.

(ii) For the purpose of complying with the requirements of § 63.1007(b)(2), the instrument reading that defines a leak is 5,000 parts per million or greater for pumps handling polymerizing monomers; 2,000 parts per million or greater for pumps in food/medical service; and 1,000 parts per million or greater for all other pumps.

* * * * *

(d) For the purposes of this subpart, the requirements of § 63.7920(e) of this subpart apply rather than those of § 63.1030 or of § 63.1011, as applicable, for pressure relief devices in gas and vapor service. The requirements of § 63.7920(e) of this subpart apply rather than those of § 63.1029 or of § 63.1010, as applicable, for pressure relief devices in liquid service.

(e) Operate each pressure relief device under normal operating conditions, as indicated by an instrument reading of less than 500 ppm above the background level as detected by the method specified in § 63.1004(b) or § 63.1023(b), as applicable.

* * * * *

■ 19. Section 63.7923 is added before the center heading ''Closed Vent Systems and Control Devices'' to read as follows:

§ 63.7923 What emissions limitations must I meet for pressure relief devices?

(a) For each pressure relief device in remediation material service, you must comply with either paragraph (a)(1) or (2) of this section following a pressure release actuation event, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, return the pressure relief device to the normal operating conditions specified in § 63.7920(e) as soon as practicable and conduct instrument monitoring by the method specified in § 63.1004(b) or § 63.1023(b), as applicable, no later than 5 calendar days after the pressure release device returns to remediation material service following a pressure release actuation event, except as provided in § 63.1024(d) or of § 63.1005(c), as applicable.

(2) If the pressure relief device consists of or includes a rupture disk, except as provided in § 63.1024(d) or of § 63.1005(c), as applicable, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release actuation event.

(b) You must equip each pressure relief device in remediation material service with a device(s) or use a monitoring system sufficient to indicate a pressure release to the atmosphere. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, pressure monitor, or parametric monitoring system. The device(s) or monitoring systems must be capable of meeting the requirements specified in paragraphs (b)(1) through (3) of this section.

(1) Identifying the pressure release;

(2) Recording the time and duration of each pressure release; and

(3) Notifying operators immediately that a pressure release is occurring.

(c) If any pressure relief device in remediation material service releases directly to the atmosphere as a result of a pressure release actuation event, follow the requirements of paragraphs (c)(1) through (6) of this section.

(1) You must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release actuation event. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(2) You must determine the total number of pressure release actuation events that occurred during the calendar year for each pressure relief device.

(3) You must determine the total number of pressure release actuation events for each pressure relief device for which the analysis conducted as required by paragraph (c)(4) of this section concluded that the pressure release was due to a force majeure event, as defined in § 63.7957.

(4) You must complete an analysis to determine the source, nature and cause of each pressure release actuation event as soon as practicable, but no later than 45 days after a pressure release actuation event.

(5) You must identify corrective measures to prevent future such pressure release actuation event s as soon as practicable, but no later than 45 days after a pressure release actuation event.

(6) You must implement the corrective measure(s) identified as required by paragraph (c)(5) of this section within 45 days of the pressure release actuation event or as soon thereafter as practicable. For corrective measures that cannot be fully implemented within 45 days following the pressure release actuation event, you must record the corrective measure(s) completed to date, and, for measure(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, no later than 45 days following the pressure release actuation event.

(d) The pressure relief devices listed in paragraphs (d)(1) through (5) are not subject to the requirements in paragraphs (a) through (c) of this section.

(1) Pressure relief devices designed and operated to route all pressure releases through a closed vent system to a drain system meeting the requirements of §§ 63.7915–63.7918, or to a fuel gas system, process or control device meeting the requirements of §§ 63.7925–63.7928.

(2) Pressure relief devices in heavy liquid service, as defined in § 63.1001 or § 63.1020, as applicable.

(3) Thermal expansion relief valves.

(4) Pilot-operated pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(5) Balanced bellows pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(e) Except for the pressure relief devices described in paragraph (d) of this section, it is a violation of the requirements of paragraphs (b) and (c) of this section for any pressure relief device in remediation material service to release directly to the atmosphere as a result of a pressure release actuation event(s) described in paragraphs (e)(1) through (3) of this section.

(1) Any pressure release actuation event for which the cause of the event determined as required by paragraph (c)(4) of this section was determined to be operator error or poor maintenance.

(2) A second pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for the same cause for the same equipment.

(3) A third pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for any reason.

■ 20. Section 63.7925 is amended by revising paragraph (b) to read as follows:

§ 63.7925 What emissions limitations and work practice standards must I meet for closed vent systems and control devices?

* * * * *

(b) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating.

* * * * *

■ 21. Section 63.7935 is amended by:
■ a. Revising paragraphs (a) and (b);
■ b. Removing and reserving paragraph (c);
■ c. Revising paragraph (e);
■ d. Removing and reserving paragraph (f); and
■ e. Adding paragraphs (g)(4) and (5) to read as follows:

§ 63.7935 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emissions limitations (including operating limits) and the work practice standards in this subpart at all times. The owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

(b) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

* * * * *

(e) You must report each instance in which you did not meet each emissions limitation and each operating limit that applies to you. You must also report each instance in which you did not meet the requirements for work practice standards that apply to you. These instances are deviations from the emissions limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.7951.

* * * * *

(g) * * *

(4) Continuous monitoring system (CMS) operation and maintenance requirements in accordance with § 63.7945.

(5) CMS data collection in accordance with § 63.7946.

* * * * *

■ 22. Section 63.7941 is amended by revising paragraph (b)(2) and paragraph (b)(4) introductory text to read as follows:

§ 63.7941 How do I conduct a performance test, design evaluation, or other type of initial compliance demonstration?

* * * * *

(b) * * *

(2) You must conduct performance tests under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the General Provisions. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.''

* * * * *

(4) Follow the procedures in paragraphs (b)(4)(i) through (iii) of this section to determine compliance with the facility-wide total organic mass emissions rate in § 63.7890(b).

* * * * *

■ 23. Section 63.7942 is revised to read as follows:

§ 63.7942 When must I conduct subsequent performance tests?

For non-flare control devices, you must conduct performance tests at any time the EPA requires you to according to § 63.7(a)(3).

■ 24. Section 63.7943 is amended by revising paragraph (d) to read as follows:

§ 63.7943 How do I determine the average VOHAP concentration of my remediation material?

* * * * *

(d) In the event that you and we disagree on a determination using knowledge of the average total VOHAP concentration for a remediation material, then the results from a determination of VOHAP concentration using direct measurement by Method 305 in 40 CFR part 60 appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

■ 25. Section 63.7944 is amended by revising paragraph (d) to read as follows:

§ 63.7944 How do I determine the maximum HAP vapor pressure of my remediation material?

* * * * *

(d) In the event that you and us disagree on a determination using knowledge of the maximum HAP vapor pressure of the remediation material, then the results from a determination of maximum HAP vapor pressure using direct measurement by Method 25E in 40 CFR part 60 appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

■ 26. Section 63.7945 is amended by adding paragraph (d) to read as follows:

* * * * *

(d) Failure to meet the requirements of (a)(1) through (4) of this section is a deviation and must be reported according to the requirements in § 63.7951(b)(7).

■ 27. Section 63.7951 is amended by:
■ a. Adding paragraphs (a)(2)(i) and (ii);
■ b. Removing and reserving paragraph (b)(4);
■ c. Revising paragraphs (b)(7) introductory text, (b)(7)(ii), (b)(8) introductory text, and (b)(8)(i), (iv), and (vi),
■ d. Adding paragraphs (b)(10) and (11);
■ e. Removing and reserving paragraph (c); and
■ f. Adding paragraphs (e) through (h) to read as follows:

§ 63.7951 What reports must I submit and when?

(a) * * *

(2) * * *

(i) For pressure relief devices in remediation material service subject to the requirements of § 63.7923 of this subpart, you must submit the information listed in paragraph (a)(1)(ii) and (iii) of this section in the notification of compliance status required under § 63.9(h) of this part within 150 days after the first applicable

compliance date for pressure relief device monitoring.

(ii) A description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored, and a description of the alarms or other methods by which operators will be notified of a pressure release.

* * * * *

(b) * * *

* * * * *

(7) For each deviation from an emissions limitation (including an operating limit) that occurs at an affected source for which you are not using a continuous monitoring system (including a CPMS or CEMS) to comply with an emissions limitation or work practice standard required in this subpart, the compliance report must contain the information specified in paragraphs (b)(1) through (4) and (b)(7)(i) and (ii) of this section..

* * * * *

(ii) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

(8) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source where you are using a continuous monitoring system (including a CPMS or CEMS) to comply with the emissions limitations or work practice standard in this subpart, you must include the information specified in paragraphs (b)(1) through (4) and (b)(8)(i) through (xi) of this section.

(i) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(iv) For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

* * * * *

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and unknown causes.

* * * * *

(10) For pressure relief devices in remediation material service, compliance reports must include the information specified in paragraphs (b)(10)(i) through (iii) of this section.

(i) For pressure relief devices in remediation material service subject to § 63.7920(e) of this subpart, report any instrument reading of 500 ppm above the background level or greater, if detected more than 5 days after a pressure release.

(ii) For pressure relief devices in remediation service subject to § 63.7923(a), report confirmation that any monitoring required to be done during the reporting period to show compliance was conducted.

(iii) For pressure relief devices in remediation material service subject to § 63.7923(c) of this subpart, report each pressure release to the atmosphere, including the following information:

(A) The date, time, and duration of the pressure release actuation event.

(B) An estimate of the mass quantity of each HAP listed in Table 1 of this subpart emitted during the pressure release actuation event and the method used for determining this quantity.

(C) The source, nature and cause of the pressure release actuation event.

(D) The actions taken to prevent this pressure release actuation event.

(E) The measures implemented during the reporting period to prevent future such pressure release actuation events, and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(11) Pressure tank closure device or bypass deviation information. Compliance reports must include the information specified in paragraph (b)(11)(iv) of this section when any of the conditions in paragraphs (b)(11)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in specified in § 63.7895(d)(4) of this subpart and § 63.685(h)(2) of this subpart, has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in § 63.7927(a)(2) of this subpart, has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.1014(c) or § 63.1033(c), has released directly to the atmosphere.

(iv) The compliance report must include the information specified in paragraphs (b)(11)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

* * * * *

(e) *Performance test and CMS performance evaluation reports.* Within 60 days after the date of completing each performance test or continuous monitoring system (CMS) performance evaluation (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test or performance evaluation according to the manner specified by either paragraph (e)(1) or (2) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test or the performance evaluation of CMS measuring relative accuracy test audit (RATA) pollutants to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT.

Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test or the performance evaluation of CMS measuring relative accuracy test audit (RATA) pollutants by methods that are not supported by the ERT must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(f) *Submitting reports electronically.* If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (g)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(h*) Claims of force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (h)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 28. Section 63.7952 is amended by revising paragraph (a)(2) and adding paragraph (e) to read as follows:

§ 63.7952 What records must I keep?

(a) * * *

(2) The records in § 63.6(e)(3)(iii) through (v) related to startups, shutdowns, and malfunctions.

(i) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source, you must record information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

(ii) For pressure relief devices in remediation material service, keep records of the information specified in paragraphs (a)(2)(ii)(A) through (C) of this section, as applicable.

(A) A list of identification numbers for pressure relief devices that are not subject to the requirements of § 63.7923(a) through (c) under the provisions of § 63.7923(d).

(B) A list of identification numbers for pressure relief devices subject to the requirements of § 63.7923(a) through (c) that do not consist of or include a rupture disk.

(C) A list of identification numbers for pressure relief devices subject to the requirements of § 63.7923(a) through (c) equipped with rupture disks.

(iii) For pressure relief devices in remediation material service subject to § 63.7923(c) of this subpart, keep records of each pressure release event to the atmosphere as specified in paragraphs (a)(2)(iii)(A) through (I) of this section.

(A) The date, time, and duration of the pressure release event.

(B) The dates and results of the EPA Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release event, if applicable. The results of each monitoring event shall include the measured background level and the maximum instrument reading measured at each pressure relief device.

(C) The dates replacement rupture disks were installed following a pressure release event, if applicable.

(D) An estimate of the mass quantity of each HAP listed in Table 1 of this subpart emitted during the pressure release event and the method used for determining this quantity.

(E) The source, nature and cause of the pressure release event, including an identification of the affected pressure relief device(s) and a statement noting whether the event resulted from the same cause(s) identified following a previous pressure release event.

(F) The corrective measures identified to prevent future such pressure release events, or an explanation of why corrective measures are not necessary.

(G) The actions taken to prevent this pressure release event.

(H) Records of the corrective measures implemented, including a description of the corrective measure(s) completed within the first 45 days following a pressure release event, and, if applicable, the implementation schedule for planned corrective measures to be implemented subsequent to the first 45 days following the pressure release event, including proposed commencement and completion dates.

(I) Records of the number of pressure release events during each calendar year and the number of those events for which the cause was determined to be a force majeure event. Keep these records for the current calendar year and the past five calendar years.

(iv)(A) For pressure tank closure devices, as specified in § 63.7895(d)(4) and § 63.685(h)(2), keep records of each release to the atmosphere, including the information specified in paragraphs (C)(*1*) though (*7*) of this section.

(B) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in § 63.7927(a)(2), and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.1014(c) or § 63.1033(c), keep records of each release to the atmosphere, including the information specified in paragraphs (C)(*1*) though (*7*) of this section.

(C)(*1*) The source, nature, and cause of the release.

(*2*) The date, time, and duration of the release.

(*3*) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(*4)* The actions taken to prevent this release.

(*5*) The measures adopted to prevent future such release.

(*6*) Hourly records of whether the bypass flow indicator specified under § 63.7927(a)(2)(i) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(*7*) Where a seal mechanism is used to comply with § 63.7927(a)(2)(ii), hourly records of flow are not required. In such cases, you must record that the monthly visual inspection of the seals or closure mechanism has been done and record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 29. Section 63.7957 is amended by:

■ a. Adding, in alphabetical order, a definition for ''Bypass;''

■ b. Revising the definition of ''Deviation;''

■ c. Adding, in alphabetical order, definitions for ''Force majeure,'' ''Pressure release,'' and ''Pressure relief device or valve;''

■ d. Revising the definition of ''Process vent;'' and

■ e. Removing the definition of ''Safety device.''

The additions and revisions read as follows:

§ 63.7957 What definitions apply to this subpart?

* * * * *

Bypass means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation, (including any operating limit), or work practice standard in this subpart regardless of whether or not such failure is permitted by this subpart.

* * * * *

Force majeure event means a release of HAP directly to the atmosphere from a pressure relief device that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the ethylene production unit (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the site remediation affected source that impacts the site remediation affected source's ability to operate.

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than

or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

Process vent means any open-ended pipe, stack, duct, or other opening intended to allow the passage of gases, vapors, or fumes to the atmosphere and this passage is caused by mechanical means (such as compressors, vacuum-producing systems or fans) or by process-related means (such as volatilization produced by heating). For the purposes of this subpart, a process vent is neither a pressure relief device (as defined in this section) nor a stack, duct or other opening used to exhaust combustion products from a boiler, furnace, heater, incinerator, or other combustion device.

* * * * *

■ 30. Table 3 to subpart GGGGG of part 63 is revised to read as follows:

As stated in § 63.7940, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 3 TO SUBPART GGGGG OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability.	Yes.
§ 63.5	Construction/Reconstruction.	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date. For 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation & Maintenance		No, see § 63.7935(b).
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).		No.
§ 63.6(f)(1)	Compliance Except During SSM.		No, see § 63.7935(b).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/Visible Emissions (VE) Standards.	Requirements for opacity and visible emissions limits	No. No opacity standards.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with final rule.	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for Conducting Initial Performance Testing and Other Compliance Demonstrations. Must conduct 180 days after first subject to final rule.	Yes.
§ 63.7(a)(3)	CAA Section 114 Authority.	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling.	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: Test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.

TABLE 3 TO SUBPART GGGGG OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. Not a violation to exceed standard during SSM.	No. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least one hour each. Compliance is based on arithmetic mean of three runs. Conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. Keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance Specifications in appendix B of part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. If more than one monitoring system on an emissions point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Monitoring System Operation.	Operate and maintain system as specified in § 63.6(e)(1).	No.
§ 63.8(c)(1)(ii)	Monitoring System Repair	Keep part for routine repairs available	Yes.
§ 63.8(c)(1)(iii)	Monitoring System SSM Plan.	Develop an SSM Plan for the monitoring system	No.
§ 63.8(c)(2)–(3)	Monitoring System Installation.	Must install to get representative emissions and parameter measurements. Must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No.
§ 63.8(c)(4)(i)–(ii)	Continuous Monitoring System (CMS) Requirements.	COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes. However, COMS are not applicable. Requirements for CPMS are listed in §§ 63.7900 and 63.7913.
§ 63.8(c)(5)	COMS Minimum Procedures.	COMS minimum procedures	No.
§ 63.8(c)(6)	CMS Requirements	Zero and High level calibration check requirements	Yes. However requirements for CPMS are addressed in § 63.7927.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc. Must keep quality control plan on record for 5 years. Keep old versions for 5 years after revisions.	Yes.
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	No.
§ 63.8(g)(1)–(4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points. CEMS 1-hour averages computed over at least four equally spaced data points.	Yes. However, COMS are not applicable. Requirements for CPMS are addressed in §§ 63.7900 and 63.7913.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No.
§ 63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.

TABLE 3 TO SUBPART GGGGG OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification 120 days after effective date. Notification of intent to construct/reconstruct; Notification of commencement of construct/reconstruct; Notification of startup. Contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test.	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation. Notification using COMS data. Notification that exceeded criterion for relative accuracy.	Yes. However, there are no opacity standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. When to submit to Federal vs. State authority.	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension. When to submit to Federal vs. State authority. Procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements. Keep all records readily available. Keep for 5 years.	Yes.
§ 63.10(b)(2)(i) and (ii)	Records related to SSM	Exceedance of emission limit during startup, shutdown or malfunction.	No.
§ 63.10(b)(2)(iii)	Maintenance Records	Maintenance on air pollution control equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Records related to SSM	Actions during SSM	No.
§ 63.10(b)(2)(vi) and (x–xi)	CMS Records	Malfunctions, inoperative, out-of-control. Calibration checks. Adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii)–(ix)	Records	Measurements to demonstrate compliance with emissions limitations. Performance test, performance evaluation, and visible emissions observation results. Measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	No.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)	Records	Additional Records for CMS	No.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	No.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEM on a unit Written copy of performance evaluation Three copies of COMS performance evaluation.	Yes. However, COMS are not applicable.
§ 63.10(e)(3)	Reports	Excess Emissions Reports	No.
§ 63.10(e)(3)(i–iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations). Provision to request semiannual reporting after compliance for one year. Submit report by 30th day following end of quarter or calendar half. If there has not been an exceedance or excess emissions (now defined as deviations), report contents is a statement that there have been no deviations.	No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports.	Must submit report containing all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.
§ 63.10(e)(3)(vi–viii)	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMSs (now called deviations). Requires all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data	No.

TABLE 3 TO SUBPART GGGGG OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG—Continued

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.10(f)	Waiver for Record-keeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Control and work practice requirements.	Requirements for flares and alternative work practice for equipment leaks.	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

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Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906
Colorado Regulatory Program; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[SATS No. CO–040–FOR; Docket ID: OSM–2011–0002; S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]

Colorado Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Colorado regulatory program (Colorado program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Colorado proposed both additions to and revisions of the rules and regulations of the Colorado Mined Land Reclamation Board for Coal Mining concerning valid existing rights, ownership and control, and other regulatory issues. Additionally, Colorado proposed revisions to and additions of definitions supporting those proposed rule changes. Colorado revised its program to be consistent with SMCRA and the corresponding Federal regulations, clarify ambiguities, address all outstanding required rule changes, and improve operational efficiency.

DATES: The effective date is October 3, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Dick Cheney Federal Building, POB 11018, 150 East B Street, Casper, Wyoming 82601–1018, Telephone: 307.261.6550, Email: *jfleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Background on the Colorado Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, state laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Colorado program on December 15, 1980. You can find background information on the Colorado program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82173). You can also find later actions concerning Colorado's program and program amendments at 30 CFR 906.15, 906.16, and 906.30.

II. Submission of the Amendment

By letter dated April 11, 2011, Colorado sent us a proposed amendment to its approved regulatory program (Administrative Record Docket ID No. OSM–2011–0002) under SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the amendment to address all required rule changes. Consistent with 30 CFR 732.17(c), OSMRE had previously notified Colorado of these required rule changes by letters dated April 2, 2001, April 4, 2008, and October 2, 2009. The letters identified required amendments to Colorado's rules for valid existing rights (VER), outstanding issues raised by OSMRE during its 30 CFR part 732 oversight process, and ownership and control, respectively.

Colorado proposed revisions to its rules for VER in response to a letter we sent to the State pursuant to 30 CFR part 732 (a ''732 letter'') on April 2, 2001. On January 15, 2008, in *National Mining Association* v. *Kempthorne,* 512 F.3d 702 (D.C. Cir.), the United States Court of Appeals for the District of Columbia Circuit affirmed the District Court's decision to uphold VER and associated rules, which OSMRE promulgated on December 17, 1999 (64 FR 70766). Because the VER rules were challenged in Federal court on several fronts, OSMRE informed Colorado that the State could defer responding to our April 2, 2001, 732 letter pending the outcome of the litigation. Because the litigation is now settled, this amendment package includes the required revisions to Colorado's rules for VER.

On October 28, 1994 (59 FR 54306), December 19, 2000 (65 FR 79581), and December 3, 2007 (72 FR 67999), OSMRE promulgated final rules pertaining to ownership and control (O and C), including the review of applications; permit eligibility; application information; applicant, operator, and permittee information; automated information entry and maintenance; permit suspension and rescission; ownership and control findings and challenge procedures; transfer, assignment, or sale of permit rights; and alternative enforcement. OSMRE sent the Colorado Division of Reclamation, Mining and Safety (the Division) two 732 letters (May 11, 1989, and January 12, 1997) concerning O and C. Again, because of ongoing litigation, OSMRE advised the Division to defer response to the letters pending the outcome of the litigation. On October 2, 2009, OSMRE notified the Division that the litigation had concluded and a response to the 732 letters would be required. This amendment package includes the required revisions to Colorado's rules for O and C.

OSMRE sent a letter to Colorado on April 4, 2008, notifying the Division that the State had not updated its program in accordance with 30 CFR part 732. This included deficient rules identified in earlier 732 letters that OSMRE sent to Colorado on May 7, 1986; June 5, 1996; and June 19, 1997. This amendment package includes all other required rule changes in the above-mentioned 732 letters and changes made at Colorado's own initiative.

We announced receipt of the proposed amendment in the June 21, 2011, **Federal Register** (76 FR 36039). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. OSM–2011–0002–0001). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on July 21, 2011. We received comments from one Federal agency.

As a result of those comments, we identified concerns regarding Colorado's jurisdiction over public roads, particularly National Forest System Roads. We notified Colorado of these concerns by letter dated September 19, 2011 (Administrative Record Document ID No. OSM–2011–0002–0008).

Colorado responded in a letter dated September 22, 2011, by sending us a revised amendment and additional explanatory information (Administrative Record Document ID No. OSM–2011–0002–0013).

Based on Colorado's revisions to its amendment, we reopened the public comment period in the December 6, 2011, **Federal Register** (76 FR 76109); (Administrative Record No. OSM–2011–0002–0010), and provided an opportunity for a public hearing or meeting on the adequacy of the revised amendment. We did not hold a public hearing or meeting because no one requested one. The public comment

period ended on January 5, 2012. We did not receive any comments.

During our review of Colorado's revised April 11, 2011, formally proposed amendment, OSMRE found additional deficiencies and notified Colorado of these deficiencies in a letter dated May 20, 2013 (Administrative Record No. OSM–2011–0002–0017). In response to our concerns, Colorado addressed all deficiencies in a revised formal amendment package submitted on October 1, 2014 (Administrative Record Nos. OSM–2011–0002–0014 (Cover Letter), OSM–2011–0002–0015 (Proposed Revisions), and OSM–2011–0002–0016 (Statement of Basis and Purpose)). We explain our concerns and Colorado's responses thereto in detail in Sections III.B. and III.C. of this document. We announced receipt of the proposed amendment in the January 22, 2015, **Federal Register** (80 FR 3190). In the same document, we reopened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. OSM–2011–0002–0018). We did not hold a public hearing or meeting because no one requested one.

III. OSMRE's Findings

Title 30 CFR 732.17(h)(10) requires that State program amendments meet the criteria for approval of State programs set forth in 30 CFR 732.15, including that the State's laws and regulations are in accordance with the provisions of the Act and consistent with the requirements of 30 CFR part 700. In 30 CFR 730.5, OSMRE defines ''consistent with'' and ''in accordance with'' to mean (a) with regard to SMCRA, the State laws and regulations are no less stringent than, meet the minimum requirements of, and include all applicable provisions of the Act and (b) with regard to the Federal regulations, the State laws and regulations are no less effective than the Federal regulations in satisfying the requirements of SMCRA.

We are approving the amendment as described below. The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17.

A. Minor Revisions to Colorado's Rules

Colorado proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously approved rules. Because the proposed revisions to these previously approved rules are minor, we are approving the changes and find that they are no less effective than the corresponding Federal regulations.

- 1.03.2(4)—Responsibilities;
- 1.04(1.1), (5), (17.1), (22.1), (27), (31.1), (31.2), (31.3), (38), (41), (43.1), (46.1), (47.1), (56), (57), (63.1), (71), (71)(i), (71.1), (71.2), (71.2)(a), (71.2)(b), (71.2)(c), (83.2), (86.1), (93.1), (95), (96), (103.1), (108.1), (117), (120), (125), (128), (135), (135.1), (137.1), (140), (148), (149)(a), (149)(b), (149)(b)(i), (149)(b)(ii), (149)(b)(iii), (149)(b)(iv), (149.1)(b), (149.2), (149.2)(a), (149.2)(b), (153), and (153)(b)—Definitions;
- 1.08, 1.08(2), and 1.08(5)—Notice of Citizen Suits;
- 1.09—Availability of Records;
- 1.10—Computation of Time;
- 1.11, 1.11.1, 1.11.2, 1.11.3, 1.11.3(1), 1.11.4, 1.11.5, 1.11.6, 1.11.7, 1.11.8, and 1.11.9—Restrictions on Employee Financial Interests;
- 1.12—Requests to the Board;
- 1.13—Water Rights;
- 1.14—Limitation on the Effect of Regulations Required by Federal Law, Rules, or Regulations Which Become Ineffective;
- 1.15—Declaratory Orders;
- 1.16, 1.16.1, 1.16.2, 1.16.3, 1.16.3(2), and 1.16.4—Guidelines;
- 2.02.3(1)(c)(v), (1)(c)(vi), and (1)(e)—General Requirements: Exploration Involving Removal of More Than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining;
- 2.03.3(4)—Application for Permit for Surface Coal Mining and Reclamation Operations: Minimum Requirements for Legal, Financial, Compliance and Related Information;
- 2.03.5(1)(b)(i) through (1)(b)(vi) and (1)(c)(i) through (1)(c)(vi)—Compliance Information;
- 2.03.7(3)—Relationship to Areas Designated Unsuitable for Mining;
- 2.04.5(1)—General Description of Hydrology and Geology;
- 2.04.6(2)(b)(iv) and 2.04.6(3)(a)—Geology Description;
- 2.04.12(1), (2)(f), (5), and (5)(b)—Prime Farmland Investigation;
- 2.05.3(3)(c)(ii), 2.05.3(4)(a)(vi) and (vii), 2.05.3(8), (8)(a),(8)(a)(v), and (8)(a)(vi)—Application for Permit for Surface or Underground Mining Activities—Minimum Requirements for Operation and Reclamation Plans;
- 2.05.6(4)(a)—Mitigation of the Impacts of Mining Operations;
- 2.06.8(1), (5)(b)(ii)(B), (5)(b)(ii)(B)(I), and (5)(b)(ii)(B)(II)—Surface Coal Mining and Reclamation Operations on Areas, or Adjacent to Areas, Including Alluvial Valley Floors;
- 2.07.1(2) and (3)—Public Participation and Approval of Permit Applications—Scope;
- 2.07.4(3)(g) and (h)—Division and Board Procedures for Review of Permit Applications;
- 2.07.6(1)(a)(i)—Criteria for Review of Permit Applications for Permit Approval or Denial;
- 2.07.6(2)(d)(iv)—Public Participation and Approval of Permit Applications—Criteria for permit approval or denial;
- 2.07.6(2)(f), (j), (k), and (l); Criteria for Review of Permit Applications for Permit Approval or Denial;
- 2.08.4(5), (6), and (6)(a)—Revisions to a Permit;
- 2.08.5(1)(d)—Right of Successive Renewal;
- 2.08.6(4)(a)—Transfer, Assignment or Sale of Permit Rights;
- 4.05.3(6)—Hydrologic Balance;
- 4.05.9(2)(d), (2)(e)(i), (4), (6), (8), (10), and (21)—Impoundments;
- 4.05.13(1)(a)—Surface and Ground Water Monitoring;
- 4.07.3(2), (2)(a), (2)(b), (2)(c), and (2)(c)(i) through (ix)—Exploration Holes, Drill Holes, Boreholes, or Wells;
- 4.08.1(4)(a)(i)—Use of Explosives; General Requirements;
- 4.08.2(1) and (2)—Pre-blasting Survey;
- 4.08.4(6)(a), (7)(a), (10), and (10)(c)(i)—Surface Blasting Requirements;
- 4.08.5(4)—Records of Blasting for Surface Coal Mining Operations;
- 4.09.1(12), .3, and .3(1)—Disposal of Excess Spoil;
- 4.10.2(1) and (2)(a)—Coal Mine Waste Banks; Site Inspection;
- 4.10.4(1), (3)(b), and (5)—Coal Mine Waste Banks; Construction Requirements;
- 4.11.3—Return to Underground Workings;
- 4.11.5(3)(a)(i)—Dams and Embankments;
- 4.15.7(5)(b)– Determining Revegetation Success: General Requirements and Standards;
- 4.17—Air Resource Protection;
- 4.18(5)(k)—Protection of Fish, Wildlife, and Related Environmental Values;
- 4.22.4(1)(b)—Concurrent Surface and Underground Mining;
- 4.25.2(3), .3, .3(2), .5(3), .5(3)(b)(i), and .5(3)(b)(ii)—Operations on Prime Farmland;
- 4.30.1(2)(b)—Cessation of Operations;
- 5.02.2(4)(a) and (8)(a)(v)—Frequency, Time and Manner of Inspections;
- 5.03.2(2)(e), (4)(a)(ii), and (5)(c)—Enforcement; Cessation Orders and Notices of Violation;
- 5.03.5(1)(d)—Formal Review by the Board;

• 5.04 and 5.04.3(5)(a)—Civil Penalties; and

• 6.04(1)(f)—Suspension or Revocation of Certifications.

Because these changes are minor, we find that they will not make Colorado's rules less effective than the corresponding Federal regulations, and we approve the proposed revisions.

B. Revisions to Colorado's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations.

Colorado proposed additions and revisions to several rules containing language that is the same as or having similar meaning to the corresponding sections of the Federal regulations and/or SMCRA. Because OSMRE finds these additions and revisions to be minor and that they do not impact the meaning or intent of the regulations, we find the amendments referenced below to be no less stringent than the Act and no less effective than the applicable regulations. Therefore, we are approving the following Colorado non-substantive revisions;

• Rule 1.04(11.1); Definitions, ''Applicant/Violator System'' or ''AVS''; [30 CFR 701.5];

• Rule 1.04(30.1); Definitions, ''Control'' or ''Controller''; [30 CFR 701.5];

• Rule 1.04(77); Definitions, ''Noncommercial Building''; [30 CFR 701.5];

• Rule 1.04(79); Definitions, ''Occupied Residential Dwelling''; [30 CFR 701.5];

• Rule 1.04(83.1); Definitions, ''Own'', ''Owner'', or ''Ownership''; [30 CFR 701.5];

• Rules 1.04(118.1) and (118.1)(a) through (d); Definitions, ''Significant Recreational, Timber, Economic, or Other Values Incompatible with Surface Coal Mining Operations''; [30 CFR 761.5];

• Rule 1.04(141); Definitions, ''Transfer, Assignment, or Sale of Rights''; [30 CFR 701.5];

• Rule 1.04(146); Definitions, ''Unwarranted Failure''; [30 CFR 722.16(b)(3)];

• Rules 1.04(149), (149)(a)(i), (149)(a)(ii)(A), Definitions, ''Valid existing rights''; [30 CFR 701.5];

• Rules 1.04(149.1), (149.1)(a), and (149.1)(b), and (149.1)(b)(i) through (b)(v)(C); Definitions, ''Violation''; [30 CFR 701.5];

• Rules 1.07(1), (1)(a), (1)(a)(i) through (a)(iv), and (a)(vi) through (a)(ix); Procedures for Valid Existing Rights Determinations, Property Rights Demonstration; [30 CFR 761.16(b)(i)];

• Rules 1.07(1)(b) and (b)(i) through (iii); Procedures for Valid Existing Rights Determinations, Good Faith/All Permits Demonstration; [30 CFR 761.16(b)(2)];

• Rule 1.07(1)(c); Procedures for Valid Existing Rights Determinations, Needed for and Adjacent to Demonstration; [30 CFR 761.16(b)(3)];

• Rules 1.07(1)(d) and (d)(i) through (iii); Procedures for Valid Existing Rights Determinations, Standards for Roads Demonstration; [30 CFR 761.16(b)(4)];

• Rules 1.07(2) and (2)(a) through (2)(d); Procedures for Valid Existing Rights Determinations, Initial Review of Request; [30 CFR 761.16(c)];

• Rules 1.07(3), (3)(a)(i) through (a)(iii)(A), (a)(iii)(B), (a)(iii)(C), and (a)(iii)(D); Procedures for Valid Existing Rights Determinations, Notice and Comment Requirements and Procedures; [30 CFR 761.16(d)];

• Rules 1.07(3)(a)(iv) through (vii); Procedures for Valid Existing Rights Determinations, Notice and Comment Requirements and Procedures; [30 CFR 761.16(d)];

• Rules 1.07(3)(b), (b)(i), (b)(ii), and (c); Procedures for Valid Existing Rights Determinations, Notice and Comment Requirements and Procedures; [30 CFR 761.16(d)];

• Rules 1.07(4) and (4)(a) through (4)(c), (4)(c)(i), (4)(c)(ii), and (4)(d); Procedures for Valid Existing Rights Determinations—How a decision will be made; [30 CFR 761.16(e)];

• Rule 1.07(6); Procedures for Valid Existing Rights Determinations—Availability of records; [30 CFR 761.16(g)];

• Rule 2.01.3; General Requirements for Permits for All Surface Coal Mining and Reclamation Operations; [30 CFR 773.4(a)];

• Rule 2.02.2(1); Exploration Involving Removal of 250 Tons or Less of Coal; [30 CFR 772.11(a)];

• Rule 2.02.3(1)(g); General Requirements: Exploration Involving Removal of More Than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining; [30 CFR 772.12];

• Rules 2.02.4 and .4(3)(d); Applications: Approval or Disapproval of Exploration Involving Removal of More Than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining; [30 CFR 772.12(d)(2)(iv)];

• Rule 2.02.5; Applications: Notice and Hearing for Exploration Involving Removal of More Than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining; [30 CFR 772.12(e)];

• Rule 2.03.3(10); Format and Supplemental Information; [30 CFR 773.7(b)];

• Rules 2.03.4 and 2.03.4(2) through .4(2)(d); Identification of Interests; [30 CFR 778.11];

• Rules 2.03.4(3)(a), (3)(a)(i), (3)(a)(iii), and (3)(a)(iv); Identification of Interests; [30 CFR 778.12(c)];

• Rule 2.03.4(10); Identification of Interests; [30 CFR 778.11(e)];

• Rule 2.03.4(11), (11)(a), and (11)(b); Identification of Interests; [30 CFR 773.8(a), (b), and (c)];

• Rules 2.03.4(12)(a), (b)(i), and (b)(ii); Identification of Interests; [30 CFR 773.9 and 773.10];

• Rules 2.03.5(1)(a), (1)(a)(i), and (1)(a)(ii); Compliance Information; [30 CFR 778.14(a)];

• Rules 2.03.5(2)(a) through (d); Compliance Information; [30 CFR 773.11];

• Rules 2.03.5(3)(a), (a)(i) through (a)(iii), (b), and (c); Compliance Information; [30 CFR 778.9];

• Rules 2.04.5(1)(a) and (b); General Description of Hydrology and Geology; [30 CFR 780.21(c)(2)];

• Rule 2.05.4(2)(c); Reclamation Plan; [30 CFR 780.18(b)(8)];

• Rules 2.06.6(2)(a)(i), (3), (4), and (4)(b); Requirements for Permits for Special Categories of Mining [30 CFR 785.17];

• Rules 2.07.1(4) and (5); Public Participation and Approval of Permit Applications—Scope; [30 CFR 773.21 and 774.1];

• Rule 2.07.4(2)(f); Division and Board Procedures for Review of Permit Applications; [30 CFR 773.19(b)(2)];

• Rule 2.07.4(3)(d)(iv); Division and Board Procedures for Review of Permit Applications; [30 CFR 775.11(b)(2)(iv)];

• Rule 2.07.4(3)(f); Division and Board Procedures for Review of Permit Applications; [30 CFR 775.11(b)(3)(iii)];

• Rule 2.07.6(2)(d)(v), Criteria for Review of Permit Applications for Permit Approval or Denial; [30 CFR 761.15];

• Rule 2.07.6(2)(d)(vi); Criteria for Review of Permit Applications for Permit Approval or Denial; [30 CFR 761.11(c)];

• Rules 2.07.6(2)(e), (e)(i), and (e)(ii); Criteria for Review of Permit Applications for Permit Approval or Denial; [30 CFR 773.15(c)(1) and (2)];

• Rule 2.07.6(2)(g); Criteria for Review of Permit Applications for Permit Approval or Denial; [30 CFR 773.15(n)];

• Rules 2.07.8(1) and (1)(a); Improvidently Issued Permits—Initial review and finding requirements for improvidently issued permits; [30 CFR 773.21(a)];

• Rules 2.07.8(3)(a) through (d); Improvidently Issued Permits—Suspension or rescission requirements for improvidently issued permits; [30 CFR 773.23];

• Rules 2.07.9, .9(1)(a) through (d), .9(2), .9(4), .9(5)(a) and (b), .9(7), and .9(8); Post-permit issuance requirements for the Division and other actions based on ownership, control, and violation information; [30 CFR 774.11];

• Rules 2.07.10, .10(1), and .10(2); Post-permit issuance information requirements for permittees; [30 CFR 774.12(c)(1) and (2)];

• Rule 2.08.5(1)(b); Right of Successive Renewal; [30 CFR 774.15(b)(4)];

• Rules 2.11, 2.11.1, and 2.11.1(1) through (3); Who may challenge ownership or control listings and findings; [30 CFR 773.25];

• Rules 2.11.2, .2(1), .2(1)(a), .2(1)(b), and .2(2) through (5); How to challenge an ownership or control listing or finding; [30 CFR 773.26];

• Rules 2.11.3, .3(1)(a), .3(1)(b), .3(2), .3(3)(a) through (c), and .3(3)(d) through .3(3)(d)(iii); Burden of proof for ownership or control challenges; [30 CFR 773.27];

• Rule 4.08.4(4); Surface Blasting Requirements; [30 CFR 816.64/817.64];

• Rule 4.15.1(2)(b); Revegetation—General Requirements; [30 CFR 816.111(a)(4)/817.111(a)(4)];

• Rules 4.15.7(2)(d) and (d)(ii); Determining Revegetation Success: General Requirements and Standards; [30 CFR 816.116(a)(1)/817.116(a)(1)];

• Rule 5.03.2(5)(e); Enforcement—Cessation Orders and Notices of Violation; [30 CFR 843.11(d)];

• Rules 5.05, 5.05.1, .2, .3, .4, .4(1), .4(2), .4(2)(a), .4(2)(b), 5.05.5, and 5.05.5(1) through (4); Individual Civil Penalties; [30 CFR 846];

• Rules 5.06 and 5.06.1; Alternative Enforcement: Scope; [30 CFR 847.1];

• Rules 5.06.2 and .2(1) through (3); Alternative Enforcement: General Provisions; [30 CFR 847.2];

• Rules 5.06.3, .3(1), .3(2), .3(2)(a) and (b), and .3(3); Alternative Enforcement: Criminal Penalties; [30 CFR 847.11];

• Rules 5.06.4 and 5.06.4(2) through (4); Alternative Enforcement: Civil Actions for Relief; [30 CFR 847.16(b) and (c)];

• Rule 6.01.3(3); Duties of Blasters and Operators; [30 CFR 850.15(e)(1)];

• Rule 7.06.2(1); Petition Requirements: Designation; [30 CFR 764.13(b)(1)(i)]; and

• Rule 7.06.3(1); Petition Requirements: Termination; [30 CFR 764.13(c)(1)(i)].

1. Rule 1.04(20.1); Definitions, ''Certified Blaster''; [30 CFR 850.15]

Proposed Rule 1.04(20.1), the revised definition of ''certified blaster,'' is consistent with the definition and requirements for a ''blaster'' at 30 CFR 850.5. However, the reference to Rule 2.05.3(6) should be a reference to Rule 2.05.3(6)(a) to properly identify the specific requirements (*i.e.,* the blasting plan) with which a certified blaster must be familiar. With this change, we approve the amendment.

Colorado's definition of ''certified blaster'' is consistent with the definition and requirements for a ''blaster'' under the Federal regulations. Even though the proposed Colorado definition uses ''responsible for blasting operations'' instead of ''responsible for the use of explosives,'' which is used in the Federal definition, the terms are essentially interchangeable, particularly because the Colorado definition also requires certified blasters to be familiar with the requirements of Rule 4.08, *Use of Explosives.* Rule 4.08 specifies the requirements for the use of explosives, and Rule 6 specifies requirements for the training, examination and certification of blasters, both of which are appropriate references to rules with which a certified blaster must be familiar. The proposed definition is no less effective than the Federal regulations in satisfying the requirements of SMCRA and we approve the proposed change to Rule 1.04(20.1).

2. Rule 1.04(39.1); Definitions, ''Drinking, Domestic or Residential Water Supply''; [30 CFR 701.5]

Colorado was informed of the requirement to define this term in 732 letters that we sent the State on June 5, 1996, and April 4, 2008. Proposed Rule 1.04(39.1) is substantively identical to the Federal regulation at 30 CFR 701.5, *Drinking, domestic or residential water supply,* except the Colorado rule adds the stipulation that ''the user and/or owner has secured water rights or allocations recognized by state law'' for the water. Colorado expanded upon the Federal definition to clarify that the user and/or owner of the delivered water has secured water rights or allocations received by State law. Because water rights are an important topic in the western United States, this clarification is necessary to ensure that the user has acquired the rights for the water that is being received from a well or spring or any appurtenant (something that is added but not essential) delivery system. The use of water and water rights are governed by the State under the Colorado Constitution and State law; thus, the stipulation is appropriate. It is also not inconsistent with the Federal regulations and is no less effective than the Federal regulations in satisfying the requirements of SMCRA. Therefore, we approve the amendment.

3. Rule 1.04(70.1); Definitions, ''Knowingly''; [30 CFR 701.5]

In response to Item A.3 of OSMRE's October 2, 2009, 732 letter, Colorado proposed to amend its existing definition of ''Knowingly'' at Rule 1.04(70.1) by adding the phrase ''Knowing or''. By letter dated May 20, 2013, OSMRE found that the proposed revision to the definition of ''Knowing'' or ''Knowingly'' was less effective than the Federal regulations in satisfying the requirements of SMCRA because the scope of the Colorado proposed definition was limited to the assessment of individual civil penalties against persons acting on behalf of corporate permittees (*i.e.,* Rule 5.04.7, *Individual Penalties*), whereas the Federal definition applies to the assessment of civil and criminal penalties against all persons, including non-corporate operators and permittees. Consequently, OSMRE required Colorado to revise the definition so that it applies to the civil and criminal penalties provisions of both the Colorado Surface Coal Mining Reclamation Act and the Colorado Rules. OSMRE also required that the definition be applicable to any person, including individual operators as well as persons authorizing, ordering, or carrying out an act or omission on the part of a corporate permittee.

In response to our concern, Colorado now proposes language to include the assessment of individual criminal penalties against persons acting on behalf of corporate permittees. Additionally, Colorado proposes language that applies the definition to any person, including individual operators as well as persons authorizing, ordering or carrying out an act or omission on the part of a corporate permittee. Colorado's proposed revisions make Rule 1.04(70.1) consistent with and no less effective than the Federal regulations at 30 CFR 701.5; therefore, we approve the amendment.

4. Rule 1.04(71)(c); Definitions, ''Rangeland''; [30 CFR 701.5]

Colorado proposed a new land use category, ''grazingland,'' which essentially replaces the current land use category, ''rangeland'' (*i.e.,* the land use currently defined by the term, ''rangeland,'' is proposed to be defined by the term, ''grazingland,'' and the

''rangeland'' land use is being redefined to be a combination of the ''grazingland'' and ''fish and wildlife habitat'' land uses). Colorado's definition of ''rangeland'' simply establishes a land use for lands that are used for both livestock grazing (*i.e.,* ''grazingland'') and for the production, protection, or management of fish and wildlife species (*i.e.,* ''fish and wildlife habitat''). Proposed Rule 1.04(71)(k) creates a new land use category, ''grazingland,'' which Colorado defines as ''lands where plant cover, dominated by adapted wildland species, is principally valuable for livestock forage, and management is primarily achieved by regulating the intensity of grazing and season of use,'' and which is essentially the same as the Federal definition of ''grazingland.'' Rule 1.04(71)(h) defines ''fish and wildlife habitat'' to mean ''land used wholly or partially in the production, protection or management of species of fish or wildlife.''

Elsewhere in the approved Colorado rules and the Colorado rules proposed for revision in this amendment, requirements applicable to the ''rangeland'' land use are specified. Proposed Rule 4.15.7(5) establishes the parameters for determining revegetation success of ''rangeland'' as cover, diversity, herbaceous production, and woody plant reestablishment and the liability period for determining revegetation success, and proposed Rule 4.15.7(5)(g) establishes that interseeding ''rangeland'' is a normal husbandry practice. Proposed Rules 4.15.8(2)(d), 4.15.8(5), and 4.15.8(8) establish applicable success criteria for ''rangeland.'' Proposed Rule 4.16.3(6) specifies requirements for changing the ''rangeland'' land use to a ''cropland'' land use.

Colorado's proposed revision of the definition of the land use category ''rangeland'' is no less effective than the Federal regulations in satisfying the requirements of SMCRA; therefore, we approve the proposed amendment.

5. Rule 1.04(71)(k); Definitions, ''Grazingland''; [30 CFR 701.5]

Colorado's proposed definition of ''grazingland'' is essentially modeled after the Federal definition of ''rangeland,'' which is synonymous with the Federal definition of ''grazingland.'' The Federal regulation at 30 CFR 701.5 defines rangeland as land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

The Federal definition of ''grazingland'' is land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

Under the Federal regulations, ''grazingland'' and ''rangeland'' are essentially the same; both are lands where the ''indigenous vegetation'' (*i.e.,* ''native grasses, forbs, and shrubs'') is used for grazing.

In Colorado's proposed definition of ''grazingland,'' the term ''adapted wildland species . . . principally valuable for livestock forage'' is substantively the same as the Federal terms ''native grasses, forbs, and shrubs valuable for forage,'' which is used in the Federal definition of ''rangeland'' and ''indigenous vegetation . . . managed for grazing [and] browsing,'' which is used in the Federal definition of ''grazingland.''

Elsewhere in Colorado's current and proposed rules, requirements applicable to the ''grazingland'' land use are specified. The ''grazingland'' land use combined with the ''fish and wildlife habitat'' land use comprise the ''rangeland'' land use in proposed Rule 1.04(71)(c), the revised definition of ''rangeland.'' Proposed Rule 4.15.7(5) establishes the parameters for determining revegetation success of ''grazingland'' as cover, diversity, and herbaceous production and the liability period for determining revegetation success, and proposed Rule 4.15.7(5)(g) establishes that interseeding ''grazingland'' is a normal husbandry practice. Proposed Rules 4.15.8(2)(a) and 4.15.8(5) establish applicable success criteria for ''grazingland.'' Proposed Rule 4.16.3(6) specifies requirements for changing the ''grazingland'' land use to a ''cropland'' land use.

Based on the analysis above, we find Colorado's proposed definition of the new land use category, ''grazingland,'' is no less effective than the Federal regulations in satisfying the requirements of SMCRA; therefore, we approve the proposed amendment.

6. Rule 1.04(71.2); Definitions, ''Material Subsidence Damage''; [30 CFR 701.5]

Colorado was notified of its requirement to define this term in 732 letters that we sent the State on June 5, 1996, and April 4, 2008. Colorado proposes to add a new definition for ''material subsidence damage'' in the context of Rules 2.05.6 and 4.20, pertaining to subsidence. The proposed definition is substantively identical to the Federal definition of ''material damage'' at 30 CFR 701.5. This proposed definition is no less effective than the Federal regulations in satisfying the requirements of SMCRA; therefore, we approve the amendment.

7. Rule 1.04(81); Definitions, ''Other Minerals''; [30 CFR 702.5(e)]

Colorado is proposing to remove the definition of ''other minerals'' from their rules. The term ''other minerals'' does not appear anywhere else in the Colorado rules. This definition was previously required when Colorado's rules allowed an exemption from the requirements of the rules for the extraction of coal incidental to the extraction of other minerals. The 1992 revision of Colorado's Coal Act removed this exemption. Because this term does not appear anywhere else in the Colorado rules, it is not necessary for Colorado to define this term, and we approve the proposed deletion of the definition for ''other minerals''.

8. Rule 1.04(132)(c); Definitions, Surface Coal Mining Operations; [30 CFR 761.200]

Proposed Rule 1.04(132)(c), the proposed revision to the definition of ''surface coal mining operations,'' is consistent with the definition of ''surface coal mining operations'' at 30 CFR 700.5, as interpreted at 30 CFR 761.200, *Interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress.* Colorado added this proposed language to clarify that subsidence due to underground coal mining is not included in the definition of ''surface coal mining operations''. The proposed rule is in accordance with the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

9. Rule 1.04(149); Definitions, ''Valid Existing Rights''; [30 CFR 761.5 and 761.11]

On April 11, 2011, Colorado proposed to revise its definition of ''valid existing rights'' at Rule 1.04(149) in response to Item B.1 of OSMRE's April 2, 2001, 732 letter. On January 15, 2008, in *National Mining Association* v. *Kempthorne,* 512 F.3d 702 (D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court's decision to uphold the VER and associated rules that OSMRE published on December 17, 1999 (64 FR 70766). Because the VER and associated rules were challenged in Federal court on several fronts, OSMRE informed Colorado that the State could defer

responding to our April 2, 2001, letter pending the outcome of the litigation.

By letter dated May 20, 2013, OSMRE found that the proposed revision to the definition of ''valid existing rights'' less effective than the Federal regulations in satisfying the requirements of SMCRA because Colorado failed to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Because Colorado did not include a reference to 30 U.S.C. 1272(e), there was no language in Colorado's rules protecting those lands between August 3, 1977 (when SMCRA was enacted and the lands became protected) and August 30, 1980 (when Rule 2.07.6(2)(d) became effective), thus making Colorado's Rules less effective than the Federal regulations. As a result, we required Colorado to include the aforementioned reference in its proposed rule language.

In response, Colorado now proposes to include language in its rules for the protection of prohibited lands as required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Colorado's proposed revisions make Rule 1.04(149) consistent with and no less effective than the Federal regulations at 30 CFR 761.5 and 761.11, respectively. Accordingly, we approve the amendment.

10. Rules 1.04(149)(a)(ii)(B) and (B)(I) Through (IV); Definitions, Valid Existing Rights, ''Needed for and Adjacent to'' Standard; [30 CFR 761.5(b)(2)]

In response to Item B.2 of OSMRE's April 2, 2001, 732 letter, Colorado proposed to revise its definition of ''valid existing rights'' by incorporating the ''Needed for and adjacent to'' standard at Rules 1.04(149)(a)(ii)(B) and (B)(I) through (B)(IV). Colorado's proposed revised definition of ''valid existing rights'' at Rule 1.04(149)(a)(ii)(B), which incorporates the ''Needed for and adjacent to'' standard, is consistent with the definition and requirements for the ''Needed for and adjacent standard'' of ''valid existing rights'' at 30 CFR 761.5. Colorado's proposed rule is more restrictive than the Federal regulations in that the ''Needed for and adjacent to'' standard applies only to surface coal mining operations that are ''on-going,'' meaning that (1) the permit did not terminate pursuant to Colorado Revised Statutes (C.R.S.) 33–34–109(6), (2) surface coal mining operations must have commenced, (3) the permit to conduct surface coal mining operations has not expired for failure to renew in accordance with Rule 2.08.05, and (4) the performance bond has not been fully released or forfeited in accordance with Rules 3.03 and 3.04. Under the Federal regulation, the standard applies to surface coal mining operations for which all permits and other authorizations required to conduct surface coal mining operations had been obtained, or a good faith attempt to obtain all permits and authorizations had been made. Thus, the standard applies to operations that may not have commenced, as well as ''on-going'' operations.

However, by letter dated May 20, 2013, OSMRE found at Item No. 3 that subsections (B)(I)–(IV) of Colorado's proposed revision to the definition of ''valid existing rights'' was less effective than the Federal regulations in satisfying the requirements of SMCRA because Colorado failed to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Colorado's failure to include a reference to 30 U.S.C. 1272(e) meant that there was no language in Colorado's rules protecting those lands between August 3, 1977 (when SMCRA was enacted and the lands became protected) and August 30, 1980 (when Rule 2.07.6(2)(d) became effective), thus making Colorado's rules less effective than the Federal regulations. As a result, we required Colorado to include the aforementioned reference in its proposed rule language.

In response, Colorado now proposes to include language for the protection of prohibited lands as required by SMCRA Section 522(e) (30 U.S.C. 1272(e)). Colorado's proposed revisions make Rules 1.04(149)(a)(ii)(B) and (B)(I) through (B)(IV) consistent with and no less effective than the Federal regulations at 30 CFR 761.5(b)(2). Accordingly, we approve the amendment.

11. Rule 1.04(149)(b) and (b)(i) Through (iii); Definitions, Valid Existing Rights, ''Existing Right of Way or Easement for a Road'' Standard; [30 CFR 761.5(c)(2)]

In response to Item B.3 of OSMRE's April 2, 2001, 732 letter, Colorado proposed to revise its definition of ''valid existing rights'' at Rules 1.04(149)(b) and (b)(i) through (iii) by incorporating the ''existing right of way or easement for a road'' standard. Colorado's proposed language is substantively identical to the corresponding Federal standards at 30 CFR 761.5(c)(1) and (2) with one exception.

Specifically, Colorado's revised rule language at Rule 1.04(149)(b)(i) includes the phrase ''a permit for a road'' in addition to a ''properly recorded right of way or easement'' as a type of recorded document that could grant a person a legal right to use or construct a road across the right of way or easement [or permit area] for surface coal mining operations. A properly recorded permit granting such legal rights is the equivalent of a ''right of way'' and/or ''easement.'' Therefore, the inclusion of ''a permit for a road'' does not render Colorado's proposed rule change less effective than the counterpart Federal regulations in satisfying the requirements of SMCRA.

However, by letter dated May 20, 2013, OSMRE found that Colorado's proposed revisions to its definition of ''valid existing rights'', at Rules 1.04(149)(b) and (b)(i) through (iii), about existing right of way or easements for a road, were less effective than the Federal regulations in satisfying the requirements of SMCRA because Colorado failed to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Specifically, because Colorado did not include a reference to 30 U.S.C. 1272(e), there was no language in its rules protecting those lands between August 3, 1977 (when SMCRA was enacted and the lands became protected) and August 30, 1980 (when Rule 2.07.6(2)(d) became effective). As a result, we required Colorado to include the aforementioned statutory reference in its proposed rule language.

In response to our concern, Colorado now proposes to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Colorado's proposed revisions make Rules 1.04(149)(b) and (b)(i) through (iii) consistent with and no less effective than the Federal regulations at 30 CFR 761.5(c)(2). Accordingly, we approve the amendment.

12. Rules 1.04(149.2), (149.2)(a), and (149.2)(b); Definitions, ''Violation, Failure or Refusal''; [30 CFR 701.5]

Proposed Rules 1.04(149.2), (149.2)(a), and (149.2)(b), the definition of ''violation, failure, or refusal,'' is substantively identical to the Federal definition at 30 CFR 701.5, *Violation, failure, or refusal.* Proposed Rule 5.05, *Individual Civil Penalties,* which replaces currently approved Rule 5.04.7, addresses the assessment of individual civil penalties. The term ''violation, failure, or refusal'' is used in the Federal regulations only in the context of assessment of individual civil penalties, specifically in 30 CFR 846.12(a), which specifies that individual civil penalties may be assessed against a corporate director, officer or agent of a corporate permittee who knowingly and willfully authorized, ordered or carried out a

violation, failure or refusal, and § 846.14(a)(1) and (2) and (b), which contain the requirements for determining the amount of an individual civil penalty. Thus, proposed Rule 5.05 is appropriately referenced. Section 123 of the Colorado Act, *Enforcement—civil and criminal penalties,* (C.R.S. 33–34–123) is the State program counterpart of section 518 of SMCRA, thus it is appropriately referenced. The proposed definition for ''violation, failure or refusal'' is no less effective than the Federal regulations in satisfying the requirements of SMCRA. We, therefore, approve the amendment.

13. Rule 1.07(1)(a)(v); Procedures for Valid Existing Rights Determinations—Property Rights Demonstration; [30 CFR 761.16(b)(1)(v)]

In response to Item G.2 of OSMRE's April 2, 2001, 732 letter, Colorado proposed revisions to Rule 1.07.1(a)(v), regarding what a property rights demonstration must include. On January 15, 2008, in *National Mining Association* v. *Kempthorne,* 512 F.3d 702 (D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court's decision to uphold the VER and associated rules that OSMRE published on December 17, 1999 (64 FR 70766). Because the VER and associated rules were challenged in Federal court on several fronts, we informed Colorado that the State could defer responding to our April 2, 2001, letter pending the outcome of the litigation.

By letter dated May 20, 2013, OSMRE notified the Division that Colorado's proposed revision to Rule 1.07(1)(a)(v) regarding the requirements for making a VER ''property rights'' demonstration was inconsistent with the counterpart Federal requirement at 30 CFR 761.16(b)(1)(v). Specifically, Colorado's proposed rule language did not require that property rights demonstrations include an explanation of how surface coal mining operations that an applicant claims the right to conduct would be consistent with State property law.

Colorado now proposes to revise Rule 1.07(1)(a)(v) by adding language requiring that a property rights demonstration must include an explanation of how surface coal mining operations would be consistent with State property law. Colorado's proposed revision makes Rule 1.07(1)(a)(v) consistent with and no less effective than the Federal counterpart regulation at 30 CFR 761.16(b)(1)(v). Accordingly, we approve the amendment.

14. Rule 1.07(3)(a); Procedures for Valid Existing Rights Determinations, Notice and Comment Requirements and Procedures; [30 CFR 761.16(d)]

In response to Item G.2 of OSMRE's April 2, 2001, 732 letter, Colorado proposed to revise Rule 1.07(3)(a) to provide for public participation in the VER determination process and ensure notification of affected parties in accordance with the Federal regulations at 30 CFR 761.16(d).

By letter dated May 20, 2013, OSMRE found that Colorado's proposed revision to Rule 1.07(3)(a) regarding notice and comment requirements and procedures for VER determinations incorrectly referenced Rule 1.04(149)(2).

In response to our concern, Colorado now proposes to reference the correct citation at Rule 1.07(2) regarding initial review of a VER request. Colorado's proposed rule change makes Rule 1.07(3)(a) consistent with and no less effective than the Federal regulations at 30 CFR 761.16(d). Accordingly, we approve the amendment.

15. Rules 1.07(4)(e), (e)(i), and (e)(ii); Procedures for Valid Existing Rights Determinations, How a Decision Will Be Made; [30 CFR 761.16(e)(5)(i) and (ii)]

In response to Item G.1 of OSMRE's April 2, 2001, 732 letter, Colorado proposed to revise its rules at 1.07(4)(e), (e)(i), and (e)(ii) to be consistent with and no less effective than the Federal regulations at 30 CFR 761.16(e)(5)(i) and (ii) regarding procedures for making VER determinations. Colorado's proposed rules elect to omit an alternate provision that allows the agency responsible for making a VER determination to require that the person requesting the determination publish the notice and provide a copy of the published notice to the agency. Because the Federal regulations offer alternatives for publishing notice of VER determinations, Colorado's omission of this language does not render its proposed rules less effective than the counterpart Federal regulations.

However, by letter dated May 20, 2013, OSMRE found that Colorado's proposed revisions to Rules 1.07(4)(e), (e)(i), and (e)(ii) were less effective than the Federal regulations in satisfying the requirements of SMCRA because Colorado failed to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Specifically, because Colorado did not include a reference to 30 U.S.C. 1272(e), there was no language in its rules protecting those lands between August 3, 1977 (when SMCRA was enacted and the lands became protected) and August 30, 1980 (when Rule 2.07.6(2)(d) became effective). As a result, we required Colorado to include the aforementioned statutory reference in its proposed rule language.

In response to our concern, Colorado now proposes to include language for the protection of prohibited lands required by SMCRA section 522(e) (30 U.S.C. 1272(e)). Colorado's proposed revisions make Rules 1.07(4)(e), (e)(i), and (e)(ii) consistent with and no less effective than the Federal counterpart regulations at 30 CFR 761.16(e)(5)(i) and (ii). Accordingly, we approve the amendment.

16. Rule 1.07(5); Procedures for Valid Existing Rights Determinations, Administrative and Judicial Review; [30 CFR 761.16(f)]

In response to Item G.1 of OSMRE's April 2, 2001, 732 letter regarding administrative and judicial review of VER determinations, Colorado proposed to add language to Rule 1.07(5) stating that a determination about whether the applicant does or does not have valid existing rights is subject to Board review under Rule 1.11. By letter dated May 20, 2013, OSMRE notified Colorado that its reference to Rule 1.11 was incorrect. Specifically, because Colorado is proposing to recodify its rules, the correct rule reference regarding Board review is now found at Rule 1.12, *Requests to the Board.* In response to our concern, Colorado now proposes to reference newly renumbered Rule 1.12. Colorado's proposed revision makes Rule 1.07(5) consistent with and no less effective than the Federal regulations at 30 CFR 761.16(f) and we approve the amendment.

17. Rule 2.02.3; General Requirements: Exploration Involving Removal of More Than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining Operations; [30 CFR 772.12(a)]

Colorado proposes language that changes the title of Rule 2.02.3 to indicate that the rules at 2.02.3 apply not only to exploration involving the removal of more than 250 tons of coal outside an approved permit area, but also to exploration occurring on lands designated as unsuitable for surface coal mining. The addition of the proposed language is substantively identical to the Federal counterpart regulation at 30 CFR 772.12(a). Additionally, Colorado proposes language that specifies that Rule 2.07.6(2)(d) is used to designate lands as unsuitable for all or certain types of surface coal mining operations. The proposed language is no less effective than the Federal counterpart

regulation; therefore, we approve the amendment.

18. Rules 2.03.4(3), (3)(a)(ii), and (3)(b); Application for Permit for Surface Coal Mining and Reclamation Operations: Minimum Requirements for Legal, Financial, Compliance and Related Information; [30 CFR 778.12]

In response to Item K.3 of OSMRE's October 2, 2009, 732 letter, Colorado proposed to revise Rules 2.03.4(3) through (3)(a)(iv) that require each application for a surface coal mining permit to contain a complete identification of interests, including permit history information required under 30 CFR 778.12(a), (b), and (c), respectively.

By letter dated May 20, 2013, we found that Colorado's proposed rule language in subsection (3) warranted the inclusion of additional clarifying language to be consistent with and no less effective than the Federal counterpart regulation at 30 CFR 778.12(a). Specifically, we required Colorado to revise its proposed rule to read, ''A list of all names under which the applicant, operator, and partners or principle shareholders of the applicant or operator operate or previously operated . . .'' Colorado's failure to include this additional language in the proposed rule change rendered its program less effective than the Federal regulations at 30 CFR 778.12(a), and failed to satisfy the requirements specified in Item K.3 of OSMRE's October 2, 2009, 732 letter.

In addition, proposed Rule 2.03.4(3)(a)(ii) was merely intended to be recodified. Upon further review, we found this rule to be less effective than the Federal counterpart regulation at 30 CFR 778.12(c)(5) because it failed to require that the application include ''the person's ownership or control relationship to the operation . . .'' Existing Rule 2.03.4(3)(a)(ii) required the application to contain the person's ownership or control relationship to the applicant.

Lastly, Colorado proposed to revise recodified subsection (3)(b) by replacing the word ''person'' with the phrase ''applicant or operator'' which is consistent with the terminology used in the Federal regulation at 30 CFR 778.12(b). However, subsection (3)(b) did not include counterpart language to the last sentence in 778.12(b), which requires the identification of each application by its application number and jurisdiction, or by other identifying information when necessary. Item K.3 of OSMRE's October 2, 2009, 732 letter indicated that Colorado does not have a counterpart to this provision in its rules. As a result, Colorado's failure to include this additional requirement in the proposed rule change rendered its program less effective than the Federal regulations at 30 CFR 778.12(b), and failed to satisfy the requirements specified in Item K.3 of OSMRE's October 2, 2009, 732 letter.

In response to OSMRE's concerns, Colorado now proposes to add language at Rule 2.03.4(3) stating that a list of all names that the applicant, operator, and partners or principal shareholders of the applicant or operator operate or previously operated must be included in the submission of the application. In addition, Colorado proposes language at Rule 2.03.4(3)(a)(ii) that requires an application to include information regarding a person's ownership or control relationship to the operation instead of the applicant. Lastly, Colorado proposes language at Rule 2.03.4(3)(b) requiring the applicant to provide jurisdiction information for both the applicant and the operator.

Based on the discussion above, we find that Colorado's proposed revisions to Rules 2.03.4(3), (3)(a)(ii), and (3)(b) are consistent with and no less effective than the corresponding Federal regulations at 30 CFR 778.12(a), (b), and (c)(1) through (5). Accordingly, we approve the amendment. Specifically, Rules 2.03.4(3)(a), (3)(a)(i), (3)(a)(iii), and (3)(a)(iv) are approved under Part B. of this document.

19. Rules 2.03.4(4), .4(4)(a) Through (c), .4(6)(b), and .4(8); Identification of Interests; [30 CFR 778.11 and 778.13]

Colorado proposes revisions to Rules 2.03.4(4), (6)(b), and (8) that require each application for a surface coal mining permit to contain a complete identification of interests, including permit and operator information, as well as property interest information required under 30 CFR 778.11 and 778.13, respectively.

In its Statement of Basis, Purpose, and Specific Statutory Authority, Colorado explains that Rule 2.03.4(4) is amended for clarity and to be consistent with 30 CFR 778.11(c) by requiring a list of the entities within an applicant's or operator's organizational structure for which identifying information is required. Colorado's proposed rule change includes counterpart language that is consistent with and no less effective than the Federal regulations at 30 CFR 778.11(c)(1) through (6) regarding applicant and operator information. Accordingly, we approve it.

Proposed Rule 2.03.4(4)(a) is revised to be consistent with 30 CFR 778.11(d)(1), which requires the application to include the telephone number of entities being named as owners or controllers. Colorado's proposed rule change is consistent with and no less effective than the Federal regulations at 30 CFR 778.11(d)(1) and we are approving it.

Next, Colorado proposes to add new Rule 2.03.4(4)(c) to be consistent with 30 CFR 778.11(d)(3) and require that the date an owner or controller began functioning in their position be included in the application. Colorado's newly proposed rule is substantively identical to the Federal counterpart provision at 30 CFR 778.11(d)(3) and we approve it.

Colorado proposes to amend Rule 2.03.4(6)(b) for purposes of clarity and require that each permit application contain the names and addresses of ''any holders of record of any leasehold interest in the coal to be mined.'' Colorado's proposed rule change is substantively identical to the Federal counterpart language at 30 CFR 778.13(a)(2) and we approve it.

Lastly, Colorado proposes to revise Rule 2.03.4(8) to be consistent with 30 CFR 778.13(d) by clarifying that Mine Safety and Health Administration (MSHA) identification numbers must be provided for the operation itself and any structures that require approval by MSHA. Colorado's proposed rule change is substantively identical to the Federal counterpart language at 30 CFR 778.13(d) and we approve the amendment.

20. Rule 2.04.12(2)(g); Application for Permit for Surface or Underground Mining Activities—Minimum Requirements for Information on Environmental Resources—Prime Farmland Investigation; [30 CFR 785.17(d)]

Colorado is proposing to revise Rule 2.04.12(2)(g) to clarify that the State Conservationist of the Natural Resources Conservation Service (NRCS) is delegated the responsibility by the Secretary of Agriculture to demonstrate that land is not prime farmland. Proposed Rule 2.04.12(2)(g) is substantively identical to the Federal counterpart regulation at 30 CFR 785.17(d), which states that the Secretary of Agriculture, the head of the United States Department of Agriculture (USDA), assigns prime farmland responsibilities arising under the Act to the Chief of the U.S. Soil Conservation Service, which is currently known as the Natural Resources Conservation Service (NRCS), and that the NRCS shall carry out consultation and review through the State Conservationist located in each State. We find that

proposed Rule 2.04.12(2)(g) is no less effective than the Federal regulation at 30 CFR 785.17(d); therefore, we approve the amendment.

21. Rule 2.05.6(6); Operation and Reclamation Plan—Mitigation of the Impacts of Mining Operations—Subsidence Survey, Subsidence Monitoring, and Subsidence Control Plan; [30 CFR 784.20]

In response to OSMRE's June 5, 1996, and April 4, 2008, letters, Colorado proposed revisions to Rule 2.05.6(6) addressing mitigation of the impacts of mining operations with subsidence surveys, subsidence monitoring, and subsidence control plans. All proposed changes at Rule 2.05.6(6) are approved, even if they are not listed individually in finding number 21. By letter dated May 20, 2013, OSMRE notified the Division that Colorado's proposed revisions to Rule 2.05.6(6) regarding the mitigation of the impacts of mining operations was less effective than the counterpart Federal regulations at 30 CFR 784.20. Specifically, Colorado's rules did not contain a requirement for an applicant/permittee to notify an owner of a protected structure, who refuses access for a pre-subsidence survey, that it will not be presumed that subsidence damaged the structure if damage occurs after mining. Colorado now proposes language at proposed Rule 2.05.6(6)(a)(ii)(A) that if the landowner will not allow the applicant access to the site to conduct a pre-subsidence survey, the applicant will notify the owner, in writing, of the effect that denial of access will have in establishing the pre-subsidence condition to determine whether any subsequent damage to protected structures was caused by subsidence from underground mining under existing Rule 4.20.3(2). We, therefore, approve the amendment.

Also in our May 20, 2013 letter, OSMRE found that Colorado's proposed revisions to Rule 2.05.6 did not require that an applicant/permittee must provide copies of pre-subsidence surveys, technical assessments or engineering evaluations to the Division. In response to OSMRE's disapproval, Colorado now proposes an additional revision to Rule 2.05.6(6)(a)(iv) requiring the applicant to provide copies of pre-subsidence surveys, technical assessments, and engineering evaluations to the Division. OSMRE approves this amendment.

Numerous paragraphs within proposed Rule 2.05.6(6) referred to maps ''prepared according to the standards of Rule 2.10'' (*i.e.,* Rules 2.05.6(6)(a)(ii)(B), 2.05.6(6)(c)(ii), 2.05.6(6)(e)(i)(F), and 2.05.6(6)(f)(vi)), which requires maps at ''a scale of 1:24,000 or larger if requested by the Division for good cause shown or desired by the operator.'' This provision is inconsistent with the Federal requirement at 30 CFR 784.20(a)(1) that requires a map ''at a scale of 1:12,000, or larger if determined necessary by the regulatory authority.'' In response to Item No. 12 of our May 20, 2013, letter, Colorado now proposes language at Rules 2.05.6(6)(a)(ii)(B), 2.05.6(6)(c)(ii), 2.05.6(6)(e)(i)(F), and 2.05.6(6)(f)(vi) requiring that maps must be at a scale of 1:12,000 or larger if determined necessary by the Division. We, therefore, approve the amendment to the aforementioned rules.

We are approving the remaining requirements of the Federal regulations at § 784.20, which are contained in the following sections of Colorado Rule 2.05.6(6):

30 CFR 784.20 paragraph	Rule 2.05.6(6) section
(a)(1)	(a)(ii)(B).
(a)(2)	(b) and (b)(i).
(a)(3) first sentence	(a)(ii)(A).
(a)(3) second sentence	Missing—see below.
(a)(3) third sentence	(a)(iii).
(a)(3) fourth sentence	(a)(iv).
(a)(3) fifth sentence	Missing, but no less effective; the Federal rule requiring a survey to determine the condition of protected structures within areas encompassed by the angle of draw is suspended; the Colorado Rule is not.
(b) first sentence, 1st clause	(a)(i).
(b) first sentence, 2nd clause	(b)(ii); however, Colorado's Rule requires a monitoring plan; the Federal regulation requires no further information.
(b)(1)	(f)(ii)(A) and (f)(iii)(A).
(b)(2)	(f)(vi).
(b)(3)	(f)(i).
(b)(4)	(c) and (f)(iii)(C)(V).
(b)(5)(i)–(iii)	(f)(iii)(B).
(b)(5)(iv)	(f)(iii)(C)(I)–(IV).
(b)(6)	(e) and (f)(v).
(b)(7) 1st clause	(f)(iii).
(b)(7) 2nd clause	Rule 4.20.3(1).
(b)(8)	(f)(iv).
(b)(9)—other requirements of RA	(b)(iii)(A) and (B) requires a detailed state-of-the-art analysis of subsidence effects; (d)(i) requires the permittee and the Division to monitor and verify semi-annually, the accuracy of the subsidence predictions; (d)(ii) allows the Division to suspend underground mining near protected structures or renewable resource lands if imminent danger of material damage or diminution of use is determined to exist; (f)(vi)(B) requires a description (in addition to the map) of the location and extent of areas of planned subsidence; and (f)(vii) requires a schedule for submitting periodically, a detailed plan of actual underground mining, which is substantively identical to the requirements of 30 CFR 817.121(g). (e)(i)(F)(III) sets the ''default'' angle of draw at 45°; 30 CFR 817.121(c)(4)(i) sets it at 30°.

22. Rules 2.07.3(2) and (3); Public Participation and Approval of Permit Applications—Government Agency and Public Comments on Permit Applications; [30 CFR 773.6]

Rule 2.07.3 contains the public participation requirements of the Colorado program. Colorado proposes to delete language at Rule 2.07.3(2) that is redundant of the requirements of Rules 2.07.3(2)(b), which explains the requirements for the description or map contained in the public notice, and add Rule 2.07.3(2)(h), which requires the application for a permit revision or technical revision to include a written description of the proposed revision and a map or description identifying the lands subject to the revision in the notice. Because the deleted requirements are addressed at Rules 2.07.3(2)(b) and (h), we approve the amendment.

At Rule 2.07.3(3)(a), Colorado proposes to remove ''technical revision'' from the list of items for which the Division must issue a written notice when it has received a complete application. This proposed deletion is appropriate, since the requirements for agency notices of technical revisions is moved to Rule 2.08.4(6)(b)(i), *Revisions to a Permit,* which is approved under Part III.B. of this document. The proposed changes to Rules 2.07.3(2) and (3) are no less effective than the Federal regulations at 30 CFR 773.6; therefore, we approve the amendment.

23. Rules 2.07.4(2)(e) Through (e)(ii); Division and Board Procedures for Review of Permit Applications: Deadline for Submitting a Performance Bond After Permit Approval; [30 CFR 740.13(c)(9), 773.16, 773.19(a)(1), and 800.11(a)]

Proposed Rules 2.07.4(2)(e) through (2)(e)(ii) would revise requirements for an applicant to file a bond after permit approval, for information the Division may request to update or revise an application, and for actions the Division will take if an applicant does not respond to its request for information. Rule 2.07.4(2)(e) would require an applicant to file a performance bond anytime within three years after the Division finally approves its permit. That revision also requires the Division to review the terms of its original permit approval if the applicant does not file a bond within that period. At that time, the Division may reaffirm its original approval or request updated and/or additional information. Rule 2.07.4(2)(e)(i) would subject the Division's request for information to the notification and review requirements of Rule 2.07. Under Rule 2.07.4(2)(e)(ii), the Division may reissue a decision to deny the application if the applicant does not submit a bond within 90 days of the information request. In that case, the Division must provide notice under Rules 2.07.4(2)(c) and (d) and persons may submit objections to its decision under Rule 2.07.4(3).

Colorado explained that it proposes these revisions to Rules 2.07.4(2)(e) through (2)(e)(ii) to ensure that the written findings it made when it originally approved a permit will be relevant at the time an applicant files a bond. The State noted that, as currently approved, Rule 2.07.4(2)(e) allows an applicant to wait an indefinite time after permit approval to file a bond, after which the Division would automatically issue the previously approved permit. In that case, the State explained, it possibly could issue a permit after changes occurred in baseline site conditions, right of entry, ownership and control information, compliance history, relationships to areas designated unsuitable for mining, and other conditions. Further, the State would be unable to review the permit application to determine if revisions or modifications are needed because it does not have authority to periodically review an approved application or require changes if it has not yet issued a permit. Colorado noted that this is ''somewhat contrary'' to Section 34–33–109(6) of its Act, which requires a permit to terminate within three years after being issued if the permittee has not started mining.

The counterpart Federal regulations are found at 30 CFR 740.13(c)(9), 773.16, 773.19(a)(1), and 800.11(a). The regulations at 30 CFR 740.13(c)(9) introductory text, (c)(9)(i), and 800.11(a) require an applicant/permittee to file a performance bond after the approval of a permit application and before permit issuance, but do not impose a specific time limit for filing the bond. Under 30 CFR 773.16, the applicant is required to file the performance bond or other equivalent guarantee before permit issuance if the regulatory authority decides to approve the permit application. The applicant must file the bond under the provisions of subchapter J, which addresses bonding and insurance requirements for surface coal mining and reclamation operations.

Colorado's proposed rules impose requirements that neither the Federal counterpart regulations nor SMCRA impose(s). The State explained its proposed rule changes by saying ''[t]he board finds that this revision is necessary for the protection of public safety and the environment, consistent with Section 34–33–108 of its Act.''

The proposed revisions at Rules 2.07.4(2)(e), (e)(i), and (e)(ii) will better enable the Division to ensure that data it reviewed in support of its permit approval are relevant when it issues the permit after the applicant files the required performance bond, whenever that filing occurs. We find the proposed rules to be consistent with Colorado's Act, consistent with and no less effective than the Federal regulations, and in accordance with SMCRA; therefore, we approve the amendments.

24. Rules 2.07.6(1)(b) Through (b)(ii); Criteria for Review of Permit Applications for Permit Approval or Denial: Eligibility for a Permit; [30 CFR 773.12(a) Through (a)(2)]

In response to Item E.6 of OSMRE's October 2, 2009, 732 letter, Colorado proposed revisions to Rules 2.07.6(1)(b) through (b)(ii) regarding the Division's determination about whether an applicant is eligible for a permit. Proposed Rule 2.07.6(1)(b) stated that the Division will not issue a permit if any surface coal mining and reclamation operation directly owned or controlled by the applicant has an unabated or uncorrected violation, or if an operation indirectly controlled by the applicant or operator has an unabated or uncorrected violation and that control was established or the violation was cited after November 2, 1988.

By letter dated May 20, 2013, OSMRE notified the Division that a missing statutory reference was identified at proposed Rule 2.07.6(1)(b). Specifically, Colorado merely referenced Rules 2.07.6(2)(g) and (o). Although Colorado's referenced Rules 2.07.6(2)(g) and (o) include criteria for permit eligibility that referenced section 510(c) of SMCRA and counterpart 30 CFR 773.12, they do not include all of the provisions of section 510(c) of SMCRA. Consequently, Colorado's referenced provisions are more limiting and rendered proposed Rule 2.07.6(1)(b) less effective than the counterpart Federal statute.

To correct this deficiency, Colorado now proposes to add a reference to Section 34–33–114(3) of the Colorado Surface Coal Mining Reclamation Act, regarding which rules and laws the Division must reference when determining whether an applicant is eligible for a permit. Section 34–33–114(3) of the Colorado Act is substantively identical to section 510(c) of SMCRA, thus making Rules 2.07.6(1)(b)(i) through (ii) consistent with and no less effective than the counterpart Federal regulations at

§ 773.12(a) introductory text through (a)(2). Accordingly, we approve the amendment.

25. Rules 2.07.6(1)(c) Through (f); Criteria for Review of Permit Applications for Permit Approval or Denial—Review of Permit Applications; [30 CFR 773.12(b) Through (c)]

Colorado proposes revisions and additions to Rules 2.07.6(1)(c) through (1)(f) to be consistent with the changes we made to 30 CFR 773.12 concerning identification of interests, compliance information, and permit eligibility in the December 18, 2000, and December 3, 2007, **Federal Register** documents (65 FR 79663 and 72 FR 68029, respectively).

Colorado proposes to add Rule 2.07.6(1)(c) to prohibit the Division from issuing a permit to an applicant or operator that is permanently ineligible to receive a permit under proposed Rule 2.07.9(3). New Rule 2.07.6(1)(c) is substantively identical to and no less effective than the Federal regulation at 30 CFR 773.12(b). The State also proposes to recodify existing Rule 2.07.6(1)(c) as 2.07.6(1)(e) to accommodate new paragraphs (6)(1)(c) and (d) and to revise the reference to the hearing provisions of 2.07.4(3)(f) to 2.07.4(e)(g) to accommodate changes to that rule as well. We approve the amendment.

The State also proposes to add Rule 2.07.6(1)(d) to require the Division to notify an applicant in writing if it deems the applicant ineligible for a permit. That notification is to explain why the applicant is ineligible and include notice of the applicant's appeals rights. Rule 2.07.6(1)(c) is substantively identical to and no less effective than the Federal regulation at 30 CFR 773.12(d). Colorado's amendment proposes only two editorial changes to recodified Rule 2.07.6(1)(e), which has no counterpart in the Federal regulations. The State proposes to recodify it from subparagraph (c) to subparagraph (e) due to adding preceding new sections. It also proposes to change the reference to provisions for an adjudicatory hearing under Rule 2.07.4(3)(f) to subparagraph (3)(g) due to adding new subparagraph (f) in Rule 2.07.4(3). The State's rule is consistent with the Federal regulations and is in accordance with SMCRA, and we, therefore, approve the amendment.

Colorado proposes to recodify Rule 2.07.6(1)(d) as (f) and to revise it to prohibit the Division from issuing a permit after final approval until the applicant provides updated ownership, control, and compliance information or certifies that previously submitted information is current. Once the applicant fulfills that requirement, the Division must request another compliance history report from AVS no more than five days before issuing the permit. Colorado also proposes to remove wording from this subparagraph that required the Division to reconsider its decision to approve a permit in light of any new information that arises during the compliance review. We find that Proposed Rule 2.07.6(1)(f) is substantively identical to and no less effective than the Federal regulation at 30 CFR 773.12(c); therefore, we approve the amendment.

26. Rules 2.07.6(1)(g)(i), (g)(i)(A), (g)(i)(B), (g)(ii), (g)(ii)(A), (g)(ii)(B), (g)(ii)(C), (g)(ii)(C)(I), (g)(ii)(C)(II), (g)(ii)(D), (g)(iii), (g)(iii)(A), (g)(iii)(C), and (g)(iii)(D); Criteria for Review of Permit Applications for Permit Approval or Denial; [30 CFR 773.14]

Proposed Rule 2.07.6(1)(g) establishes procedures the Division must follow to find an applicant eligible for a provisionally issued permit and to find that a provisionally issued permit was improvidently issued.

Proposed Rules 2.07.6(1)(g)(i), (i)(A), and (i)(B) apply procedures for finding an applicant eligible for a provisionally issued permit. We find Rules 2.07.6(1)(g)(i), (i)(A), and (i)(B) are substantively identical to their Federal counterpart regulations at 30 CFR 773.14(a) introductory text, (a)(1), and (a)(2); therefore, we are approving them.

Colorado proposes to add Rule 2.07.6(1)(g)(ii), under which the Division will find an applicant eligible for a provisionally issued permit. We find that proposed Rules 2.07.6(1)(g)(ii), (g)(ii)(A), (B), (C), (C)(II), and (D) are substantively identical to the Federal counterpart regulations at 30 CFR 773.14(b) introductory text, (b)(1), (b)(2), (b)(3) introductory text, (b)(3)(ii), and (b)(4); therefore, we are approving them.

Proposed Rule 2.07.6(1)(g)(ii)(C)(I) refers to a good faith challenge to all pertinent ownership or control listings or findings ''. . . under Rules 2.11.1 through 2.11.4 . . .'' The Federal counterpart regulation found at 30 CFR 773.14(b)(3)(i) refers to a good faith challenge to all pertinent ownership or control listings or findings ''. . . under §§ 773.25 through 773.27 of this part . . .'' but does not refer to 30 CFR 773.28, which is the counterpart to referenced Rule 2.11.4. Rule 2.11.4 and 30 CFR 773.28 include provisions for written agency decisions on challenges to ownership or control listings or findings, including appeals of those written decisions. Reference to those appeals provisions is consistent with the scope of Rule 2.07.6(1)(g)(ii)(C)(I), which requires the Division to find an applicant eligible for a provisionally issued permit if that applicant demonstrates that it is pursuing a good faith challenge of all pertinent ownership or control listings or findings. We find Rule 2.07.6(1)(g)(ii)(C)(1) to be consistent with and no less effective than the counterpart Federal regulations; therefore, we approve the amendment.

27. Rule 2.07.6(1)(g)(iii)(B); Criteria for Review of Permit Applications for Permit Approval or Denial: Eligibility for a Provisionally Issued Permit; [30 CFR 773.14(c)(2)]

Proposed Rule 2.07.6(1)(g)(iii) sets forth four criteria under which the Division will find a provisionally issued permit to be improvidently issued and will immediately begin the process of suspending or rescinding that permit. Under Part III.B.27. of this document, we found that proposed Rules 2.07.6(1)(g)(iii), (iii)(A), (iii)(C), and (iii)(D) are substantively identical to their Federal counterparts at 30 CFR 773.14(c) introductory text, (c)(1), (c)(3), and (c)(4), and we are approving them.

In response to Item E.8 of OSMRE's October 9, 2009, 732 letter, Colorado proposed to amend Rule 2.07.6(1)(g)(iii)(B) to be consistent with and no less effective than 30 CFR 773.14(c)(2) by adding a criterion that begins the permit suspension or rescission process if the applicant, operator, or operations that they own or control do not comply with an approved abatement plan or payment schedule described ''in paragraph (g)(i)(B) of this Rule.'' However, in its April 11, 2011, amendment Colorado incorrectly referenced Rule 2.07.6(1)(g)(i)(B), which applies Rule 2.07.6(1)(g) if an applicant owns or controls a surface coal mining and reclamation operation with a violation that is unabated or uncorrected beyond the abatement or correction period.

By letter dated May 20, 2013, OSMRE identified this incorrect rule reference and required Colorado to instead reference paragraph (g)(ii)(B), which requires the Division to find an applicant eligible for a provisionally issued permit if the applicant demonstrates that it, the operator, and mining operations they own or control are complying with the terms of any approved abatement plan or payment schedule. In response to our letter, Colorado now proposes to correctly reference Rule 2.07.6(1)(g)(ii)(B). Colorado's proposed reference change makes Rule 2.07.6(1)(g)(iii)(B) substantively identical to the Federal

counterpart regulation at 30 CFR 773.14(c)(2). Accordingly, we approve the amendment.

28. Rule 2.07.6(2)(d) Through (d)(ii) and (e) Through (e)(ii); Criteria for Review of Permit Applications for Permit Approval or Denial—Criteria for Permit Approval or Denial; [30 CFR 76.11, 761.5, 761.12, 773.15]

In response to Items B., C., D., and J. of OSMRE's April 2, 2001, 732 letter, Colorado proposed revisions to Rules 2.07.6(2)(d) and (e) addressing criteria for permit approval or denial. On January 15, 2008, in *National Mining Association* v. *Kempthorne,* 512 F.3d 702 (D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court's decision to uphold the VER and associated rules that OSMRE published on December 17, 1999 (64 FR 70766). Because the VER rules were challenged in Federal court on several fronts, we informed Colorado that the State could defer responding to our April 2, 2001, letter pending the outcome of the litigation.

By letter dated May 20, 2013, OSMRE notified the Division that Colorado's proposed revisions to Rules 2.07.6(2)(d) and (e) regarding criteria for permit approval or denial were less effective than the Federal counterpart regulations in satisfying the requirements of SMCRA. Apparent typographical errors of the proposed changes rendered the proposed rule confusing and ambiguous. Additionally, OSMRE noted that Rule 2.07.6(2)(d) also contained other substantive errors in that it made lands designated unsuitable for coal mining or under study or administrative proceedings for designation as unsuitable for coal mining subject to valid existing rights, which conflicts with the Federal regulations.

In response to OSMRE's disapproval, Colorado appropriately revised the introductory language of Rule 2.07.6(2)(d) to clarify the exceptions for operations with valid existing rights and operations for which permits existed before the lands came under the protection of the rule or 30 U.S.C. 1272(e). Colorado also correctly removed lands designated or under study or an administrative proceeding for designation as unsuitable for coal mining from the list of lands that are subject to valid existing rights. Subparagraphs (i) and (ii) of Rule 2.07.6(2)(d) are now designated as ''Reserved''. Additionally, Colorado ''reinserted'' the two lands unsuitable subparagraphs (previously deleted from subsection (d)) into the list of findings that must be made for permit application approval at Rule 2.07.6(2)(e), which is consistent with the Federal regulations at 30 CFR 773.15(c). Accordingly, we approve the amendment.

29. Rule 2.07.6(2)(d)(iii)(A); Criteria for Review of Permit Applications for Permit Approval or Denial—Criteria for Permit Approval or Denial; [30 CFR 761.11, 773.15]

Colorado revised Rule 2.07.6(2)(d)(iii)(A) to include study rivers and study river corridors in the lands within which surface mining activities may not be approved to be consistent with 30 CFR 773.15. The proposed revision of Rule 2.07.6(2)(d)(iii)(A) is substantively identical to the Federal counterpart regulations at 30 CFR 773.15, and we approve the amendment.

30. Rule 2.07.6(2)(d)(iii)(D)(II) and (III); Criteria for Review of Permit Applications for Permit Approval or Denial—Criteria for Permit Approval or Denial; [30 CFR 761.11, 761.13, 773.15]

Colorado proposes to revise Rule 2.07.6(2)(d)(iii)(D)(II) to be consistent with 30 CFR 773.15, *Written findings for permit application approval,* and now includes the Federal Coal Leasing Amendments Act of 1975 (30 U.S.C. 181 *et seq.*) and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) in the list of laws with which a surface coal mining operation on forest lands must comply. Colorado also proposes the addition of Rule 2.07.6(2)(d)(iii)(D)(III) to reference the procedure for obtaining Secretarial (Secretary of the Interior) approval to conduct surface coal mining operations on any Federal lands within the boundaries of any national forest (sub-subparagraph (D)), and clarifies in Rule 2.07.6(2)(d)(iii)(D)(III) that no permit shall be issued or boundary revision approved before the Secretary makes the findings required by Rule 2.07.6(2)(d)(iii)(D). The requirement for the Secretarial approval is currently in Rule 2.07.6(2)(d), but the procedure for obtaining the required approval from the Secretary was not referenced. The statement that no permit shall be issued or boundary revision approved prior to the Secretarial finding is being relocated within Colorado's Rules; it is currently in Rule 2.07.6(2)(e)(iii).

With the proposed revision of Rule 2.07.6(2)(d)(iii)(D)(II) and the addition of Rule 2.07.6(2)(d)(iii)(D)(III), Colorado's Rules regarding surface coal mining operations on Federal lands within a national forest are substantively identical to the Federal regulations at 30 CFR 773.15 and we approve the amendment.

31. Rules 2.07.6(2)(p) and (q); Criteria for Review of Permit Applications for Permit Approval or Denial—Criteria for Permit Approval or Denial; [30 CFR 773.15(h) and (i)]

Proposed Rule 2.07.6(2)(p) is added to be consistent with the Federal counterpart regulation at 30 CFR 773.15(h). The new rule specifies that the permit applicant must satisfy all of the applicable requirements for special categories of mining prior to permit approval. The references to Colorado Rules 4.23 through 4.29 are appropriate references to the requirements of special categories of mining.

Proposed Rule 2.07.6(2)(q) is added to be consistent with the Federal counterpart regulation at 30 CFR 773.15(i). The new rule clarifies that the Division is allowed to grant exceptions to certain revegetation requirements (*e.g.,* diversity, permanence, cover, self-regeneration, plant succession) when the proposed postmining land use will be long-term intensive agricultural use (*i.e.,* cropland). The references to Rules 4.15.1(2)(c), 4.15.7(3)(b)(i), 4.15.8(1)(a), 4.15.9, and 4.25.5(2) are appropriate references to the special requirements for cropland.

When Colorado proposed to recodify its rules at 2.07.6(2)(f) through (o) to read 2.07.6(2)(e) through (n), it did not correctly renumber newly proposed Rules 2.07.6(2)(p) and (q). Specifically, these rules should have been numbered (o) and (p). Consequently, 2.07.6(2)(o) does not contain any rule language and will be designated as *Reserved*.

Proposed Rules 2.07.6(2)(p) and (q) are substantively identical to the Federal regulations at 30 CFR 773.15(h) and (i), and we approve the amendment.

32. Rules 2.07.8(1)(b) Through (e); Improvidently Issued Permits; [30 CFR 733.21]

In response to Item E.12 of OSMRE's October 2, 2009, 732 letter, Colorado proposed to add new Rules 2.07.8(1)(b) through (e) regarding the initial review and finding requirements for improvidently issued permits. Proposed Rule 2.07.8(1) details the steps the Division must take when it finds that a permit has been improvidently issued as a result of the applicant having unabated or uncorrected violations and, therefore, the applicant is not eligible for the permit.

By letter dated May 20, 2013, OSMRE found that Colorado had incorrectly used the term ''operator'' instead of ''permittee.'' Consequently, Colorado's proposed language at Rule 2.07.8(1) did

not directly correspond to the Federal counterpart language at 30 CFR 773.21(a), which makes clear that the term ''you'' is synonymous with ''the permittee'' (*i.e.,* ''If we, the regulatory authority, have reason to believe that we improvidently issued a permit to you, the permittee . . .''). As a result, we required Colorado to replace the term ''operator'' with ''permittee'' in proposed Rules 2.07.8(c) and (d) in order to be consistent with and no less effective than the Federal regulations at 30 CFR 773.21(c) and (d). We also noted that the terms are not interchangeable, and Colorado consistently distinguishes between ''operator'' and ''permittee'' throughout its rules. Additionally, Colorado proposed to use the phrase ''permittee or operator'' at Rule 2.07.8(1)(b)(3), which is also incorrect because a permittee is the only entity of concern regarding permit eligibility—the operator does not receive a permit.

In response to our concern, Colorado now proposes to use the term ''permittee'' instead of ''operator'' at Rules 2.07.8(1)(c) and (d) to be consistent with the counterpart Federal regulations. Additionally, Colorado proposes to delete the phrase ''or operator'' at Rules 2.07.8(1)(b)(iii) and (e). Subsection (1)(b)(iii) previously stated that the Division will make a finding ''if the permittee or operator continued to own or control the operation with the unabated violation, the violation remains unabated, and the violation would cause the permittee or operator to be ineligible . . .'' Similarly, subsection (e) stated that ''the provisions . . . apply when a challenge . . . concerns a preliminary finding [that] the permittee or operator currently owns or controls, or owned or controlled, a surface coal mining operation.'' Colorado's proposed revisions make the aforementioned rules consistent with and no less effective than the Federal regulations at 30 CFR 773.21(a) through (e). Accordingly, we approve the amendment.

33. Rules 2.07.8(2)(a) Through (c) and (e) Through (g); Improvidently Issued Permits—Notice Requirements for Improvidently Issued Permits; [30 CFR 733.22]

Colorado proposes the addition of language at Rule 2.07.8(2) regarding notice requirements for improvidently issued permits. The proposed Rules at 2.07.8(2) detail the steps the Division must take when it finds that a permit has been improvidently issued as a result of the applicant having unabated or uncorrected violations and, therefore, not eligible for the permit.

Colorado proposes rules at 2.07.8(2)(a) through (c) and (e) through (g) that are substantively identical to the Federal counterpart regulations at 30 CFR 773.22, and we approve the amendment.

34. Rule 2.07.8(2)(d); Improvidently Issued Permits—Notice Requirements for Improvidently Issued Permits; [30 CFR 733.22(d)]

In response to item E.13 of OSMRE's October 2, 2009, 732 letter, Colorado proposed to add new rules regarding improvidently issued permits. Colorado's proposed rules at 2.07.8(2) detail notice requirements for improvidently issued permits.

By letter dated May 20, 2013, OSMRE notified Colorado that it had incorrectly used the term ''operator'' instead of ''permittee'' in its proposed language at Rule 2.07.8(2)(d) and, therefore, this did not directly correspond to the Federal counterpart regulation at 30 CFR 773.22(d). Title 30 CFR 773.21(a) makes clear that the term ''you'' is synonymous with ''the permittee'' (*i.e.,* ''If we, the regulatory authority, have reason to believe that we improvidently issued a permit to you, the permittee . . .). As a result, we required Colorado to replace the term ''operator'' with ''permittee'' in order to be consistent with and no less effective than the Federal regulation at 30 CFR 773.22(d). We also noted that the terms are not interchangeable and Colorado consistently distinguishes between ''operator'' and ''permittee'' throughout its rules.

In response to our concern, Colorado now proposes to use the term ''permittee'' instead of ''operator'' at Rule 2.07.8(2)(d). Colorado's proposed revision makes Rule 2.07.8(2)(d) consistent with and no less effective than the Federal counterpart regulation at 30 CFR 773.22(d), and we approve it.

35. Rules 2.07.9(3), (3)(a), (3)(b), and (6); Post-Permit Issuance Requirement for the Division and Other Actions Based on Ownership, Control, and Violation Information; [30 CFR 774.11(a) Through (h)]

In response to Item G. of OSMRE's October 2, 2009, 732 letter, Colorado proposed rules at 2.07.9(1) through (6) that address post-permit issuance requirements for the Division and other actions based on ownership, control, and violation information. By letter dated May 20, 2013, OSMRE notified Colorado that proposed Rule 2.07.9(3) did not provide the correct State counterpart reference to the Federal regulation at 30 CFR 774.11(c), which states that the regulatory authority will only consider control relationships and violations that would make, or would have made, the applicant or operator ineligible for a permit under 30 CFR 773.12(a) and (b). In addition, Colorado correctly proposed Rules 2.07.6(1)(b)(i), and (ii) as State counterparts to 30 CFR 773.12(a)(1) and (2), but failed to reference its counterpart provision to the Federal regulation at 30 CFR 773.12(b), which states that the regulatory authority will not issue a permit if the applicant or operator are permanently ineligible to receive a permit under 30 CFR 774.11(c). In response to our concern, Colorado now includes a reference to Rule 2.07.6(1)(c) in proposed Rule 2.07.9(3), which is the correct counterpart reference to 30 CFR 773.12(b). Colorado's proposed revision makes Rule 2.07.9(3) consistent with and no less effective than the counterpart Federal regulation at 30 CFR 773.12(b); therefore, we approve it.

OSMRE also identified a concern at Rule 2.07.9(6), wherein Colorado's proposed language closely follows the Federal counterpart regulation at 30 CFR 774.11(f) with one exception. Specifically, the Federal regulation states that ''at any time, we may identify any person who owns or controls an entire surface coal mining operation or any relevant portion or aspect thereof.'' Conversely, Colorado's proposed counterpart at Rule 2.07.9(6) states that: ''At any time, the Division may identify any person who owns or controls an entire operation or any relevant portion or aspect thereof.'' Colorado's current rules and statute provide definitions only for ''surface coal mining operations'' and ''surface coal mining and reclamation operations'' but not for ''operation'' or ''entire operation.'' In addition, Colorado uses the phrase ''a surface coal mining and reclamation operation'' throughout its rules. Consequently, OSMRE required Colorado to change its reference to the term ''operation'' to the phrase ''surface coal mining and reclamation operation'' in order to be consistent with and no less effective the counterpart Federal regulation at 30 CFR 774.11(f). In response to our concern, Colorado now proposes to change the phrase ''an entire operation'' to ''a surface coal mining and reclamation operation.'' Accordingly, we approve the amendment.

Colorado's remaining proposed rules at Rule 2.07.9(1), (2), (4) and (5) are consistent with and no less effective than the Federal counterpart provisions, and are being approved under Part B. of this document.

36. Rule 2.08.4(6)(b)(i); Permit Review, Revisions and Renewals and Transfer, Sale, and Assignment—Revisions to a Permit; [30 CFR 773.6(3)]

Colorado proposes the addition of language at Rule 2.08.4(6)(b)(i) to clarify that only government entities that have jurisdiction over or an interest in the affected area or subject matter are notified when a complete technical revision is submitted to the Division. Notification requirements for receipt of a complete technical revision were previously found at Rule 2.07.3(3)(a), which requires blanket notifications to be sent to all agencies when a complete application for a permit, a permit revision, or a permit renewal is received. This caused confusion on the part of the notified agencies as to why they were being notified when the proposed changes in the technical revision did not pertain to their agency. Colorado proposes this rule amendment in an effort to promote efficiency and reduce confusion with these irrelevant notifications. This proposed rule is substantively identical to the Federal counterpart regulations at 30 CFR 773.6(3)(i) and (ii), which describe how notifications shall be sent to local government agencies with jurisdiction over or an interest in the area of the proposed coal mining and reclamation operation. However, Colorado fails to clarify what kind of operations the rule is referring to when it states that ''The Division shall issue written notification . . . with jurisdiction over or an interest in the area of the proposed operations.'' Colorado's current rules and statute provide definitions only for ''surface coal mining operations'' and ''surface coal mining and reclamation operations''; not for ''operation''. At Rule 2.08.4, there is prior mention of surface coal mining operations at Rules 2.08.4(1)(a) and (5)(c), so one could infer from previous language that a surface coal mining operation is now referred to simply as an ''operation'' at Rule 2.08.4(6)(b)(i). While we recommend that Colorado clarify the operation to be a ''surface coal mining operation'' as part of a future amendment proposal, we nonetheless find that proposed Rule 2.08.4(6)(b)(i) is as effective as the Federal counterpart regulation at 30 CFR 773.6(3), and we approve the amendment.

37. Rules 2.11.4(1) Through (6); Written Decision on Challenges to Ownership or Control Listings or Findings; [30 CFR 773.28]

Colorado proposes language at Rule 2.11.4 that is substantively identical to the Federal counterpart regulation at 30 CFR 773.28. The proposed Rule sets forth requirements for the Division to issue written decisions and findings on challenges to ownership and control listings and findings; establishes means of service of those findings to the challenger; outlines appeal procedures for the challenger; and requires the Division to update AVS when ownership and control listings become final.

There is a discrepancy with the proposed language at Rule 2.11.4(5) regarding reference to appellate procedures to follow when an appeal of a Division decision about ownership and control findings. The Federal regulation at 30 CFR 773.28(e) refers the reader to 43 CFR 4.1380 through 4.1387, which govern the procedures for review of a written decision issued by OSMRE under 30 CFR 773.28 on a challenge to a listing or finding of ownership or control. In proposed Rule 2.11.4(5), the State provides Rule 2.07.4 as the State counterpart to the Federal reference 43 CFR 4.1380 through 4.1387. Rule 2.07.4, *Division and Board Procedures for Review of Permit Applications,* provides appellate procedures for contesting permitting decisions by the Division and by the Board, but no specific procedures are outlined for contesting decisions regarding ownership and control findings. However, because the administrative appellate process outlined in Rule 2.07.4 contains similar administrative remedies (*i.e.,* temporary relief, similar timeframes, request for informal review, etc.) to the Federal counterpart regulations at 43 CFR 4.1380 through 4.1387, this is not interpreted to be less effective than the process referenced in the Federal regulations. Although ownership and control challenges are not described in Rule 2.07.4, Colorado states specifically in Rule 2.11.4(5) that anyone who receives a written decision on challenges to ownership or control listings or findings, and wishes to appeal that decision, may do so as set forth in Rule 2.07.4, leading the reader to believe that the processes governed by Rule 2.07.4 will be used for ownership and control challenges. Based on the above discussion, OSMRE finds Colorado's proposed language at Rules 2.11.4(1) through (6) to be no less effective than the counterpart Federal regulation; therefore, we approve the amendment.

38. Rule 3.03.2(1); Release Of Performance Bonds—Procedures for Seeking Release of Performance Bond; [30 CFR 800.40(a)(2)]

Colorado proposes additional language at Rule 3.03.2(1) regarding the requirements for bond release applications by requiring that the permittee send written notification of an intention to seek bond release to ''other governmental agencies as directed by the Division.'' This proposed language ensures that any government agencies with jurisdiction over or an interest in a permit area are notified of a pending bond release application. This additional language expands upon the Federal counterpart regulation for bond release applications at 30 CFR 800.40(a)(2) and is no less effective in satisfying the requirements of SMCRA. We approve the amendment.

39. Rules 4.03.1, .2, and .3; Performance Standards: Roads—Haul Roads, Access Roads, and Light-Use Roads; [30 CFR 816.105(c) and 817.150(c)]

Colorado proposes revisions to Rules 4.03.1, 4.03.2, and 4.03.3, as required by 30 CFR 906.16(f), *Required program amendments.* The proposed revisions to Rules 4.03.1, 4.03.2, and 4.03.3 are consistent with the Federal counterpart regulation at 30 CFR 816.150(c). Colorado proposes to delete the general provision allowing alternative design criteria to clarify that the Division would not approve alternatives to all of the access road design and construction criteria presented in Rules 4.03.1, 4.03.2, and 4.03.3, as is implied by paragraph (e) of the General Requirements for haul roads and access roads. The proposed revision also adds provisions for use of alternative design criteria and specifications for road grades (*i.e.,* ''vertical alignment'') of haul roads, access roads, and light-use roads. With the addition of these provisions, the existing rules specify, for haul roads, access roads, and light-use roads, whether alternatives to design and construction criteria may be approved by the Division, thus rendering paragraph (e) redundant and unclear. The proposed language is consistent with and no less effective than the Federal regulations in satisfying the requirements of SMCRA. We, therefore, approve the amendment.

40. Rules 4.06.4(2)(a) and (3); Topsoil—Redistribution; [30 CFR 816.22(d) and 817.22(d)]

Proposed Rule 4.06.4(2)(a) is substantively identical to the Federal counterpart regulation at 30 CFR 816.22(d)(1)(i) and 817.22(d)(1)(i), except that Colorado proposes language to protect against potential abuses by ensuring that the permit application includes a well-defined and justified plan for soil replacement. Specifically, proposed Rule 4.06.4(2)(a) ensures that the permit application includes a well-

defined and justified plan for soil replacement by requiring that permit applications describe a range in replacement thickness for defined areas of the reclaimed landscape based on the pertinent land use, topography, drainage system, and revegetation factors and objectives.

Proposed Rule 4.06.4(3) was previously located at Rule 4.14.2(5), which addresses backfilling and grading (general grading requirements). This language is appropriately proposed to be moved to Rule 4.06.4(3) because it is specific to topsoil replacement. OSMRE concludes that the proposed changes to Rules 4.06.4(2)(a) and 4.06.4(3) are no less effective than the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

41. Rules 4.07.3 and .3(1); Sealing of Drilled Holes and Underground Openings; [30 CFR 817.13 and 817.15]

Rule 4.07.3 has been revised to include language that explicitly specifies the methods and materials for permanent closure of shafts, drifts, adits, tunnels, or mine entryways. Specifically, proposed Rule 4.07.3(1)(a) requires that shaft openings be filled for the entire length of the shaft and for the first fifty (50) feet from the bottom of the coal bed, the fill material must consist of non-combustible materials; that caps consist of six-inch concrete or equivalent; and that caps have a vent of at least two inches in diameter and extend for a distance of fifteen feet above the surface of the shaft. Proposed Rule 4.07.3 is analogous to the Federal counterpart regulation at 30 CFR 817.15, and by reference to the Department of Labor, Mine Safety and Health Administration's regulations at 30 CFR 75.1711, *Mandatory Safety Standards—Underground Coal Mines, Sealing of mines.* The Federal performance requirements for permanent closure of shafts, drifts, adits, tunnels or mine entryways described in 30 CFR 75.1711 require that shaft openings be filled for the entire length and for the first fifty (50) feet from the bottom of the coal bed, that the fill consist of incombustible materials; that caps consist of six-inch concrete or equivalent; and that caps have a vent of at least two inches in diameter and extend for a distance of fifteen feet above the surface of the shaft. The revisions to proposed Rule 4.07.3(1)(a) are substantively identical and, therefore, no less effective than the Federal counterpart at 30 CFR 817.15, and by reference at 30 CFR 75.1711.

Rule 4.07.3(1) has been revised to require that permanent closure construction reports be certified by a qualified, registered Professional Engineer. The Federal regulations at 30 CFR 817.13, 817.14 and 817.15, which address the general requirements, temporary, and permanent casing and sealing of exposed underground openings, do not explicitly require certification of construction reports by a qualified, registered Professional Engineer. However, Federal regulations 30 CFR 784.13 (*Reclamation Plan*) and 30 CFR 784.23 (*Operations Plan: Maps and Plans*) require that maps, plans, cross sections, and environmental protection measures be prepared under the direction of a registered Professional Engineer and that maps and plans be certified by a registered Professional Engineer. We find that the requirement for certification of closure construction reports by a qualified, registered Professional Engineer as specified in proposed Rule 4.07.3(1) is consistent with the Federal counterpart regulations, and, therefore, Rule 4.07.3(1) is no less effective than the Federal counterparts.

The proposed language at Rule 4.07.3(1)(b) states that the slope or drift be closed with a solid, substantial, incombustible material such as concrete blocks, tile or bricks, placed a distance of at least 25 feet from the opening and that the slope or drift. Proposed Rule 4.07.3(b) requires that the opening of the slope or drift be backfilled to the roof. Proposed Rule 4.07.3(b) allows for up to a three (3) inch void space between the top of the backfill to the roof up to the entrance of the slope or drift. The slope or drift would be backfilled to the roof with no void space at the entrance. The Federal counterpart regulation at 30 CFR 817.15, *Casing and sealing of underground openings: Permanent,* and by reference 30 CFR 75.1711 requires that permanent closures of slopes or drifts be completely backfilled for 25 feet, or closed with a solid, substantial, incombustible material such as concrete block, tile or brick. We note that the proposed language at Rule 4.07.3(1)(b)(i) requires both a substantial, incombustible closure material, such as tile, brick or concrete block and backfill of the slope or drift for 25 feet to the entrance with the entrance being backfilled to the roof. The proposed language at Rule 4.07.3(1)(b)(ii) requires backfill of 25 feet of the slope or drift from the entrance with the inner three feet of the backfill consisting of rock material with a minimum diameter of two feet. We note the distinction between the State rules and Federal regulations is significant because the State rule is requiring both backfill of the slope or drift to 25 feet from the entrance and placement of some sort of substantial, incombustible material such as concrete block, tile, brick, or two-foot diameter rock. The Federal counterpart allows for either construction of a tile, block or brick bulkhead, or backfill of 25 feet of the slope or drift from the entrance. We find that Rule 4.07.3(1)(b) is no less effective than its Federal counterpart at 30 CFR 817.15 as Colorado's proposed rule requires both a solid, substantial, incombustible material bulkhead and complete backfill of 25 feet of slope or drift from the entrance, and we approve the amendment.

OSMRE notes that Rule 4.07.3(1)(b) allows for a three-inch void space between the top of the backfill and the roof in the intervening 25-foot length of the backfill between the bulkhead and the entrance of the slope or drift while requiring that the entrance itself be backfilled to the roof of the slope or drift with no void space. Federal regulations at 30 CFR 817.15 and 75.1711 do not have a backfill height to roof requirement, either at the mine entrance or along the mine tunnel. We find that Colorado's proposed requirement is an extra measure to protect human health and the environment by physically prohibiting access to backfilled tunnels at the entrance, and we approve the amendment.

42. Rule 4.08.4(8); Use of Explosives—Surface Blasting Requirements; [30 CFR 816.67(c) and 817.67(c)]

Colorado proposes to amend Rule 4.08.4(8) to be consistent with proposed Rule 1.04(79), which defines ''occupied residential dwelling.'' We approve the proposed definition for ''occupied residential dwelling'' in Part III.B. of this document.

Additionally, Colorado proposes additional language at Rule 4.08.4(8) stating that flyrock, including blasted material traveling along the ground, shall not be cast beyond the topsoil stripping limit resulting in loss of resource. This requirement expands upon the Federal counterpart regulation at 30 CFR 816.67 and 817.67, *Use of Explosives: Control of adverse effects.* Colorado proposes to amend this rule to protect the environment by clarifying that flyrock resulting in topsoil resource contamination is prohibited. The proposed rule is no less effective than the Federal counterpart regulation at 30 CFR 816.67 and 817.67; therefore, we approve the amendment.

43. Rule 4.14.2(5); Performance Standards, General Grading Requirements; [30 CFR 816.102(j)]

Proposed Rule 4.14.2(5) is substantively identical to the Federal regulation at 30 CFR 816.102(j). Colorado proposes to delete language regarding final surface and seedbed preparation of soil. The deleted language is appropriately proposed to be moved under Rule 4.06.4, *Topsoil Distribution,* because it addresses topsoil replacement. The proposed revision is no less effective than the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

44. Rules 4.14.4(1), (1)(a), and (1)(b); Thin Overburden; [30 CFR 816.104(a)]

In letters dated June 19, 1997, and April 4, 2008, OSMRE notified Colorado that their definition for ''thin overburden'' was not as effective as the Federal counterpart definition at 30 CFR 816.104(a). Colorado proposes a revised definition for ''thin overburden'' at Rule 4.14.4(1), which is substantively identical to the Federal regulation at 30 CFR 816.104(a). Whereas the Federal regulation first defines ''thin overburden'' at 30 CFR 816.104(a), then specifies the performance standards applicable to ''thin overburden'' at 30 CFR 816.104(b), the Colorado Rule first specifies the areas where the performance standards for thin overburden are applicable (Rule 4.14.4(1)), then specifies the performance standards (Rule 4.14.4(2)). Under the proposed rule, the description of the areas where the thin overburden performance standards are applicable is substantively identical to the definition of ''thin overburden'' in the Federal regulations (30 CFR 816.104(a)). The Federal definition uses the phrase ''spoil and other waste materials available from the entire permit area'' while Colorado's proposed rule uses the phrase ''spoil and other waste materials available from the area disturbed by surface coal mining operations;'' however, the two phrases are synonymous under the definitions of ''disturbed area'' and ''permit area'' at Colorado Rules 1.04(36) and (89), respectively.

The rules referenced in the proposed performance standard are appropriate. The proposed rule specifies that paragraph (2) of Rule 4.14.4 applies only ''where there is insufficient spoil and other waste materials available from the area disturbed by surface coal mining operations to restore the disturbed area to its approximate original contour'' and ''when surface mining activities cannot be carried out to comply with Rule 4.14.1 to achieve the approximate original contour,'' which comports with the Federal regulations. Rule 4.14.1 contains the general performance standards for backfilling and grading, one of which specifies that all areas disturbed by surface coal mining operations shall be returned to their approximate original contour (Rule 4.14.1(2)(a)). Proposed Rules 4.14.4(1), (1)(a), and (1)(b) are substantively identical to the Federal counterpart regulation at 30 CFR 816.104(a) and are no less effective than the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

45. Rules 4.14.5(1), (1)(a), and (1)(b); Thick Overburden; [30 CFR 816.105(a)]

In letters dated June 19, 1997, and April 4, 2008, OSMRE notified Colorado that their definition for ''thick overburden'' was not as effective as the Federal counterpart definition at 30 CFR 816.105(a). Colorado proposes a revised definition for ''thin overburden'' at Rule 4.14.5(1), which is substantively identical to the Federal regulation at 30 CFR 816.105(a). Whereas the Federal regulations first defines ''thick overburden'' in 30 CFR 816.105(a), then specifies the performance standards applicable to ''thick overburden'' in 30 CFR 816.105(b), the Colorado Rule first specifies the areas where the performance standards for thick overburden are applicable, in Rule 4.14.5(1), then specifies the performance standards, in Rule 4.14.5(2). Under the proposed rule, the ''description'' of the areas where the thick overburden performance standards are applicable is substantively identical to the definition of ''thick overburden'' in the Federal regulations (30 CFR 816.105(a)). The Federal definition uses the phrase ''spoil and other waste materials available from the entire permit area'' while Colorado's proposed rule uses the phrase ''spoil and other waste materials available from the area disturbed by surface coal mining operations;'' however, the two phrases are synonymous under the definitions of ''disturbed area'' and ''permit area'' at Colorado Rules 1.04(36) and (89), respectively.

The rules referenced in the proposed performance standard are appropriate. The proposed Rule specifies that Paragraph (2) of Rule 4.14.5 applies only ''where there is more than sufficient spoil and other waste materials available from the area disturbed by surface coal mining operations to restore the disturbed area to its approximate original contour'' and ''when surface mining activities cannot be carried out to comply with Rule 4.14.1 to achieve the approximate original contour,'' which comports with the Federal regulations. Rule 4.14.1 contains the general performance standards for backfilling and grading. Specifically, Rule 4.14.1(2)(a) states that ''all areas disturbed by surface coal mining operations shall be returned to their approximate original contour.''

Proposed Rule 4.14.5(1) is substantively identical to the Federal regulation at 30 CFR 816.105(a). It is no less effective than the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

46. Rule 4.15.7(5); Determining Revegetation Success: General Requirements and Standards; [30 CFR 816.116(c) and 817.116(c)]

As part of its April 11, 2011, amendment submittal, Colorado proposed language at Rule 4.15.7(5) describing revegetation success standard demonstrations for areas with five-year liability periods and ten-year liability periods. Specifically, Colorado proposed that for grazingland, pastureland, or cropland, applicable revegetation success standards shall be demonstrated during any growing season after year four of the liability period where the minimum five-year liability period applies (areas with greater than 26.0 inches of annual average precipitation). Likewise, Colorado proposed the same requirement for areas approved for a postmining land use of rangeland.

By letter dated May 20, 2013, OSMRE notified the Division that Colorado's proposed revisions to Rule 4.15.7(5) were inconsistent with the Federal counterpart regulations at 30 CFR 816.116 and 817.116 when applying this rule to areas of more than 26.0 inches of annual average precipitation on grazingland, pastureland, or cropland as the permitted postmining use. Title 30 CFR 816.116(c) and 817.116(c) require a liability period of five full years and that the vegetation parameters identified in paragraph (b) for grazing land, pasture land, or cropland shall equal or exceed the approved success standard during the growing season of any 2 years of the responsibility period, except the first year. Colorado's proposed changes to Rule 4.15.7(5) allowed for only one year of demonstration success, after year four of the liability period.

Additionally, OSMRE found that the proposed change in the definition of ''rangeland'' (recommended for approval in a different technical review) includes both grazingland and fish and

wildlife habitat. The proposed rules, again, allowed for only one year of demonstration success, after year four of the liability period. With the inclusion of ''grazingland'' into the definition of rangeland, this proposed rule should have required two demonstrations of success for the herbaceous production after year one of the five-year liability period; it required only one demonstration after year four of the liability period.

Colorado now proposes to add language at Rule 4.15.7(5) that requires, in areas where the minimum five year liability period applies and the post mining land use is grazingland, pastureland, cropland, forestry, recreation, wildlife habitat, undeveloped land, and rangeland, that vegetation standards shall be demonstrated during any two growing seasons, except the first year of the liability period. Colorado's proposed revisions make Rule 4.15.7(5) consistent with and no less effective than the Federal counterpart regulations for revegetation standards for success at 30 CFR 816.116(c) and 817.116(c). Accordingly, we approve the amendment.

47. Rules 4.15.7(5)(e) and (g); Determining Revegetation Success: General Requirements and Standards; [30 CFR 816.116(c)(4) and 817.116(c)(4)]

At Rule 4.15.7(5)(e), Colorado proposes to add interseeding to the list of normal husbandry practices that are acceptable for pasture land forage production. OSMRE previously approved the use of interseeding as a normal husbandry practice in Colorado. In that amendment proposal, Colorado noted that interseeding on rangelands and wildlife habitat is a normal husbandry practice recommended by biologists and land managers to enhance established vegetation.

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allow a State to approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, provided it obtains prior approval from OSMRE. These selective practices are required to be normal husbandry practices that do not extend the period of responsibility for revegetation success and bond liability. Such practices can be expected to continue as part of the post-mining land use or be discontinued after the liability period expires if it will not reduce the probability of permanent vegetation success. Approved practices shall be normal husbandry practices with in the region for unmined land having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control, and any pruning, reseeding, and transplanting specifically necessitated by such actions. OSMRE has determined that interseeding associated with pasture land forage production is a normal husbandry practice that meets the criteria to be approved under 30 CFR 816.116(c)(4) and 817.116(c)(4) and is no less effective than the Federal regulations.

Additionally, Colorado proposes to delete language that includes the written recommendation by the Colorado State University Cooperative Extension director for the county in which the mine is located as a type of documentation that irrigation, interseeding, and irrigation rates and methods are appropriate. Colorado proposes to add ''or site-specific written recommendations'' of the Cooperative Extension Service of Colorado State University, the Colorado Department of Agriculture, or the USDA to determine if the irrigation, interseeding, and irrigation rates and methods are appropriate. This proposed revision is no less effective than the Federal Regulations because the Division is still requiring that the documentation is provided by qualified parties.

At Rule 4.15.7(5)(g), Colorado proposes to add ''grazingland'' to the list of postmining land uses where interseeding is considered a normal husbandry practice. In this amendment proposal, Colorado proposes a new definition for grazingland, which is approved under Part III.B. of this document. Interseeding associated with grazingland forage production is a normal husbandry practice that meets the criteria to be approved under 30 CFR 816.116(c)(4) and 817.116(c)(4) and is no less effective than the Federal regulations. The proposed revisions to Rules 4.15.7(5)(e) and (g) are no less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4), and we, therefore, approve the amendment.

48. Rules 4.15.8(1) Through (9); Revegetation Success Criteria; [30 CFR 816.116 and 817.116]

The proposed rule changes Rules 4.15.8(1) through (9) to comport with the Federal counterpart regulations at 30 CFR 816.116(a)(1) through (2), 817.116(a)(1) through (2) and 816.116(b). These proposed rule changes allow for the success of revegetation with appropriate data collection (total harvest for herbaceous production and a complete census for woody plant density) that is no less stringent than the counterpart Federal regulations. This proposed rule does not eliminate any currently approved success determinations, and when deemed appropriate by the Division, allows for additional techniques to determine revegetation success.

Proposed Rules 4.15.8(2)(a) through (d) describe the applicable success criteria for grazingland, pastureland, recreation, fish and wildlife habitat, undeveloped land, forestry, and rangeland postmining land use categories. With the exception of rangeland (whose newly proposed definition is approved under Part III.B. of this document), all of these postmining categories are explicitly named with their corresponding success standards at 30 CFR 816.116(b) and 817.116(b). For grazingland and pastureland, Colorado's proposed vegetation success standards (vegetation cover and herbaceous production) are no less effective than the counterpart Federal regulations at 30 CFR 816.116(b)(1) and 817.116(b)(1) (ground cover and the production of living plants). For forestry, Colorado's proposed vegetation success standards (tree stocking density and vegetation cover) are as effective as the counterpart Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3) (tree and shrub stocking and vegetative ground cover). For recreation, fish and wildlife habitat and undeveloped land postmining land uses, these proposed success standards (woody plant density, species diversity, and vegetation cover) are more effective than the counterpart Federal regulations (tree and shrub stocking and vegetative ground cover). This proposed language at Rule 4.15.8 is no less effective than the counterpart Federal regulations at 30 CFR 816.116 and 817.116, and we approve the amendment.

49. Rule 4.15.9; Revegetation Success Criteria: Cropland; [30 CFR 816.116 and 817.116]

The first proposed change to Rule 4.15.9 eliminates a provision that specifically outlines the acceptable sampling protocol for annual grain crops during the liability period for cropland in Colorado. There is no Federal regulation within 30 CFR that specifically mentions annual grain crops when referring to cropland performance standards on coal mine reclamation; therefore, the elimination of this statement in Rule 4.15.9 is appropriate.

The next proposed rule revision changes the description of the liability period for cropland success from, ''two of the last four years of the liability period established in 3.02.3,'' to ''during the growing season of any two years

following year six, where [the] minimum 10 year liability period applies, pursuant to 3.02.3; but bond release cannot be approved prior to year 10.'' This proposed statement is nearly identical to the corresponding Federal regulation for areas with 10 full years of responsibility on cropland. Title 30 CFR 816.116(c)(3)(i) states the vegetation parameters shall equal or exceed the approved success standards ''during the growing season of any two years after year six of the responsibility period.'' Although this proposed change to Rule 4.15.9 does not specifically include the liability period for areas under the five full years of responsibility on cropland (those that receive more than 26.0 inches of annual average precipitation), the performance standards for cropland, which have less than five full years of liability, are adequately described in Rule 3.02.3. Therefore, this is an appropriate Rule change.

At the end of Rule 4.15.9, Colorado proposes to delete the requirement ''with 90% statistical confidence,'' and replace it with, ''based on applicable demonstration methods of 4.15.11.'' Rule 4.15.11, in its current approved form, includes a 90% statistical confidence along with other approved methods to demonstrate revegetation success. This change does not substantively alter Colorado's rules and is no less effective than the counterpart Federal regulations. We, therefore, approve these aforementioned proposed changes to Rule 4.15.9.

50. Rule 4.15.11(1); Revegetation Sampling Methods and Statistical Demonstrations for Revegetation Success; [30 CFR 816.116 and 817.116]

The proposed change to Rule 4.15.11(1) comports with the counterpart Federal regulation at 30 CFR 816.116(1) and 817.116(1), which states that ''[s]tandards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority, described in writing, and made available to the public.'' This proposed rule change allows for the success of revegetation to be determined by either a total harvest success demonstration for herbaceous production or a complete census for woody plant density, if either of these two options ''is appropriate and practicable, no less effective than statistically valid sampling,'' upon approval by the Division. This proposed rule does not eliminate any currently approved success determinations; rather, it allows for two additional techniques to determine revegetation success that are no less effective than the Federal regulations; therefore, we approve the amendment.

51. Rules 4.15.11(2)(c) and (d); Revegetation Sampling Methods and Statistical Demonstrations for Revegetation Success; [30 CFR 816.116 and 817.116]

As part of its April 11, 2011, amendment submittal, Colorado proposed revisions to Rule 4.15.11(2)(c) and the addition of Rule 4.15.11(2)(d), which describe revegetation sampling methods and statistical demonstrations for revegetation success. During our review of Colorado's proposed rules, OSMRE found that, while the proposed rule changes to 4.15.11(2)(c) and (d) generally conformed with 30 CFR 816.116(a) and 817.116(a), they were not consistent with each other and were confusing. The proposed revision to Rule 4.15.11(2)(c) described when the current statistical methods should be used. However, this explanation did not agree with the literature referenced in newly proposed Rule 4.15.11(2)(d). When sampling a reference area to determine reclamation success, the Division proposed to allow a one-sample t-test to be used; the literature referenced explicitly explains why this method is incorrect and that a one-sample t-test should only be used with a predetermined fixed value (*i.e.,* a technical standard). When using mean values from a reference area sampling technique, there is an error associated with this value. This sampling error is not present when using a predetermined fixed value or minimum standard.

By letter date May 20, 2013, OSMRE notified Colorado of the deficiencies we identified regarding proposed Rules 4.15.11(2)(c) and (d) for revegetation sampling methods and statistical demonstrations for revegetation success. In response to our May 20, 2013, concern letter, the Division explained that it considers the use of the reference area sample mean to be an acceptable success standard when using a one-sample t-test to evaluate revegetation success, which is reflected in Rule 4.15.11(2), that was previously approved by OSMRE on March 24, 2005. Colorado states that this has been an accepted practice in Colorado for many years and is part of the ''Division Guideline Regarding Selected Coal Mine Bond Release Issues'', which was created April 18, 1995. The Division explains that it recognized that there is some discrepancy between the referenced document, which states that a one-sample t-test should only be used with a predetermined fixed value (*i.e.,* a technical standard). There may be other concerns with the use of a particular formula for a given circumstance. The Division explains that for that reason, it revised proposed Rule 4.15.11(2)(d) to require the Division to approve in advance the techniques that the operator proposes to use from that document.

After careful review of the explanation provided by the Division defending the proposed changes to Rule 4.15.11(2)(c), and the additional of Rule 4.15.11(2)(d), OSMRE finds that the proposed language that is no less effective than the counterpart Federal regulations at 30 CFR 816.116 and 817.116 in satisfying the requirements of SMCRA. The Division proposes language that adequately describes and justifies sample adequacy and the reverse null one-sample t-test when determining revegetation success. The reference document entitled, ''Evaluation and Comparison of Hypothesis testing Techniques for Bond Release Applications,'' prepared by McDonald, Howlin, Polyakova, and Bilbrough for the Wyoming Abandoned Mine Lands Program, contains language that is consistent with proposed Rules 4.15.11(2)(c) and (d). Accordingly, we approve the amendment.

52. Rules 4.15.11(3)(b)(ii) and (c); Revegetation Sampling Methods and Statistical Demonstrations for Revegetation Success; [30 CFR 816.116and 817.116]

Colorado proposes to delete language at Rules 4.15.11(3)(b)(ii) and (c) regarding the sample adequacy approach and hypothesis test approach associated with Stabilization of the Running Mean, as well as the companion hypothesis test. The proposed deletion comports with 30 CFR 816.116(1) and 817.116(1), which states that ''[s]tandards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority, described in writing, and made available to the public.'' The Division has kept an adequate number of statistical analyses at existing Rules 4.15.11(2) and 4.15.11(3) and has proposed more statistically valid analyses at proposed Rule at 4.15.11(2)(d), and we approve the amendment.

53. Rule 4.16.3(6); Performance Standards—Postmining Land Uses, Alternative Land Uses; [30 CFR 816.133(c) and 817.133(c)]

Rule 4.16.3(6) contains special requirements for changing certain premining land uses to a postmining land use of cropland. The Federal regulations do not include such special requirements; however, Colorado's special requirements for cropland are

consistent with the general Federal requirements that ''the use does not present any . . . threat of water diminution or pollution'' meaning there is sufficient water available and committed to maintain crop production, and that ''there is a reasonable likelihood for achievement of the use,'' meaning that topsoil quality and depth are sufficient to support the proposed use. Colorado's proposed revision corrects the premining land use, ''range,'' to ''rangeland'' and adds ''grazingland'' (a proposed new land use category) to the list of the premining land uses, which, if changed, to ''cropland'' would be subject to the special requirements of Rule 4.16.3(6). The correction of ''range'' to ''rangeland,'' and the addition of ''grazingland'' is consistent with the Federal regulations. The proposed revision of Rule 4.16.3(6) is no less effective than the Federal regulations in satisfying the requirements of SMCRA. We, therefore, approve the proposed amendment.

54. Rules 4.20.1(1); Performance Standards: Subsidence Control—General Requirements; [30 CFR 817.121(a)(1)]

In response to 732 letters we sent the State on June 5, 1996, and April 4, 2008, Colorado proposed changes to Rule 4.20.1(1), Subsidence Control—General Requirements. Specifically, Colorado proposed to revise Rule 4.20.1(1) to expand protection from material subsidence damage to structures, renewable resource lands, and water supplies and to change the proviso that nothing in Rule 4.20 shall be construed to ''prohibit the standard method of room and pillar mining'' to ''prohibit or interrupt underground coal mining operations.'' By letter dated May 20, 2013, OSMRE notified Colorado that the proposed revisions to Rule 4.20.1(1) were less effective than the counterpart Federal regulations in satisfying the requirements of SMCRA. The proposed revision of Rule 4.20.1(1) generally comported with the Federal regulations at 30 CFR 817.121(a)(1); however it failed to require that underground mining activities shall be planned and conducted so as to maximize mine stability and inappropriately changed the proviso. In response to OSMRE's concern, Colorado now proposes to add the requirement that underground mining activities shall be planned and conducted so as to maximize mine stability and removed the proposed change to the proviso from the proposed revision of Rule 4.20.1(1). We, therefore, approve the amendment.

55. Rules 4.20.3(1) Through (4); Performance Standards: Subsidence Control—Surface Owner Protection; [30 CFR 817.121(a) Through (c)]

As part of their April 11, 2011, amendment proposal, Colorado proposed revisions to Rules 4.20.3(1) through (5) regarding subsidence control and surface owner protection, in response to 732 letters that we sent the State on June 5, 1996, and April 4, 2008. Specifically, Colorado proposed to revise Rules 4.20.3(1) through (4) to expand the protection of surface owners from material subsidence damage to structures, renewable resource lands, and water supplies. Colorado proposes a non-substantive change to Rule (5) by including the word ''Rule''. By letter dated May 20, 2013, OSMRE found Colorado's proposed revisions to Rules 4.20.3(1) through (4) to be less effective than the counterpart Federal regulations in satisfying the requirements of SMCRA. The proposed revision of Rules 4.20.3(1) through (4) generally comported with the Federal regulations at 30 CFR 817.121(a) through (c); however Colorado failed to require that the permittee must ''adopt measures consistent with known technology that . . . maximize mine stability'' and did not extend the protections to surface lands, as well as renewable resource lands, structures, and water supplies. In response to OSMRE's disapproval, Colorado corrected the designation of the subparagraphs in Rule 4.20.3(1) from (i) and (ii) to (a) and (b) and appropriately added ''surface lands'' to the protections afforded under Rules 4.20.3(1) and (2). Additionally, Colorado proposes to add ''surface lands'' to the protections afforded under Rule 4.20.3(1) to be consistent with the Federal counterpart regulations at 30 CFR 817.121(a) through (c).

Colorado also incorrectly revised the April 11, 2011, proposed amendment by changing the second option of the first paragraph of Rule 4.20.3(1) from ''adopt mining technology that provides for planned subsidence in a predictable and controlled manner'' to ''adopt measures consistent with known technology that maximize mine stability and provide for planned subsidence in a predictable and controlled manner.'' To make Rule 4.20.3(1) consistent with the Federal regulations at 30 CFR 817.121(a)(1), Colorado responded to Item No. 22 of our May 20, 2013, letter by changing the first paragraph of proposed Rule 4.20.3(1) requiring that each person, who conducts underground mining activities, must either adopt measures consistent with known technology that prevent subsidence from causing material subsidence damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands, or must adopt mining technology that provides for planned subsidence in a predictable and controlled manner. This language is as effective as the Federal counterpart regulation at 30 CFR 817.121(a)(1). Colorado continues to require, in paragraph 2 of proposed Rule 4.20.3(1), that, if the permittee employs mining technology that provides for planned subsidence, the permittee must take necessary measures to minimize material subsidence damage to the extent technologically and economically feasible to structures related thereto, unless the permittee has written consent of the structure's owners, or the anticipated damage would constitute a threat to health or safety and the costs of such measures exceed the anticipated costs of repair. The proposed language in paragraph two of Rule 4.20.3(1) is no less effective than the Federal counterpart regulations at 30 CFR 817.121(a)(2)(1) and (2). Accordingly, we approve the amendment.

Additionally, Colorado proposes language at Rule 4.20.3(3) consistent with 30 CFR 817.121(c)(4)(v), which allows the regulatory authority to consider all relevant and reasonably available information when making a determination whether or not damage to protected structures was caused by subsidence from underground mining, and we approve the amendment.

56. Rules 4.20.4(1) Through (5); Performance Standards: Subsidence Control—Buffer Zones; [30 CFR 817.121(d) Through (f)]

As part of its April 11, 2011, amendment proposal, Colorado proposed changes to Rules 4.20.4(1) through (4), regarding Subsidence Control—Surface Owner Protection. Specifically, Colorado proposed to revise Rules 4.20.4(1) through (4) to reflect the proposed new definition of ''material subsidence damage'' and to correct a reference to a governmental unit that had been restructured. By letter dated May 20, 2013, OSMRE notified Colorado that the proposed revisions to Rules 4.20.4(1) through (4) were less effective than the counterpart Federal regulations at 30 CFR 817.121 in satisfying the requirements of SMCRA. Specifically, OSMRE found that Rule 4.20.4 failed to provide the Division with the power to ''limit the percentage of coal extracted under or adjacent'' to ''(1) public buildings and facilities; (2) churches, schools, and hospitals; or (3) impoundments with a storage capacity

of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more,'' and Rule 4.20.4 failed to provide the Division with the power to ''suspend mining under or adjacent to [(1) public buildings and facilities; (2) churches, schools, and hospitals; or (3) impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more and any aquifer or body of water that serves as a significant water source for any public water supply system] until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities'' if subsidence causes material damage to any of the features or facilities.

In response to OSMRE's concern, Colorado appropriately added requirements that authorized the Division to ''limit the percentage of coal extracted'' and to ''suspend mining until the subsidence control plan is modified to ensure prevention of further material damage,'' which corrected the inconsistencies with the Federal regulations. Specifically, Colorado added a provision to Rules 4.20.4(1) and (3) that requires ''if the Division determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above, it may limit the percentage of coal extracted under or adjacent thereto''. Additionally, Colorado added new Rule 4.20.4(4) that requires ''if subsidence causes material damage to any of the features or facilities covered by paragraphs (1), (2), or (3) of this Rule, the Division may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities,'' and renumbered the existing Rule 4.20.4(4) to 4.20.4(5). Colorado also revised Rule 4.20.4(2) by protecting ''bodies of water'' in addition to aquifers that serve as a significant source of water supply to any public water system. We, therefore, approve the amendment.

57. Rule 4.25.5(3)(d); Revegetation; [30 CFR 816.116(a), 823.15]

At Rule 4.25.5(3)(d), Colorado proposes two substantive Rule changes. The first proposed change, the addition of ''an appropriate total harvest method, or . . .'' seeks to include this type of production standard in Colorado's rules. This Rule is no less effective than the counterpart Federal regulation at 30 CFR 816.116(a)(1), which states that ''[s]tandards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority, described in writing, and made available to the public.'' Colorado also proposes the addition of the clause: ''If statistical methods are employed . . .'' to the second sentence of Rule 4.25.5(3)(d). The Federal regulation at 30 CFR 823.15(b)(2) states that soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area, and a statistically valid sampling technique at a 90-percent or greater statistical confidence level shall be used as approved by the regulatory authority in consultation with the U.S. Soil Conservation Service. This proposed change to the second sentence of proposed Rule 4.25.5(3)(d) is no less effective than the Federal counterpart regulation at 30 CFR 823.15(b)(2). Lastly, Colorado proposes to update the name of the USDA agency responsible for prime farmlands from the Soil Conservation Service to the Natural Resources Conservation Service. This change is appropriate, and we approve the amendment.

58. Rule 5.03.2(4)(b)(ii); Enforcement—Cessation Orders and Notices of Violation; [30 CFR 843.15]

Colorado proposes language that allows for a person to obtain review of a notice of violation or cessation order in a public hearing before the Board and/or an *informal public hearing,* in accordance with Rule 5.03.2(7). The proposed revision of Rule 5.03.2(4)(b)(ii) is consistent with the Federal regulations at 30 CFR 843.15. The references to Rules 5.03.2(7), *Informal public hearings,* and 5.03.5, *Formal Review by the Board,* are appropriate. The proposed revision of Rule 5.03.2(4)(b)(ii) is as effective as the Federal regulations in satisfying the requirements of SMCRA, and we approve the amendment.

59. Rule 6.01.1; Blasters Training and Certification, General Requirements; [30 CFR 850.5]

Proposed revisions to Rule 6.01.1 include a change to the second paragraph, which defines ''certified blaster'' by correcting a typographical error in the reference to ''Rule 2.05.4(6)'' (*i.e.,* it is corrected to ''Rule 2.05.3(6)(a)''), and the deletion of language differentiating a ''certified blaster'' from a ''shotfirer.'' The deletion of the differentiations between a certified blaster and a shotfirer is appropriate. The proposed revisions to Rule 6.01.1 are as effective as the Federal regulations at 30 CFR 850.5 in satisfying the requirements of SMCRA. However, the definition of ''certified blaster'' in the second paragraph of Rule 6.01.1 is superfluous because it is substantively identical to the proposed revision of the definition of ''certified blaster'' in Rule 1.04(20.1).

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulation, we find that they are consistent with and no less effective than the corresponding Federal regulation; therefore, we approve the amendment.

C. Revisions to Colorado's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

1. Rules 1.04(110.1), (110.1)(a), and (110.1)(b); Definitions, ''Replacement of Water Supply''; [30 CFR 701.5]

In 732 letters we sent Colorado on June 5, 1996, and April 4, 2008, we explained to the State that it was required to define ''Replacement of water supply.'' The proposed language at Rules 1.04(110.1), (110.1)(a), and (110.1)(b) is substantively identical to the counterpart Federal regulation at 30 CFR 701.5, *Replacement of water supply,* except the Colorado Rule adds a provision for a one-time payment of annual operation and maintenance costs to the water supply owner and a provision that allows a demonstration of the availability of a suitable alternative water source in lieu of actual replacement of the affected water supply if it was not needed for the premining land use and is not needed for the postmining land use. Both provisions require ''approval'' of the owner of the affected water supply, which protects the owner's water rights; therefore, the added provisions are not inconsistent with the Federal regulations and are in accordance with SMCRA. The proposed language is no less effective than the Federal regulations in satisfying the requirements of SMCRA; therefore, we approve the amendment.

2. Rule 1.04(111)(d); Definitions, ''Public Road''; [30 CFR 761.5]

Colorado proposes revisions to the definition for ''public road,'' as required by 30 CFR 906.16(h), *Required program amendments.* Proposed Rule 1.04(111)(d), the definition of ''public road,'' is consistent with the definition of a ''public road'' at 30 CFR 761.5, but is more inclusive than the Federal definition. The ''maintenance'' stipulations of the first and second criteria of Colorado's proposed definition, ''has been or will be . . . maintained with appropriated funds of the United States . . . [or] the state of

Colorado or any political subdivision thereof,'' are the same as criterion (b) of the Federal definition, ''is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction,'' except that Colorado's stipulation does not require that the road be maintained in a manner similar to other public roads of the same classification within the jurisdiction, which is more inclusive (and effective) than the Federal requirement, because the definition extends to all roads maintained with public funds regardless whether they are maintained in a manner similar to other public roads of the same classification within the jurisdiction, provided that such roads also meet the other criteria of the definition. Additionally, Colorado's definition does not include the criterion (c) of the Federal definition, which states, ''there is substantial (more than incidental) public use.'' The omission of this criterion makes the definition more inclusive than the Federal requirement, because the definition extends to all roads used by the public regardless of the frequency or significance of public use, if such roads meet all the criteria of the definition. The proposed language is no less effective than the Federal regulations in satisfying the requirements of SMCRA. We, therefore, approve the amendment.

During the comment period for the formal program amendment submittal dated April 11, 2011, the United States Forest Service (USFS) expressed concern with the possibility that the Division could attempt to exercise jurisdiction over National Forest System Roads that are managed by the USFS. OSMRE required the Division to modify its Statement of Basis, Purpose, and Specific Statutory Authority (SBPSSA) to clarify that the Division would not usurp the authority of the USFS by exercising jurisdiction over a National Forest Road System Road. Colorado amended Item No. 26 (statement for Rule 1.04(111)(d)) of the SBPSSA to clarify that the Division will not exercise jurisdiction over designated National Forest System Roads. The SBPSSA is incorporated into the Colorado Rules by reference.

3. Rule 2.03.7(2); Relationship to Areas Designated Unsuitable for Mining; [30 CFR 778.16(b), 762.13]

In response to Item J. of OSMRE's April 2, 2001, 732 letter, Colorado proposed revisions to Rule 2.03.7(2) addressing the status of unsuitability claims under the minimum requirements for legal, financial, compliance, and related information associated with permit applications. On January 15, 2008, in *National Mining Association* v. *Kempthorne,* 512 F.3d 702 (D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court's decision to uphold the VER and associated rules that OSMRE published on December 17, 1999 (64 FR 70766). Because the VER rules were challenged in Federal court on several fronts, we informed Colorado that it could defer responding to our April 2, 2001, letter pending the outcome of the litigation.

By letter dated May 20, 2013, OSMRE notified the Division that Colorado's proposed revisions to Rule 2.03.7(2) regarding the status of unsuitability claims was less effective than the counterpart Federal regulations at 30 CFR 778.16(b).

Specifically, Colorado proposed to revise Rule 2.03.7(2) to require that a permit application that is requesting a determination of valid existing rights for operations on lands that are designated, or under study for designation as, unsuitable for mining must contain the information required by proposed new Rule 1.07, Procedures for determining valid existing rights. The proposed changes conflicted with the Federal regulations at 30 CFR 761.5, Valid existing rights, which specify that possession of valid existing rights only confers an exception from the prohibitions of 30 CFR 761.11 and 30 U.S.C. 1272(e), which do not include lands that are designated, or under study for designation as, unsuitable for mining. The proposed change also deleted the requirement in the existing rule that an application must contain information to support an assertion, if made, that the applicant made a substantial legal and financial commitment prior to January 4, 1977 in surface coal mining operations on those lands that are designated, or under study for designation as, unsuitable for mining, which conflicted with the Federal regulations at 30 CFR 778.16(b), which requires such information to be contained in a permit application. It was further noted that existing Rule 2.03.7(2) conflicts with Rule 7.02, Applicability (of Rule 7—Designating Areas Unsuitable for Surface Coal Mining), as well as the Federal regulations at 30 CFR 773.15(c)(1), *Written findings for permit application approval,* and 30 CFR 762.13, *Land exempt from designation as unsuitable for surface coal mining operations,* because it implies that the ''substantial legal and financial commitment'' exemption applies to ''lands designated . . . as unsuitable for surface coal mining operations.'' The Federal regulations only allow the exemption for lands under study or administrative proceedings for designation as unsuitable for surface coal mining operations.

Colorado now proposes language at proposed Rule 2.03.7(2) that a permit application shall contain information supporting the assertion that the applicant has made substantial legal and financial commitments, in relation to the operation for which he or she is applying for a permit, prior to January 4, 1977, if an applicant claims the exemption described in Rule 7.02(3), *Designating areas unsuitable for surface coal mining, Applicability.* The proposed change appropriately requires information on substantial legal and financial commitments in a permit application and appropriately references Rule 7.02(3), which specifies that the requirements of Rule 7, *Designating Areas Unsuitable for Surface Coal Mining,* shall not apply to lands where substantial legal and financial commitments in such operations were in existence prior to January 4, 1977 and which is substantively identical to the Federal regulations at 30 CFR 762.13(c). We, therefore, approve the amendment.

Additionally, Colorado proposes language at Rule 2.03.7(2) stating that, ''if the applicant has previously obtained a finding of the Secretary of the Interior or the Division Director acknowledging valid existing rights, or is in the process of applying for a valid existing rights determination on Federal lands, the disposition of those proceedings shall be included in the application''. There is no such requirement in the corresponding Federal regulations; however, the proposed requirement to include such valid existing rights information in a permit application does not conflict with the Federal regulations and does not render Colorado's Coal Program less effective than the Federal Program. Accordingly, we approve the amendment.

4. Rules 4.05.15(1) and (2); Performance Standards, Hydrologic Balance, Water Rights and Replacement; [30 CFR 816.41(h), 30 CFR 817.41(j), and SMCRA Section 720(a)(2)]

Colorado was advised that it is required to revise Rule 4.05.15(2) in 732 letters that we sent the State on June 5, 1996, and April 4, 2008. Under the Federal regulations, the performance standards for replacement of water supplies adversely affected by mining activities are different for surface mining activities and for underground mining activities; however, under Rules 4.05.15(1) and 4.05.15(2), the standards

are applicable to both surface mining activities and underground mining activities. Thus, Colorado's standards must be consistent with both the Federal standards for surface mining activities at 30 CFR 816.41(h) and the Federal standards for underground mining activities at 30 CFR 817.41(j).

Rule 4.05.15(1) requires replacement of any water supply that has been adversely impacted by surface or underground mining activities and is consistent with the Federal performance standard at 30 CFR 816.41(h) for surface mining activities. Colorado's Rule 4.05.15(1) uses the term ''owner of a vested water right'' in place of ''owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source,'' which is used in the Federal regulation. The use of water and water rights are governed by the State under the Colorado Constitution and State Law, which are based on the ''appropriation doctrine.'' Under the appropriation doctrine, a water right is independent of land ownership. Therefore, the use of the term, ''owner of a vested water right,'' is appropriate within Colorado's rules and is not inconsistent with the Federal regulations.

Additionally, Colorado Rule 4.05.15(1) uses the phrase ''water supply . . . which is proximately injured as a result of the mining activities'' in place of ''water supply [that] has been adversely impacted by contamination, diminution, or interruption proximately resulting from the . . . mining activities,'' which is used in the Federal regulation; the core difference being that ''injured'' replaces ''adversely impacted by contamination, diminution, or interruption.'' Although broader in scope, an ''injured'' water supply includes ''contamination, diminution, or interruption'' of a water supply; therefore, the use of the term, ''injured'' with respect to a water supply is appropriate within Colorado's Rules and is consistent with the Federal regulations.

The added requirement that an operator must replace the ''water supply . . . in a manner consistent with applicable State law'' is appropriate because water rights are governed by the State under Colorado Law.

Colorado's rule also requires an operator to replace the ''water supply . . . as described in Rule 2.04.7(3).'' Rule 2.04.7(3) contains the requirements for ''Alternative Water Supply Information'' that must be contained in a permit application, including, among other things, ''a description of . . . alternative sources of water supply . . . of a quality and quantity so as to meet the requirements for which the water has normally been used.'' The Federal regulations have no counterpart requirement to replace a water supply as described in the permit application; however, this requirement is not inconsistent with the Federal regulations.

Rule 4.05.15(2) requires replacement of drinking, domestic, or residential water supplies adversely affected by surface and underground mining activities and is substantively identical to the Federal performance standard at 30 CFR 817.41(j) for underground mining activities with the following exception: The Federal performance standard at 30 CFR 817.41(j) limits the applicability of the standard to ''mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.'' Rule 4.05.15(2) does not contain any limitation to the applicability of the standard. The omission of the limitation on applicability is not inconsistent with the Federal regulations.

The proposed revision of Rule 4.05.15(1) and the addition of proposed Rule 4.05.15(2) is consistent with the Federal regulations at 30 CFR 816.41(h) and 817.41(j) and in accordance with section 720(a)(2) of SMCRA. Rules 4.05.15(1) and 4.05.15(2) are as effective as the Federal regulations in satisfying the requirements of SMCRA. We, therefore, approve the proposed amendment.

D. Revisions to Colorado's Rules With No Corresponding Federal Regulations

1. Rules 2.04.13(1) and (3); Annual Reclamation Report

Colorado's rules requiring permit holders to submit Annual Reclamation Reports to the Division are unique to Colorado. Although coal mining permits under Federal programs nearly always include the same requirement for an annual report, they are listed as permit conditions that the coal operator must meet. There are no Federal regulations specifically requiring an operator to submit an annual reclamation report.

Colorado proposes to revise Rule 2.04.13(1) to specify that data is to be included in the annual reclamation reports that must be submitted to Colorado by coal operators. The removal of Colorado's reference to ''text'' in this rule is appropriate because it mentions that ''discussions'' of applicable topics must be included in the same sentence. Therefore, ''text'' can be construed to be redundant.

Colorado is proposing to add Rule 2.04.13(3) to require operators of underground mines to include, in the annual report, a map showing the current location and extent of underground workings. Colorado explains that this rule is necessary to ensure that mining is occurring as planned for the projected impacts of subsidence, to better analyze ground water monitoring and subsidence data, and to ensure compliance with Colorado's public notice requirements. For certain mines, when no revisions are requested, it can take as long as five years before the Division receives this information with a renewal application, as part of the information required by Rule 4.20.1(3).

Colorado's reference to Rule 2.07.5(1)(b), which outlines information in permit applications, which may be declared confidential because it pertains to the quantity of the coal or stripping ratios, or the analysis of the chemical and physical properties of coal to be mined, is appropriate.

Colorado's proposal to add specificity to their rules by including the proposed requirements in Rules 2.01.13(1) and (3) regarding the submission of Annual Reclamation Reports does not conflict with the Federal regulations and does not render Colorado's coal program less effective than the Federal program. We, therefore, approve the amendment.

2. Rules 2.07.6(2)(e) and (e)(iii); Criteria for Review of Permit Applications for Permit Approval or Denial—Criteria for Permit Approval or Denial

Colorado proposes to revise Rule 2.07.6(2)(e) by deleting the introductory language of paragraph (e) (*i.e.,* ''Subject to valid rights existing as of August 3, 1977, and with the further exception of those surface coal mining operations which were in existence on August 3, 1977''); deleting paragraph (e)(iii) (*i.e.,* ''A permit for the operation shall not be issued unless jointly approved by all affected agencies with jurisdiction over the park or historic site.''); redesignating paragraphs (e)(i) and (ii) as Rule 2.07.6(2)(d)(vi); and adjusting the introductory phrase of Rule 2.07.6(2)(e)(i) to be consistent with the introductory language of Rule 2.07.6(2)(d). Rules 2.07.6(2)(f) through (o) are renumbered to accommodate this redesignation of paragraph (e).

The deletion of Rule 2.07.6(2)(e)(iii) is appropriate because it is redundant of the requirement in Rule 2.07.6(2)(d)(vi) that the Division or Board shall not approve any application, unless it finds that ''the affected area is . . . not within

. . . any lands where the proposed operations would adversely affect any publicly owned park or any place listed on or those places eligible for listing, as determined by the SHPO, on the National Register of Historic Places, unless approved jointly by the Board and the Federal, State, or local agency with jurisdiction over the park or place.'' The proposed deletion of Rules 2.07.6(e) and (e)(iii) does not make Colorado's Rules less effective than the Federal regulations, and we approve the amendment.

E. Removal of Required Amendments

1. Required Amendment at 30 CFR 906.16(f); Design Criteria for Roads Variance

As explained in Section III.B.40. of this document, Colorado proposes revisions to Rules 4.03.1, 4.03.2, and 4.03.3, as required by 30 CFR 906.16(f), *Required program amendments.* The proposed revisions to Rules 4.03.1, 4.03.2, and 4.03.3 are consistent with the Federal counterpart regulation at 30 CFR 816.150(c). Colorado proposes to delete the general provision allowing alternative design criteria to clarify that the Division would not approve alternatives to all of the access road design and construction criteria presented in Rules 4.03.1, 4.03.2, and 4.03.3, as is implied by paragraph (e) of the General Requirements for haul roads and access roads. The proposed revision also adds provisions for use of alternative design criteria and specifications for road grades, such as ''vertical alignment'', of haul roads, access roads, and light-use roads. With the addition of these provisions, the existing rules specify, for haul roads, access roads, and light-use roads, whether the Division may approve alternatives to design and construction criteria, thus rendering paragraph (e) redundant and unclear. The proposed language is consistent with and no less effective than the Federal regulations in satisfying the requirements of SMCRA.

2. Required Amendment at 30 CFR 906.16(h); Design Criteria for Roads Variance

As explained in Section III.C.2. of this document, Colorado proposes revisions to the definition for ''public road,'' as required by 30 CFR 906.16(h), *Required program amendments.* Proposed Rule 1.04(111)(d), the definition of ''public road,'' is consistent with the definition of a ''public road'' at 30 CFR 761.5, but is more inclusive than the Federal definition. The ''maintenance'' stipulations of the first and second criteria of Colorado's proposed definition, ''has been or will be . . . maintained with appropriated funds of the United States . . . [or] the state of Colorado or any political subdivision thereof,'' are the same as criterion (b) of the Federal definition, ''is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction,'' except that Colorado's stipulation does not require that the road be maintained in a manner similar to other public roads of the same classification within the jurisdiction, which is more inclusive (and effective) than the Federal requirement because the definition extends to all roads maintained with public funds regardless whether they are maintained in a manner similar to other public roads of the same classification within the jurisdiction, provided that such roads also meet the other criteria of the definition). Additionally, Colorado's definition does not include the criterion (c) of the Federal definition, ''there is substantial (more than incidental) public use.'' The omission of this criterion makes the definition more inclusive than the Federal requirement because the definition extends to all roads used by the public, regardless of the frequency or significance of public use, if such roads meet all the criteria of the definition. The proposed language is no less effective than the Federal regulations in satisfying the requirements of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

We announced receipt of the proposed amendment in the January 22, 2015, **Federal Register** (80 FR 3190). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record Document ID No. OSMRE–2011–0002–0001). We received no public comments and, because no one requested an opportunity to speak at a public hearing, we held no hearing.

Federal Agency Comments

On April 19, 2016, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal and State agencies with an actual or potential interest in the Colorado program, including the USFS, U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), Advisory Council on Historic Preservation (ACHP), and the Colorado Office of Archaeology and Historic Preservation.

During the public comment period for the formal program amendment submittal of June 21, 2011, USFS expressed concern with the possibility that the Division could attempt to exercise jurisdiction over National Forest System Roads that USFS manages. As a result of those comments, we identified concerns regarding Colorado's jurisdiction over public roads, particularly National Forest System Roads. We notified Colorado of these concerns by letter dated September 19, 2011 (Administrative Record No. OSMRE–2011–0002–0008).

OSMRE required the Division to modify its Statement of Basis, Purpose, and Specific Statutory Authority (SBPSSA) to clarify that the Division would not assume the authority of the USFS by exercising jurisdiction over a National Forest Road System Road. Colorado amended Item No. 26, statement for Rule 1.04(111)(d), *Definitions: Public Road,* of the SBPSSA to clarify that the Division will not exercise jurisdiction over designated National Forest System Roads. The SBPSSA is incorporated into the Colorado rules by reference.

State Historical Preservation Officer (SHPO) and the AHCP

Under 30 CFR 732.17(h)(4), we are required to request comments from the Colorado SHPO and the ACHP on amendments that may have an effect on historic properties. On April 19, 2016, we requested comments on the amendment. The SHPO and ACHP did not provide any comments when solicited.

EPA Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). Because the amendments do not relate to air or water quality standards, concurrence is not required. However, consistent with 30 CFR 732.17(h)(11)(i), we did request comment from EPA on April 19, 2016. The EPA did not respond to our request.

V. OSMRE's Decision

Based on the above findings, we are approving Colorado's revised amendment submission dated October 1, 2014. To implement this decision, we are amending the Federal regulations at 30 CFR part 906, which codify decisions concerning the Colorado program. In

accordance with the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and satisfying its purposes. SMCRA requires consistency of State and Federal standards.

Effect of OSMRE's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA, unless the Secretary has approved the State program. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program must be submitted to OSMRE for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSMRE. In the oversight of the Colorado program, we will recognize only the statutes, regulations, and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Colorado to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Colorado program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

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

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

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus

standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 15, 2019.

Glenda H. Owens,

Deputy Director, Exercising the Authority of the Director.

Editorial note: This document was received for publication by the Office of the Federal Register on August 26, 2019.

For the reasons set out in the preamble, 30 CFR part 906 is amended as set forth below:

PART 906—COLORADO

■ 1. The authority citation for part 906 continues to read as follows:

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

■ 2. Section 906.15 is amended in the table by adding an entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 906.15 Approval of Colorado regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
April 8, 2011	September 3, 2019	2 CCR 407–2, Rules 1.04 (11.1), (20.1), (30.1), (39.1), (70.1), (71)(c), (71)(k), (71.2), (77), (79), (81), (83.1), (110.1), (110.1)(a), (110.1)(b), (111)(d), (118.1), (118.1)(a) through (d), (132)(c), (141), (146), (149), (149)(a)(i), (149)(a)(ii)(A), (149)(a)(ii)(B), (149)(a)(ii)(B)(I) through (149)(a)(ii)(B)(IV), (149)(b), (149)(b)(i) through (b)(iii), (149.1), (149.1)(a), (149.1)(b)(i) through (b)(v)(C), (149.2), (149.2)(a) and (b); Rules 1.07(1), (1)(a), (1)(a)(i) through (a)(ix), (1)(b), (1)(b)(i) through (iii); (1)(c), (1)(d), (d)(i) through (iii), (2), (2)(a) through (2)(d), (3), (3)(a), (3)(a)(i) through (3)(a)(iii)(A), (3)(a)(iii)(B) through (a)(iii)(D), (3)(a)(iv) through (3)(a)(vii), (3)(b), (3)(b)(i) and (ii), (3)(c), (4), (4)(a) through (4)(c), (4)(c)(i), (4)(c)(ii), (4)(d), (4)(e), (e)(i), (e)(ii), (5), and (6); Rule 2.01.3; Rules 2.02.2(1), .3, and .3(1)(g); Rules 2.02.4, .4(3)(d), and .5; Rules 2.03.3(10), .4, .4(2) through (2)(d), .4(3), .4(3)(a), (3)(a)(i), (3)(a)(ii), (3)(a)(iii), (3)(a)(iv), (3)(b), .4(4), .4(4)(a) through (c), .4(6)(b), and .4(8), .4(10), .4(11), (11)(a), (11)(b), .4(12)(a), (b)(i), (b)(ii), .5(1)(a), (1)(a)(i), (1)(a)(ii), .5(2)(a) through (2)(d), .5(3)(a), (3)(a)(i) through (3)(a)(iii), .5(3)(b), and (3)(c), and .7(2); Rules 2.04.5(1)(a), (1)(b), .12(2)(g); .13(1) and .13(3); Rule 2.05.4(2)(c); Rules 2.05.6(6)(a), (6)(a)(i), (6)(a)(ii), (6)(a)(ii)(A), (6)(a)(ii)(B), (6)(a)(iii), (6)(a)(iv), (6)(b), (6)(b)(i), (6)(b)(i)(A), (6)(b)(i)(C), (6)(b)(ii), (6)(b)(iii), (6)(b)(iii)(A), (6)(b)(iii)(B), (6)(c)(i)(E), (F), and (G), (6)(c)(ii), (6)(d)(i) and (ii), (6)(e)(i)(F) and (F)(III), (6)(e)(ii) and (ii)(A) through (C), (6)(e)(iii), (6)(e)(iv), (6)(f)(iii), (6)(f)(iii)(A), (C), and (C)(V), (6)(f)(iv), (6)(f)(iv)(A), (D), and (E), (6)(f)(v) and (v)(A), and (6)(f)(vi); Rules 2.06.6(2)(a)(i), (3), (4), and (4)(b);

Original amendment submission date	Date of final publication	Citation/description
		Rules 2.07.1(4), .1(5), .3(2), .3(3), .4(2)(e) through (e)(ii), .4(2)(f), .4(3)(d)(iv), .4(3)(f), .6(1)(b) through (b)(ii), .6(1)(c) through (f), .6(1)(g)(i), (g)(i)(A), (g)(i)(B), (g)(ii), (g)(ii)(A), (g)(ii)(B), (g)(ii)(C), (g)(ii)(C)(I), (g)(ii)(C)(II), (g)(ii)(D), (g)(iii), (g)(iii)(A), (g)(iii)(C), and (g)(iii)(D), .6(2)(d)(iii)(A), .6(2)(d)(iii)(D)(II) and (III), .6(2)(d)(v) and (vi), .6(2)(e), (e)(i), (e)(ii), (e)(iii), .6(2)(g), .6(2)(p) and (q), .8(1) and (1)(a), .8(1)(b) through (e), .8(2)(a) through (g), .8(3)(a) through (d), .9, .9(1)(a) through (d), .9(2), .9(3), .9(3)(a), .9(3)(b), .9(4), .9(5)(a) and (b), .9(6) .9(7), .9(8), .10, .10(1), and .10(2); Rules 2.08.4(6)(b)(i) and .5(1)(b); Rules 2.11, 2.11.1(1), .1(1) through (3), .2, .2(1), .2(1)(a), .2(1)(b), .2(2) through (5), .3, .3(1)(a), .3(1)(b), .3(2), .3(3)(a) through (c), .3(3)(d) through (d)(iii), and .4(1) through (6); Rule 3.03.2(1); Rules 4.03.1, .2, and .3; Rules 4.05.15(1) and (2); Rules 4.06.4(2)(a) and (3); Rules 4.07.3, .3(1), .3(1)(a), .3(1)(b), .3(1)(b)(i), .3(1)(b)(ii), .3(1)(b)(ii)(A), and .3(1)(b)(ii)(B); Rules 4.08.4(4) and (8); Rules 4.14.2(5), .4(1), .4(1)(a), .4(1)(b), 4.14.5(1), .5(1)(a), and .5(1)(b); Rules 4.15.1(2)(b), .7(2)(d), .7(2)(d)(ii), .7(5), .7(5)(e) and (g), .8(1) through (9), .9, .11(1), .11(2)(c) and (d), .11(3)(b)(ii) and .11(3)(c); Rule 4.16.3(6); Rules 4.20.3(1) through (4), .4(1) through (5); Rule 4.25.5(3)(d); Rules 5.03.2(4)(b)(ii) and .2(5)(e); Rules 5.05, 5.05.1, .2, .3, .4, .4(1), .4(2), .4(2)(a), .4(2)(b), .5, and .5(1) through (4); Rules 5.06 and 5.06.1, .2, .2(1) through (3), .3, .3(1), .3(2), .3(2)(a) and (b), .3(3), .4, and .4(2) through (4); Rules 6.01.1 and .3(3); Rules 7.06.2(1) and .3(1); Also all minor, editorial, and codification changes.

§ 906.16 [Amended]

■ 3. Section 906.16 is amended by removing and reserving paragraphs (f) and (h).

[FR Doc. 2019–18697 Filed 8–30–19; 8:45 am]

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Part V

Office of the United States Trade Representative

Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation; Notice

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2019–0015]

Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments.

SUMMARY: In accordance with the specific direction of the President, the U.S. Trade Representative proposes to modify the action being taken in this investigation by increasing the rate of additional duty from 25 percent to 30 percent on the products of China currently subject to tariff actions first taken in June, August, and September 2018, with an aggregate annual trade value of approximately $250 billion. The products subject to this proposed modification are specified in prior notices, and for the convenience of the public also are set out in the Annexes to this notice. The Office of the U.S. Trade Representative invites public comment on the proposed modification.

DATES:

September 20, 2019: To be assured of consideration, submit written comments by September 20, 2019.

October 1, 2019: The proposed modification would be effective on October 1, 2019.

ADDRESSES: Submit public comments and the public version of comments containing business confidential information (BCI) through the Federal eRulemaking Portal: *http://www.regulations.gov.* The docket number is USTR–2019–0015. Follow the instructions for submitting comments in sections D below. Email comments containing BCI to *301bcisubmissions@ustr.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Associate General Counsel Arthur Tsao or Assistant General Counsel Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For questions on customs classification or implementation of additional duties on products identified in the Annexes to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Prior Determinations in the Investigation

On August 18, 2017, the U.S. Trade Representative initiated an investigation into certain acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation. 82 FR 40213 (August 23, 2017). In April 2018, the U.S. Trade Representative published a notice of a determination that the acts, policies, and practices of China under investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under Section 301(b) of the Trade Act of 1974, as amended (Trade Act). 83 FR 14906 (April 6, 2018).

Up through early May 2019, the U.S. Trade Representative, at the direction of the President, determined to take actions resulting in the imposition of an additional 25 percent *ad valorem* duty on products of China with an aggregate annual trade value of approximately $250 billion in order to obtain the elimination of China's acts, policies, and practices covered in the investigation. As explained in prior notices, the actions do not relate to China's acts, policies, and practices involving technology licensing, which are being addressed separately in a WTO dispute settlement proceeding.

The U.S. Trade Representative imposed these additional duties in three tranches. Tranche 1 covered 818 tariff subheadings, with an approximate annual trade value of $34 billion. *See* 83 FR 28710 (June 20, 2018). Tranche 2 covered 279 tariff subheadings, with an approximate annual trade value of $16 billion. *See* 83 FR 40823 (August 16, 2018). Tranche 3 covered 5,733 tariff subheadings, with an approximate annual trade value of $200 billion. *See* 83 FR 47974 (September 21, 2018); 83 FR 49153 (September 28, 2018); and 84 FR 20459 (May 9, 2019).

As described below, the current notice proposes to increase the rate of additional duty on these three tranches from 25 percent to 30 percent, effective October 1, 2019.

In August 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately $300 billion. 84 FR 43304 (August 20, 2019). Subsequently, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duty applicable to the tariff subheadings covered by the $300 billion action from 10 percent to 15 percent.

B. Proposed Modification of Action

The Section 301 statute (set out in Sections 301 to 308 of the Trade Act) (19 U.S.C. 2411–2418) includes authority for the U.S. Trade Representative to modify the action being taken in an investigation. In particular, Section 307(a)(1) authorizes the U.S. Trade Representative to modify or terminate any action taken under Section 301, subject to the specific direction, if any, of the President, if the burden or restriction on United States commerce of the acts, policies, and practices that are the subject of the action has increased or decreased, or the action is being taken under Section 301(b) and is no longer appropriate.

The burden or restriction on United States commerce of the acts, policies, and practices that are the subject of the Section 301 action continues to increase. China's unfair acts, policies, and practices include not just its technology transfer and IP policies referenced in the notice of initiation in the investigation, but also China's subsequent defensive actions taken to maintain those unfair acts, policies, and practices as determined in that investigation. China has determined to impose tariffs on a substantial majority of U.S. goods exported to China, with the goal of pressuring the United States to cease its efforts to obtain the elimination of China's unfair policies. China has further taken or threatened to take additional countermeasures, including non-tariff measures, against commerce of the United States. For example, China has taken concrete steps to devalue its currency. *See https://home.treasury.gov/news/press-releases/sm751.* Most recently, shortly following the August 2019 announcement of the $300 billion action, China responded by announcing further tariffs on U.S. goods, starting September 1, 2019. In short, instead of addressing the underlying problems, China has increased tariffs and adopted or threatened additional retaliation to further protect the unreasonable acts, policies, and practices identified in the investigation, resulting in increased harm to the U.S. economy.

The United States is engaging with China with the goal of obtaining the elimination of the acts, policies, and practices covered in the investigation. The leaders of the United States and China met on December 1, 2018, and agreed to hold negotiations on a range of issues, including those covered in this Section 301 investigation. *See https://www.whitehouse.gov/briefings-*

statements/statement-press-secretary-regarding-presidents-working-dinner-china. Since the meeting on December 1, 2018, the United States and China have engaged in additional rounds of negotiation on these issues, including meetings in March, April, May, and July 2019. At certain times in these discussions, China has offered specific commitments that were constructive towards reaching a resolution of this matter. However, China more recently has retreated from these commitments.

These circumstances indicate that the action currently being taken is not effective in obtaining the elimination of the unfair acts, policies, and practices covered in the investigation, and thus that maintaining the current 25 percent rate of additional duty on the products covered by prior tariff actions, with an aggregate trade value of $250 billion, may no longer be appropriate.

For these reasons, and in accordance with the specific direction of the President, the U.S. Trade Representative is proposing to modify the action being taken in this investigation by increasing the rate of additional duty from 25 percent *ad valorem* to 30 percent *ad valorem* on goods of China covered by the three prior tariff actions, with an approximate annual trade value of $250 billion, effective October 1, 2019. The tariff subheadings subject to these three prior actions were specified in the original notices of action. *See* 83 FR 28710 (June 20, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), and 83 FR 49153 (September 28, 2018). For the convenience of the public, the three lists of tariff subheadings also are annexed to the current notice. The attached Annexes include conforming changes for any changes in HTSUS subheadings adopted since the original publication date of the original notices of action.

Any increase in the rate of additional duty will not affect exclusions granted under the procedures set out in the USTR exclusion process. *See* 83 FR 32181 (July 11, 2018); 83 FR 47236 (Sept. 18, 2018); and 84 FR 29576 (June 24, 2019).

C. Requests for Public Comments

USTR invites comments from interested persons with respect to the proposed modification. To be assured of consideration, you must submit written comments by September 20, 2019.

USTR requests that commenters focus specifically on the proposed increase in the rate of additional duty from 25 percent to 30 percent, with an effective date of October 1, 2019. In particular, USTR invites commenters to address specifically whether increasing the rate of additional duties on one or more subheadings listed in the Annexes would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and whether increasing the rate of additional duties on a particular product listed in the Annexes would cause disproportionate economic harm to U.S. interests, including small- or medium-sized businesses and consumers.

D. Procedures for Written Submissions

All submissions must be in English. All public submissions and the public versions of submissions containing BCI must be submitted electronically via *www.regulations.gov.* To submit comments via *www.regulations.gov,* enter docket number USTR–2019–0015 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 and click on the link titled ''Comment Now!'' For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on ''How to Use Regulations.gov'' on the bottom of the home page. We will not accept hand-delivered submissions.

The *www.regulations.gov* website allows users to submit comments by filling in a ''Comment'' field or by attaching a document using an ''Upload File'' field. USTR prefers that you submit comments in an attached document. If you attach a document, it is sufficient to type ''see attached'' in the ''Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the ''Comment'' field.

File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

Do not submit comments containing BCI via *www.regulations.gov.* Instead, interested persons should email any comments containing BCI to *301bcisubmissions@ustr.eop.gov.* The file name of the business confidential version should begin with the characters ''BC''. Any page containing BCI must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version—which must be submitted on *www.regulations.gov*—should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect business confidential information or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395–5725 to discuss whether alternative arrangements are possible.

USTR will post submissions in the docket for public inspection, except business confidential information. You can view submissions on the *https://www.regulations.gov* website by entering docket number USTR–2019–0015 in the search field on the home page.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

BILLING CODE 3290–F9–P

Annex A [List 1 - $34 Billion Action]

Note: All products that are classified in the 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in Annex A are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of particular HTSUS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviations "nesoi" and "nesi" mean "not elsewhere specified or included".

HTS Subheading	Product Description
2845.90.00	Isotopes not in heading 2844 and their compounds other than heavy water
4011.30.00	New pneumatic tires, of rubber, of a kind used on aircraft

HTS Subheading	Product Description
4012.13.00	Retreaded pneumatic tires, of rubber, of a kind used on aircraft
8401.10.00	Nuclear reactors
8401.20.00	Machinery and apparatus for isotopic separation, and parts thereof
8401.30.00	Fuel elements (cartridges), non-irradiated and parts thereof
8401.40.00	Parts of nuclear reactors
8402.11.00	Watertube boilers with a steam production exceeding 45 tons per hour
8402.12.00	Watertube boilers with a steam production not exceeding 45 tons per hour
8402.19.00	Vapor-generating boilers, including hybrid boilers, other than watertube boilers
8402.20.00	Super-heated water boilers
8402.90.00	Parts of steam- or other vapor-generating boilers
8404.20.00	Condensers for steam or other vapor power units
8404.90.00	Parts for auxiliary plant for use with boilers of heading 8402 and 8403 and condensers for steam or vapor power units
8405.10.00	Producer gas or water gas generators, acetylene gas generators and similar water process gas generators; with or without their purifiers
8405.90.00	Parts for gas generators of subheading 8405.10
8406.10.10	Steam turbines for marine propulsion
8406.10.90	Vapor turbines (other than steam) for marine propulsion
8406.81.90	Vapor turbines (excluding steam turbines) other than for marine propulsion, of an output exceeding 40 MW
8406.82.90	Vapor turbines (excluding steam turbines) other than for marine propulsion, of an output not exceeding 40 MW
8407.10.00	Spark-ignition reciprocating or rotary internal combustion piston engines for use in aircraft
8407.21.00	Marine propulsion spark-ignition reciprocating or rotary internal-combustion piston engines for outboard motors
8407.29.00	Marine propulsion spark-ignition reciprocating or rotary internal-combustion piston engines, nesi
8408.10.00	Marine propulsion compression-ignition internal-combustion piston engines
8408.90.10	Compression-ignition internal-combustion piston engines, to be installed in agricultural or horticultural machinery or equipment, nesi
8408.90.90	Compression-ignition internal-combustion piston engines, for machinery or equipment, nesi
8409.10.00	Parts for internal combustion aircraft engines
8410.11.00	Hydraulic turbines and water wheels of a power not exceeding 1,000 kW
8410.12.00	Hydraulic turbines and water wheels of a power exceeding 1,000 kW but not exceeding 10,000 kW
8410.13.00	Hydraulic turbines and water wheels of a power exceeding 10,000 kW
8410.90.00	Parts, including regulators, of hydraulic turbines and water wheels
8411.11.40	Aircraft turbojets of a thrust not exceeding 25 kN
8411.11.80	Turbojets of a thrust not exceeding 25 kN, other than aircraft
8411.12.40	Aircraft turbojets of a thrust exceeding 25 kN
8411.12.80	Turbojets of a thrust exceeding 25 kN, other than aircraft
8411.21.40	Aircraft turbopropellers of a power not exceeding 1,100 kW
8411.21.80	Turbopropellers of a power not exceeding 1,100 kW, other than aircraft
8411.22.40	Aircraft turbopropellers of a power exceeding 1,100 kW
8411.22.80	Turbopropellers of a power exceeding 1,100 kW, other than aircraft
8411.81.40	Aircraft gas turbines other than turbojets or turbopropellers, of a power not exceeding 5,000 kW
8411.81.80	Gas turbines other than turbojets or turbopropellers, of a power not exceeding 5,000 kW, other than aircraft
8411.82.40	Aircraft gas turbines other than turbojets or turbopropellers, of a power exceeding 5,000 kW

HTS Subheading	Product Description
8411.82.80	Gas turbines, other than turbojets or turbopropellers of a power exceeding 5,000 kW, other than aircraft
8411.91.10	Cast-iron parts of turbojets or turbopropellers machined only for removal of fins, gates, etc. or to permit location in machinery
8411.91.90	Parts of turbojets or turbopropellers other than those of subheading 8411.91.10
8411.99.10	Cast-iron parts of gas turbines nesi, not advanced beyond cleaning, and machined for removal of fins, gates, sprues and risers
8411.99.90	Parts of gas turbines nesi, other than those of subheading 8411.99.10
8412.10.00	Reaction engines other than turbojets
8412.21.00	Hydraulic power engines and motors, linear acting (cylinders)
8412.29.40	Hydrojet engines for marine propulsion
8412.29.80	Hydraulic power engines and motors, nesi
8412.31.00	Pneumatic power engines and motors, linear acting (cylinders)
8412.39.00	Pneumatic power engines and motors, other than linear acting
8412.80.10	Spring-operated and weight-operated motors
8412.80.90	Engines and motors, nesi (excluding motors of heading 8501)
8412.90.10	Parts of hydrojet engines for marine propulsion
8413.19.00	Pumps for liquids fitted or designed to be fitted with a measuring device, nesi
8413.40.00	Concrete pumps for liquids, not fitted with a measuring device
8413.50.00	Reciprocating positive displacement pumps for liquids, not fitted with a measuring device, nesi
8413.60.00	Rotary positive displacement pumps for liquids, not fitted with a measuring device, nesi
8413.70.10	Stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard, not fitted with a measuring device
8413.70.20	Centrifugal pumps for liquids, not fitted with a measuring device, nesi
8413.81.00	Pumps for liquids, not fitted with a measuring device, nesi
8413.82.00	Liquid elevators
8413.91.10	Parts of fuel-injection pumps for compression-ignition engines
8413.91.20	Parts of stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard
8413.91.90	Parts of pumps, nesi
8414.30.40	Compressors of a kind used in refrigerating equipment (including air conditioning) not exceeding 1/4 horsepower
8414.30.80	Compressors of a kind used in refrigerating equipment (incl. air conditioning) exceeding 1/4 horsepower
8414.59.30	Turbocharger and supercharger fans
8414.80.05	Turbocharger and supercharger air compressors
8414.80.20	Gas compressors, nesi
8414.90.30	Stators and rotors of goods of subheading 8414.30
8414.90.41	Parts of air or gas compressors, nesoi
8414.90.90	Parts of air or vacuum pumps and ventilating or recycling hoods
8416.90.00	Parts for furnace burners, mechanical stokers, mechanical grates, mechanical ash dischargers and similar appliances
8417.10.00	Furnaces and ovens for the roasting, melting or other heat treatment of ores, pyrites or of metals
8417.80.00	Industrial or laboratory furnaces and ovens nesi, including incinerators, nonelectric
8417.90.00	Parts for industrial or laboratory furnaces and ovens, including incinerators, nonelectric
8418.69.01	Refrigerating or freezing equipment nesi
8419.11.00	Instantaneous gas water heaters, nonelectric

HTS Subheading	Product Description
8419.19.00	Storage water heaters, nonelectric
8419.31.00	Dryers for agricultural products, not used for domestic purposes
8419.32.10	Dryers for wood
8419.32.50	Dryers for paper pulp, paper or paperboard
8419.39.01	Dryers, other than of a kind for domestic purposes, nesoi
8419.40.00	Distilling or rectifying plant, not used for domestic purposes
8419.50.10	Brazed aluminum plate-fin heat exchangers
8419.50.50	Heat exchange units, nesoi
8419.60.50	Machinery for liquefying air or gas, nesoi
8419.89.60	Industrial machinery, plant or equip. for the treat. of mat., involving a change in temp., for molten-salt-cooled acrylic acid reactors
8419.90.10	Parts of instantaneous or storage water heaters
8419.90.20	Parts of machinery and plant, for making paper pulp, paper or paperboard
8419.90.30	Parts of heat exchange units
8419.90.50	Parts of molten-salt-cooled acrylic acid reactors, nesi; parts of certain medical, surgical or laboratory sterilizers, nesi
8419.90.85	Parts of electromechanical tools for work in the hand, w/self-contained electric motor, for treatment of materials by change in temperature
8419.90.95	Parts of machinery, plant or laboratory equipment for the treatment of materials by a process involving a change of temperature, nesoi
8420.10.90	Calendering or other rolling machines, other than for metals or glass, nesi
8420.91.10	Cylinders for textile calendering or rolling machines
8420.91.20	Cylinders for paper pulp, paper or paperboard calendering or rolling machines
8420.91.90	Cylinders for calendering and similar rolling machines, nesi
8420.99.20	Parts of calendering or rolling machines for making paper pulp, paper or paperboard
8420.99.90	Parts of calendering or other rolling machines, other than for metals or glass, nesi
8421.19.00	Centrifuges, other than cream separators or clothes dryers
8421.21.00	Machinery and apparatus for filtering or purifying water
8421.22.00	Machinery and apparatus for filtering or purifying beverages other than water
8421.29.00	Filtering or purifying machinery and apparatus for liquids, nesi
8421.39.40	Catalytic converters
8421.39.80	Filtering or purifying machinery and apparatus for gases, other than intake air filters for internal combustion engines or catalytic conv.
8421.91.60	Parts of centrifuges, including centrifugal dryers, nesi
8421.99.00	Parts for filtering or purifying machinery or apparatus for liquids or gases
8422.19.00	Dishwashing machines other than of the household type
8422.20.00	Machinery for cleaning or drying bottles or other containers
8422.30.11	Can-sealing machines
8422.30.91	Machinery for filling,closing,sealing, capsuling or labeling bottles,cans, boxes or other containers;machinery for aerating beverages; nesoi
8422.40.11	Machinery for packing or wrapping pipe tobacco, candy and cigarette packages; combination candy cutting and wrapping machines
8422.40.91	Packing or wrapping machinery, nesoi
8422.90.06	Parts of dishwashing machines, nesi

HTS Subheading	Product Description
8422.90.91	Parts of packing or wrapping machinery, nesoi
8423.20.10	Scales for continuous weighing of goods on conveyors using electronic means for gauging weights
8423.20.90	Other scales for continuous weighing of goods on conveyors
8423.30.00	Constant weight scales and scales for discharging a predetermined weight of material into a bag or container, including hopper scales
8423.82.00	Weighing machinery having a maximum weighing capacity exceeding 30 kg but not exceeding 5,000 kg
8423.89.10	Weighing machinery with maximum capacity exceeding 5,000 kg, using electronic means for gauging
8423.89.90	Weighing machinery with maximum capacity exceeding 5,000 kg, not using electronic means for gauging nesi
8423.90.10	Parts of weighing machinery using electronic means for gauging, except parts for weighing motor vehicles
8423.90.90	Other parts of weighing machinery, including weights
8424.89.10	Mechanical appliances for projecting, dispersing or spraying liquids or powders, used for making printed circuits or printed circuit assemblies
8424.90.20	Parts of sand blasting machines
8425.11.00	Pulley tackle and hoists other than skip hoists or hoists used for raising vehicles, powered by electric motor
8425.39.01	Winches nesi, and capstans, not powered by electric motor
8426.41.00	Derricks, cranes and other lifting machinery nesi, self-propelled, on tires
8426.49.00	Derricks, cranes and other lifting machinery nesi, self-propelled, not on tires
8426.99.00	Derricks, cranes and other lifting machinery nesi
8427.10.40	Self-propelled works trucks powered by an electric motor, rider type forklift trucks
8427.10.80	Self-propelled works trucks powered by an electric motor, fitted with lifting and handling equipment, nesi
8427.20.40	Self-propelled works trucks not powered by an electric motor, rider type forklift trucks
8427.20.80	Self-propelled works trucks not powered by an electric motor, fitted with lifting and handling equipment, nesi
8428.20.00	Pneumatic elevators and conveyors
8428.31.00	Continuous-action elevators and conveyors, for goods or materials, specially designed for underground use
8428.32.00	Bucket type continuous-action elevators and conveyors, for goods or materials
8428.33.00	Belt type continuous-action elevators and conveyors, for goods or materials
8428.39.00	Continuous-action elevators and conveyors, for goods or materials, nesi
8428.90.02	Machinery for lifting, handling, loading or unloading, nesi
8429.11.00	Self-propelled bulldozers and angledozers, for track laying
8429.19.00	Self-propelled bulldozers and angledozers other than track laying
8429.20.00	Self-propelled graders and levelers
8429.30.00	Self-propelled scrapers
8429.40.00	Self-propelled tamping machines and road rollers
8429.51.10	Self-propelled front-end shovel loaders, wheel-type
8429.51.50	Self-propelled front-end shovel loaders, other than wheel-type
8429.52.10	Self-propelled backhoes, shovels, clamshells and draglines with a 360 degree revolving superstructure
8429.52.50	Self-propelled machinery with a 360 degree revolving superstructure, other than backhoes, shovels, clamshells and draglines
8429.59.10	Self-propelled backhoes, shovels, clamshells and draglines not with a 360 degree revolving superstructure
8429.59.50	Self-propelled machinery not with a 360 degree revolving superstructure, other than backhoes, shovels, clamshells and draglines
8430.10.00	Pile-drivers and pile-extractors

HTS Subheading	Product Description
8430.31.00	Self-propelled coal or rock cutters and tunneling machinery
8430.39.00	Coal or rock cutters and tunneling machinery, not self-propelled
8430.41.00	Self-propelled boring or sinking machinery
8430.49.80	Boring or sinking machinery, not self-propelled, nesi
8430.50.50	Self-propelled machinery for working earth, minerals or ores, nesi
8430.61.00	Tamping or compacting machinery, not self-propelled
8430.69.01	Machinery for working earth, minerals or ores, not self-propelled, nesoi
8431.10.00	Parts suitable for use solely or principally with the machinery of heading 8425
8431.20.00	Parts suitable for use solely or principally with the machinery of heading 8427
8431.31.00	Parts suitable for use solely or principally with passenger or freight elevators other than continuous action, skip hoists or escalators
8431.39.00	Parts suitable for use solely or principally with the machinery of heading 8428, nesi
8431.41.00	Buckets, shovels, grabs and grips suitable for use solely or principally with the machinery of headings 8426, 8429, or 8430
8431.42.00	Bulldozer or angledozer blades suitable for use solely or principally with the machinery of heading 8426, 8429 or 8430
8431.43.40	Parts for offshore oil & natural gas, drilling and production platforms
8431.43.80	Parts for boring or sinking machinery of 8430.41 or 8430.49, nesi
8431.49.10	Parts suitable for use solely or principally with the machinery of heading 8426, nesi
8431.49.90	Parts suitable for use solely or principally with the machinery of heading 8429 or 8430, nesi
8432.10.00	Plows for soil preparation or cultivation
8432.21.00	Disc harrows for soil preparation or cultivation
8432.80.00	Agricultural, horticultural or forestry machinery for soil preparation or cultivation, nesi; lawn or sports ground rollers
8432.90.00	Parts of agricultural, horticultural or forestry machinery for soil preparation or cultivation; parts of lawn or sports ground rollers
8433.20.00	Mowers nesi, including cutter bars for tractor mounting
8433.30.00	Haymaking machinery other than mowers
8433.40.00	Straw or fodder balers, including pick-up balers
8433.51.00	Combine harvester-threshers
8433.52.00	Threshing machinery other than combine harvester-threshers
8433.53.00	Root or tuber harvesting machines
8433.59.00	Harvesting machinery or threshing machinery, nesi
8433.60.00	Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce
8433.90.50	Parts for machinery of heading 8433, nesi
8434.20.00	Dairy machinery other than milking machines
8434.90.00	Parts for milking machines and dairy machinery
8436.10.00	Machinery for preparing animal feeds
8436.21.00	Poultry incubators and brooders
8436.29.00	Poultry-keeping machinery
8436.80.00	Agricultural, horticultural, forestry or bee-keeping machinery, nesi
8436.91.00	Parts of poultry-keeping machinery or poultry incubators and brooders
8436.99.00	Parts for agricultural, horticultural, forestry or bee-keeping machinery, nesi
8437.10.00	Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables

HTS Subheading	Product Description
8437.80.00	Machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm type machinery
8437.90.00	Parts for machinery used in the milling industry or for cleaning,sorting,grading or working of cereals or dried leguminous vegetables
8438.50.00	Machinery for the preparation of meat or poultry, nesi
8438.60.00	Machinery for the preparation of fruits, nuts or vegetables, nesi
8438.80.00	Machinery for the industrial preparation or manufacture of food or drink, nesi
8438.90.90	Parts of machinery for the industrial preparation or manufacture of food or drink, other than sugar manufacturing, nesi
8439.10.00	Machinery for making pulp of fibrous cellulosic material
8439.20.00	Machinery for making paper or paperboard
8439.30.00	Machinery for finishing paper or paperboard
8439.91.10	Bed plates, roll bars and other stock-treating parts of machinery for making pulp of fibrous cellulosic materials
8439.91.90	Parts of machinery for making pulp of fibrous cellulosic materials, nesi
8439.99.10	Parts of machinery for making paper or paperboard
8439.99.50	Parts of machinery for finishing paper or paperboard
8441.20.00	Machines for making bags, sacks or envelopes of paper pulp, paper or paperboard
8441.30.00	Machines for making cartons, boxes, cases, tubes, drums or similar containers, other than by molding, of paper pulp, paper or paperboard
8441.40.00	Machines for molding articles in paper pulp, paper or paperboard
8441.80.00	Machinery for making up paper pulp, paper or paperboard, nesi
8441.90.00	Parts for machinery used in making up paper pulp, paper or paperboard, including cutting machines
8442.30.01	Machinery, apparatus and equipment of heading 8442
8442.40.00	Parts of the machinery, apparatus or equipment of subheadings 8442.10, 8442.20 and 8442.30
8443.11.10	Reel-fed offset printing machinery, double-width newspaper printing presses
8443.11.50	Reel-fed offset printing machinery, other than double-width newspaper printing presses
8443.12.00	Sheet-fed offset printing machinery, office type (sheet size not exceeding 22 X 36 cm)
8443.13.00	Offset printing machinery, nesi
8443.14.00	Letterpress printing machinery, excluding flexographic printing, reel-fed
8443.17.00	Gravure printing machinery
8443.19.30	Printing machinery, nesoi
8443.91.10	Machines for uses ancillary to printing
8443.99.20	Parts of printer units of subheading 8443.32.10 specified in additional U.S. note 2 to this chapter
8443.99.45	Parts and accessories of copying machines; nesoi
8444.00.00	Machines for extruding, drawing, texturing or cutting man-made textile materials
8454.10.00	Converters of a kind used in metallurgy or in metal foundries
8454.30.00	Casting machines, of a kind used in metallurgy or in metal foundries
8454.90.00	Parts of converters, ladles, ingot molds and casting machines, of a kind used in metallurgy or in metal foundries
8455.10.00	Metal-rolling tube mills
8455.21.00	Metal-rolling mills, other than tube mills, hot or combination hot and cold
8455.22.00	Metal-rolling mills, other than tube mills, cold
8455.30.00	Rolls for metal-rolling mills
8455.90.80	Parts for metal-rolling mills, other than rolls, nesi

HTS Subheading	Product Description
8456.11.10	Machine tools operated by laser, for working metal
8456.11.70	Machine tools operated by laser, of a kind used solely or principally for manufacture of printed circuits
8456.11.90	Machine tools operated by laser, nesoi
8456.12.10	Machine tools operated by light or photon beam processes, for working metal
8456.12.70	Machine tools operated by light or photon beam processes, of a kind used solely or principally for the manufacture of printed circuits
8456.12.90	Machine tools operated by light or photon beam processes, nesoi
8456.20.10	Machine tools operated by ultrasonic processes, for working metal
8456.20.50	Machine tools operated by ultrasonic processes, other than for working metal
8456.30.10	Machine tools operated by electro-discharge processes, for working metal
8456.30.50	Machine tools operated by electro-discharge processes, other than for working metal
8456.40.10	Machine tools operated by plasma arc process, for working metal
8456.40.90	Machine tools operated by plasma arc process, other than for working metal
8456.50.00	Water-jet cutting machines
8456.90.31	Machine tools operated by electro-chemical or ionic-beam processes, for working metal
8456.90.71	Machine tools operated by electro-chemical or ionic-beam processes, other than for working metal
8457.10.00	Machining centers for working metal
8457.20.00	Unit construction machines (single station), for working metal
8457.30.00	Multistation transfer machines for working metal
8458.11.00	Horizontal lathes (including turning centers) for removing metal, numerically controlled
8458.19.00	Horizontal lathes (including turning centers) for removing metal, other than numerically controlled
8458.91.10	Vertical turret lathes (including turning centers) for removing metal, numerically controlled
8458.91.50	Lathes (including turning centers), other than horizontal or vertical turret lathes, for removing metal, numerically controlled
8458.99.10	Vertical turret lathes (including turning centers) for removing metal, other than numerically controlled
8458.99.50	Lathes (including turning centers), other than horizontal or vertical turret lathes, for removing metal, other than numerically controlled
8459.10.00	Way-type unit head machines for drilling, boring, milling, threading or tapping by removing metal, other than lathes of heading 8458
8459.21.00	Drilling machines, numerically controlled, nesi
8459.31.00	Boring-milling machines, numerically controlled, nesi
8459.39.00	Boring-milling machines, other than numerically controlled, nesi
8459.41.00	Boring machines, numerically controlled, nesoi
8459.49.00	Boring machines, not numerically controlled, nesoi
8459.51.00	Milling machines, knee type, numerically controlled, nesi
8459.61.00	Milling machines, other than knee type, numerically controlled, nesi
8459.69.00	Milling machines, other than knee type, other than numerically controlled, nesi
8459.70.40	Other threading or tapping machines, numerically controlled
8459.70.80	Other threading or tapping machines nesi
8460.12.00	Flat-surface grinding machines, numerically controlled
8460.19.01	Flat-surface grinding machines, not numerically controlled
8460.22.00	Centerless grinding machines, numerically controlled

HTS Subheading	Product Description
8460.23.00	Other cylindrical grinding machines, numerically controlled
8460.24.00	Other grinding machines, numerically controlled
8460.29.01	Other grinding machines, other than numerically controlled
8460.31.00	Sharpening (tool or cutter grinding) machines for working metal or cermets, numerically controlled
8460.40.40	Honing or lapping machines for working metal or cermets, numerically controlled
8460.40.80	Honing or lapping machines for working metal or cermets, other than numerically controlled
8460.90.40	Other machine tools for deburring, polishing or otherwise finishing metal or cermets, nesoi, numerically controlled
8460.90.80	Other machine tools for deburring, polishing or otherwise finishing metal or cermets, nesoi, other than numerically controlled
8461.20.40	Shaping or slotting machines for working by removing metal or cermets, numerically controlled
8461.20.80	Shaping or slotting machines for working by removing metal or cermets, other than numerically controlled
8461.30.40	Broaching machines for working by removing metal or cermets, numerically controlled
8461.30.80	Broaching machines for working by removing metal or cermets, other than numerically controlled
8461.40.10	Gear cutting machines for working by removing metal or cermets
8461.40.50	Gear grinding or finishing machines for working by removing metal or cermets
8461.50.40	Sawing or cutting-off machines for working by removing metal or cermets, numerically controlled
8461.90.30	Machine-tools for working by removing metal or cermets, nesoi, numerically controlled
8461.90.60	Machine-tools for working by removing metal or cermets, nesoi, other than numerically controlled
8462.10.00	Forging or die-stamping machines (including presses) and hammers
8462.21.00	Bending, folding, straightening or flattening machines (including presses) numerically controlled for working metal or metal carbides
8462.29.00	Bending, folding, straightening or flattening machines (including presses) not numerically controlled for working metal or metal carbides
8462.31.00	Shearing machines (incl. presses), excl. combined punching & shearing machines, numerically controlled for working metal or metal carbides
8462.39.00	Shearing machines (incl. presses), excl. combined punch & shearing machines, nt numerically controlled for working metal or metal carbides
8462.41.00	Punch/notch machines (incl. presses), incl. combined punch & shearing machines, numerically controlled for working metal or metal carbides
8462.49.00	Punch/notch machines (incl. presses), incl. combined punch & shear machines, nt numerically controlled for working metal or metal carbides
8462.91.40	Hydraulic presses, numerically controlled
8462.91.80	Hydraulic presses, not numerically controlled
8462.99.40	Machine tools (including nonhydraulic presses) for working metal or metal carbides, nesi, numerically controlled
8462.99.80	Machine tools (including nonhydraulic presses) for working metal or metal carbides, nesi, not numerically controlled
8463.10.00	Draw-benches for bars, tubes, profiles, wire or the like, for working metal or cermets, without removing material
8463.20.00	Thread rolling machines for working metal or cermets, without removing material
8463.30.00	Machines for working wire of metal or cermets, without removing material
8463.90.00	Machine tools for working metal or cermets, without removing material, nesoi
8464.20.01	Grinding or polishing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials, or glass, nesi
8464.90.01	Machine tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass, nesoi
8465.10.00	Machines for working certain hard materials which can carry out different types of machining operations w/o tool change between operations

HTS Subheading	Product Description
8465.92.00	Planing, milling or molding (by cutting) machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8465.93.00	Grinding, sanding or polishing machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8465.94.00	Bending or assembling machines for working wood, cork, bone hard rubber, hard plastics or similar hard materials
8465.99.02	Machine tools for working wood, cork, bone, hard rubber, hard plastics and similar hard materials, nesoi
8466.10.01	Tool holders and self-opening dieheads for use solely or principally with machines of headings 8456 to 8465, nesoi
8466.20.10	Work holders for machine tools used in cutting gears
8466.20.80	Work holders for machine tools other than those used in cutting gears, nesoi
8466.30.10	Dividing heads for use solely or principally for machine tools of headings 8456 to 8465
8466.30.60	Special attachments (which are machines) use solely or principally for machines of heading 8456 to 8465, excluding dividing heads, nesoi
8466.91.50	Parts and accessories nesi, for machines of heading 8464
8466.92.10	Cast-iron parts not advanced beyond cleaning and specifically machined, for machines of heading 8465
8466.92.50	Parts and accessories nesi, for machines of heading 8465
8466.93.11	Certain parts for water-jet cutting machines
8466.93.30	Certain specified parts and accessories of metal working machine tools for cutting gears
8466.93.53	Certain specified parts and accessories for machines of heading 8456 to 8461, nesoi
8466.93.60	Other cast-iron parts not advanced beyond cleaning and specifically machined, for metalworking machine tools for cutting, etc.
8466.93.75	Other parts and accessories of metal working machine tools for cutting gears
8466.93.96	Parts & accessories for machines of heading 8456 to 8461 used to make printed circuits or PCAs, parts of heading 8517 or computers
8466.93.98	Other parts and accessories for machines of heading 8456 to 8461, nesoi
8466.94.20	Certain specified cast-iron parts not advanced beyond cleaning and specifically machined, for machines of heading 8462 or 8463
8466.94.40	Other cast-iron parts not advanced beyond cleaning and specifically machined, for machines of heading 8462 or 8463
8466.94.65	Other specified parts and accessories for machines of heading 8462 or 8463, nesoi
8466.94.85	Other parts and accessories for machines of heading 8462 or 8463, nesoi
8467.11.10	Tools for working in the hand, pneumatic, rotary type, suitable for metal working
8467.11.50	Tools for working in the hand, pneumatic, rotary type, other than suitable for metal working
8468.20.50	Gas-operated machinery, apparatus and appliances, not hand-directed or -controlled, used for soldering, brazing, welding or tempering, nesi
8468.80.50	Machinery and apparatus other than hand-directed or -controlled, used for soldering, brazing or welding, not gas-operated
8471.70.30	ADP magnetic disk drive storage units, disk dia. ov 21 cm, nesoi, not entered with the rest of a system
8471.70.40	ADP magnetic disk drive storage units, disk dia. n/ov 21 cm,not in cabinet, w/o attached external power supply, n/entered w/rest of a system
8471.70.60	ADP storage units other than magnetic disk, not in cabinets for placing on a table, etc., not entered with the rest of a system
8471.70.90	ADP storage units other than magnetic disk drive units, nesoi, not entered with the rest of a system
8473.30.20	Parts and accessories of the ADP machines of heading 8471, not incorporating a CRT, parts and accessories of printed circuit assemblies
8473.40.10	Printed circuit assemblies for automatic teller machines of subheading 8472.90.10
8473.40.86	Other parts and accessories of machines of heading 8472, nesoi

HTS Subheading	Product Description
8473.50.30	Printed circuit assemblies suitable for use with machines of two or more of the headings 8469 to 8472
8474.10.00	Sorting, screening, separating or washing machines for earth, stones, ores or other mineral substances in solid form
8474.20.00	Crushing or grinding machines for earth, stones, ores or other mineral substances
8474.31.00	Concrete or mortar mixers
8474.32.00	Machines for mixing mineral substances with bitumen
8474.39.00	Mixing or kneading machines for earth, stones, ores or other mineral substances, nesi
8474.80.00	Machinery for agglomerating, shaping or molding solid mineral fuels, or other mineral products; machines for forming sand foundry molds
8474.90.00	Parts for the machinery of heading 8474
8475.10.00	Machines for assembling electric or electronic lamps, tubes or flashbulbs, in glass envelopes
8475.21.00	Machines for making glass optical fibers and preforms thereof
8475.90.10	Parts of machines for assembling electric or electronic lamps, tubes or flashbulbs, in glass envelopes
8475.90.90	Parts of machines for manufacturing or hot working glass or glassware
8477.10.30	Injection-molding machines for manufacturing shoes of rubber or plastics
8477.10.40	Injection-molding machines for use in the manufacture of video laser discs
8477.10.90	Injection-molding machines of a type used for working or manufacturing products from rubber or plastics, nesoi
8477.20.00	Extruders for working rubber or plastics or for the manufacture of products from these materials, nesi
8477.30.00	Blow-molding machines for working rubber or plastics or for the manufacture of products from these materials
8477.40.01	Vacuum-molding and other thermoforming machines for working rubber or plastics or for manufacture of products from these materials, nesoi
8477.51.00	Machinery for molding or retreading pneumatic tires or for molding or otherwise forming inner tubes
8477.80.00	Machinery for working rubber or plastics or for the manufacture of products from these materials, nesi
8477.90.25	Base, bed, platen and specified parts of machinery for working rubber or plastics or for manufacture of products from these material, nesoi
8477.90.45	Barrel screws of machinery for working rubber or plastics or for the manufacture of products from these materials, nesoi
8477.90.65	Hydraulic assemblies of machinery for working rubber or plastics or for the manufacture of products from these materials, nesoi
8477.90.85	Parts of machinery for working rubber or plastics or for the manufacture of products from these materials, nesoi
8479.10.00	Machinery for public works, building or the like, nesi
8479.20.00	Machinery for the extraction or preparation of animal or fixed vegetable fats or oils, nesi
8479.30.00	Presses for making particle board or fiber building board of wood or other ligneous materials, and mach. for treat. wood or cork, nesi
8479.40.00	Rope- or cable-making machines nesi
8479.50.00	Industrial robots, not elsewhere specified or included
8479.81.00	Machines and mechanical appliances for treating metal, including electric wire coil-winders, nesi
8479.82.00	Machines for mixing, kneading, crushing, grinding, screening, sifting, homogenizing, emulsifying or stirring, nesi
8479.89.83	Machines for the manufacture of optical media
8479.89.92	Automated electronic component placement machines for making printed circuit assemblies
8479.90.94	Parts of machines and mechanical appliances having individual functions, not specified or included elsewhere in chapter 84, nesoi
8480.20.00	Mold bases
8480.30.00	Molding patterns
8480.41.00	Molds for metal or metal carbides, injection or compression types

HTS Subheading	Product Description
8480.49.00	Molds for metal or metal carbides other than injection or compression types
8480.50.00	Molds for glass
8480.71.10	Molds for rubber or plastics, injection or compression types, for shoe machinery
8480.71.40	Injection or compression type molds for rubber or plastics for the manufacture of semiconductor devices
8480.71.80	Molds for rubber or plastics, injection or compression types, other than for shoe machinery or for manufacture of semiconductor devices
8481.10.00	Pressure-reducing valves for pipes, boiler shells, tanks, vats or the like
8481.20.00	Valves for oleohydraulic or pneumatic transmissions
8481.30.20	Check valves of iron or steel for pipes, boiler shells, tanks, vats or the like
8481.30.90	Check valves other than of copper or iron or steel, for pipes, boiler shells, tanks, vats or the like
8481.40.00	Safety or relief valves for pipes, boiler shells, tanks, vats or the like
8481.90.90	Parts of taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, nesi
8482.10.50	Ball bearings other than ball bearings with integral shafts
8482.20.00	Tapered roller bearings, including cone and tapered roller assemblies
8482.30.00	Spherical roller bearings
8482.40.00	Needle roller bearings
8482.50.00	Cylindrical roller bearings nesi
8482.80.00	Ball or roller bearings nesi, including combined ball/roller bearings
8482.91.00	Balls, needles and rollers for ball or roller bearings
8482.99.05	Inner or outer rings or races for ball bearings
8482.99.15	Inner or outer rings or races for taper roller bearings
8482.99.25	Inner or outer rings or races for other bearings, nesi
8482.99.35	Parts of ball bearings (including parts of ball bearings with integral shafts), nesi
8482.99.45	Parts of tapered roller bearings, nesi
8482.99.65	Parts of other ball or roller bearings, nesi
8483.30.40	Bearing housings of the flange, take-up, cartridge and hanger unit type
8483.40.10	Torque converters
8483.40.30	Fixed, multiple and variable ratio speed changers, imported for use with machines for making cellulosic pulp, paper or paperboard
8483.40.80	Ball or roller screws
8483.40.90	Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements entered separately
8483.50.60	Flywheels, nesi
8483.50.90	Pulleys, including pulley blocks, nesi
8483.60.40	Clutches and universal joints
8483.90.10	Chain sprockets and parts thereof
8483.90.20	Parts of flange, take-up, cartridge and hanger units
8483.90.30	Parts of bearing housings and plain shaft bearings, nesi
8483.90.70	Parts of articles of subheading 8483.20
8483.90.80	Parts of transmission equipment, nesi
8484.10.00	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal
8484.20.00	Mechanical seals

HTS Subheading	Product Description
8484.90.00	Sets or assortments of gaskets and similar joints dissimilar in composition, put up in pouches, envelopes or similar packings
8487.10.00	Ships' or boats propellers and blades therefor
8487.90.00	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features and other parts nesi
8501.10.40	Electric motors of an output of under 18.65 W, other than synchronous valued not over $4 each
8501.20.20	Universal AC/DC motors of an output exceeding 37.5 W but not exceeding 74.6 W
8501.20.50	Universal AC/DC motors of an output exceeding 735 W but under 746 W
8501.20.60	Universal AC/DC motors of an output of 746 W or more
8501.31.20	DC motors nesi, of an output exceeding 37.5 W but not exceeding 74.6 W
8501.31.50	DC motors, nesi, of an output exceeding 735 W but under 746 W
8501.31.60	DC motors nesi, of an output of 746 W but not exceeding 750 W
8501.32.45	DC motors nesi, of an output exceeding 14.92 kW but not exceeding 75 kW, used as primary source of mechanical power for electric vehicles
8501.32.55	DC motors nesi, of an output exceeding 14.92 kW but not exceeding 75 kW, nesi
8501.33.40	DC motors nesi, of an output exceeding 150 kW but not exceeding 375 kW
8501.33.60	DC generators of an output exceeding 75 kW but not exceeding 375 kW
8501.34.30	DC motors nesi, of an output exceeding 375 kW
8501.34.60	DC generators of an output exceeding 375 kW
8501.51.20	AC motors nesi, multi-phase, of an output exceeding 37.5 W but not exceeding 74.6 W
8501.51.40	AC motors, nesi, multi-phase, of an output exceeding 74.6 W but not exceeding 735 W
8501.51.50	AC motors, nesi, multi-phase, of an output exceeding 735 W but under 746 W
8501.51.60	AC motors nesi, multi-phase of an output of 746 W but not exceeding 750 W
8501.52.80	AC motors nesi, multi-phase, of an output exceeding 14.92 kW but not exceeding 75 kW
8501.53.40	AC motors nesi, multi-phase, of an output exceeding 75 kW but under 149.2 kW
8501.53.80	AC motors nesi, multi-phase, of an output exceeding 150 kW
8501.62.00	AC generators (alternators) of an output exceeding 75 kVA but not exceeding 375 kVA
8501.63.00	AC generators (alternators) of an output exceeding 375 kVA but not exceeding 750 kVA
8501.64.00	AC generators (alternators) of an output exceeding 750 kVA
8502.11.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output not exceeding 75 kVA
8502.12.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output exceeding 75 kVA but not over 375 kVA
8502.13.00	Electric generating sets with compression-ignition internal-combustion piston engines, of an output exceeding 375 kVA
8502.31.00	Wind-powered electric generating sets
8502.39.00	Electric generating sets, nesoi
8502.40.00	Electric rotary converters
8503.00.20	Commutators suitable for use solely or principally with the machines of heading 8501 or 8502
8503.00.35	Parts of electric motors under 18.65 W, stators and rotors
8503.00.45	Stators and rotors for electric generators for use on aircraft
8503.00.65	Stators and rotors for electric motors & generators of heading 8501, nesi
8503.00.75	Parts of electric motors under 18.65 W, other than commutators, stators or rotors
8503.00.90	Parts for electric generators suitable for use on aircraft

HTS Subheading	Product Description
8504.21.00	Liquid dielectric transformers having a power handling capacity not exceeding 650 kVA
8504.22.00	Liquid dielectric transformers having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA
8504.23.00	Liquid dielectric transformers having a power handling capacity exceeding 10,000 kVA
8504.32.00	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 1 kVA but not exceeding 16 kVA
8504.33.00	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 16 kVA but not exceeding 500 kVA
8504.34.00	Electrical transformers other than liquid dielectric, having a power handling capacity exceeding 500 kVA
8504.40.40	Electrical speed drive controllers for electric motors (static converters)
8504.90.41	Parts of power supplies (other than printed circuit assemblies) for automatic data processing machines or units thereof of heading 8471
8504.90.65	Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus
8504.90.75	Printed circuit assemblies of electrical transformers, static converters and inductors, nesoi
8504.90.96	Parts (other than printed circuit assemblies) of electrical transformers, static converters and inductors
8505.19.10	Flexible permanent magnets, other than of metal
8505.20.00	Electromagnetic couplings, clutches and brakes
8505.90.30	Electromagnetic lifting heads
8505.90.40	Electromagnetic or permanent magnet work holders and parts thereof
8505.90.70	Electromagnets used for MRI
8505.90.75	Other electromagnets and parts thereof, and parts of related electromagnetic articles nesi
8506.40.10	Silver oxide primary cells and primary batteries having an external volume not exceeding 300 cubic cm
8506.40.50	Silver oxide primary cells and primary batteries having an external volume exceeding 300 cubic cm
8506.50.00	Lithium primary cells and primary batteries
8506.60.00	Air-zinc primary cells and primary batteries
8506.90.00	Parts of primary cells and primary batteries
8507.90.80	Parts of storage batteries, including separators therefor, other than parts of lead-acid storage batteries
8514.10.00	Resistance heated industrial or laboratory furnaces and ovens
8514.20.60	Industrial or laboratory microwave ovens, nesoi
8514.20.80	Industrial or laboratory furnaces and ovens (other than microwave) functioning by induction or dielectric loss
8514.30.10	Industrial furnaces and ovens for making printed circuits or printed circuit assemblies
8514.30.90	Industrial or laboratory electric industrial or laboratory furnaces and ovens nesi
8514.40.00	Industrial or laboratory induction or dielectric heating equipment nesi
8514.90.80	Parts of industrial or laboratory electric furnaces and ovens and other industrial or laboratory induction or dielectric heating equipment
8515.11.00	Electric soldering irons and guns
8515.19.00	Electric brazing or soldering machines and apparatus, other than soldering irons and guns
8515.21.00	Electric machines and apparatus for resistance welding of metal, fully or partly automatic
8515.29.00	Electric machines and apparatus for resistance welding of metal, other than fully or partly automatic
8515.31.00	Electric machines and apparatus for arc (including plasma arc) welding of metals, fully or partly automatic
8515.39.00	Electric machines and apparatus for arc (including plasma arc) welding of metals, other than fully or partly automatic
8515.80.00	Electric welding apparatus nesi,and electric machines and apparatus for hot spraying metals or sintered metal carbides
8515.90.20	Parts of electric welding machines and apparatus

HTS Subheading	Product Description
8515.90.40	Parts of electric soldering or brazing machines & apparatus, & electric apparatus for hot spraying of metals or sintered metal carbides
8525.50.70	Transmission apparatus for radiobroadcasting
8525.60.10	Transceivers
8525.60.20	Transmission apparatus incorporating reception apparatus, other than transceivers
8525.80.10	Television cameras, gyrostabilized
8525.80.20	Television cameras, studio type, other than shoulder-carried or other portable cameras
8526.10.00	Radar apparatus
8526.91.00	Radio navigational aid apparatus, other than radar
8526.92.50	Radio remote control apparatus other than for video game consoles
8527.99.15	Radio receivers, NESOI
8527.99.40	Reception apparatus for radiobroadcasting, NESOI
8529.10.40	Radar, radio navigational aid and radio remote control antennas and antenna reflectors, and parts suitable for use therewith
8529.90.05	PCBs and ceramic substrates and subassemblies thereof, for color TV, with components listed in add. US note 4, chap. 85
8529.90.06	PCBs and ceramic substrates and subassemblies thereof, for color TV, not with components listed in add. US note 4, chap. 85
8529.90.09	Printed circuit assemblies for television cameras
8529.90.16	Printed circuit assemblies which are subassemblies of radar, radio nav. aid or remote control apparatus, of 2 or more parts joined together
8529.90.19	Printed circuit assemblies, nesi, for radar, radio navigational aid or radio remote control apparatus
8529.90.22	Other printed circuit assemblies suitable for use solely or principally with the apparatus of headings 8525 to 8528, nesi
8529.90.24	Transceiver assemblies for the apparatus of subheading 8526.10, other than printed circuit assemblies
8529.90.29	Tuners for television apparatus, other than printed circuit assemblies
8529.90.33	Subassies w/2 or more PCBs or ceramic substrates, as spec'd in add. US note 9 ch. 85, for color TV, w/components in add. US note 4, ch. 85
8529.90.46	Combinations of PCBs and ceramic substrates and subassemblies thereof for color TV, w/components listed in add. U.S. note 4, chap. 85
8529.90.63	Parts of printed circuit assemblies (including face plates and lock latches) for television cameras
8529.90.68	Parts of printed circuit assemblies (including face plates and lock latches) for television apparatus other than television cameras
8529.90.73	Parts of printed circuit assemblies (including face plates and lock latches) for radar, radio navigational aid or radio remote control app.
8529.90.78	Mounted lenses for use in closed circuit television cameras, separately imported, w/ or w/o attached elec. Connectors or motors
8529.90.81	Other parts of television cameras, nesi
8529.90.83	Other parts of television apparatus (other than television cameras), nesi
8529.90.89	Subassies w/2 or more PCBs or ceramic substrates, exc. tuners or converg. ass'ies, for color TV, not w/components in add. US note 4, ch. 85
8529.90.93	Parts of television apparatus, nesi
8529.90.95	Assemblies and subassemblies of radar, radio navigational aid or remote control apparatus, of 2 or more parts joined together, nesi
8529.90.97	Parts suitable for use solely or principally in radar, radio navigational aid or radio remote control apparatus, nesi
8529.90.99	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, nesi
8530.10.00	Electrical signaling, safety or traffic control equipment for railways, streetcar lines or subways

HTS Subheading	Product Description
8530.80.00	Electrical signaling, safety or traffic control equipment for roads, inland waterways, parking facilities, port installations or airfields
8530.90.00	Parts for electrical signaling, safety or traffic control equipment
8532.10.00	Fixed electrical capacitors designed for use in 50/60 Hz circuits and having a reactive power handling capacity of not less than 0.5 kvar
8532.21.00	Tantalum fixed capacitors
8532.22.00	Aluminum electrolytic fixed capacitors
8532.23.00	Ceramic dielectric fixed capacitors, single layer
8532.24.00	Ceramic dielectric fixed capacitors, multilayer
8532.25.00	Dielectric fixed capacitors of paper or plastics
8532.29.00	Fixed electrical capacitors, nesi
8532.30.00	Variable or adjustable (pre-set) electrical capacitors
8532.90.00	Parts of electrical capacitors, fixed, variable or adjustable (pre-set)
8533.10.00	Electrical fixed carbon resistors, composition or film types
8533.21.00	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity not exceeding 20 W
8533.29.00	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity exceeding 20 W
8533.31.00	Electrical wirewound variable resistors, including rheostats and potentiometers, for a power handling capacity not exceeding 20 W
8533.40.40	Metal oxide resistors
8533.40.80	Electrical variable resistors, other than wirewound, including rheostats and potentiometers
8533.90.80	Other parts of electrical resistors, including rheostats and potentiometers, nesi
8535.10.00	Fuses, for a voltage exceeding 1,000 V
8535.21.00	Automatic circuit breakers, for a voltage of less than 72.5 kV, but exceeding 1,000 V
8535.29.00	Automatic circuit breakers, for a voltage of 72.5 kV or more
8535.30.00	Isolating switches and make-and-break switches, for a voltage exceeding 1,000 V
8535.90.40	Electrical motor starters and electrical motor overload protector, for a voltage exceeding 1,000 V
8535.90.80	Electrical apparatus nesi for switching, protecting, or making connections for electrical circuits, for a voltage exceeding 1,000 V, nesi
8536.10.00	Fuses, for a voltage not exceeding 1,000 V
8536.20.00	Automatic circuit breakers, for a voltage not exceeding 1,000 V
8536.30.40	Electrical motor overload protectors, for a voltage not exceeding 1,000 V, nesi
8536.41.00	Relays for switching, protecting or making connections to or in electrical circuits, for a voltage not exceeding 60 V
8536.49.00	Relays for switching, protecting or making connections to or in electrical circuits, for a voltage exceeding 60 but not exceeding 1,000 V
8536.50.40	Electrical motor starters (which are switches), for a voltage not exceeding 1,000 V
8536.50.90	Switches nesoi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V
8536.69.40	Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V
8536.90.40	Electrical terminals, electrical splicers and electrical couplings, wafer probers, for a voltage not exceeding 1,000 V
8536.90.85	Other electrical apparatus nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8537.10.60	Boards, panels, etc., equipped with apparatus for electric control, for a voltage not exceeding 1,000, motor control centers

HTS Subheading	Product Description
8537.10.80	Touch screens without display capabilities for incorporation in apparatus having a display
8537.20.00	Boards, panels, consoles, desks, cabinets and other bases, equipped with apparatus for electric control, for a voltage exceeding 1,000 V
8538.10.00	Parts of boards, panels, consoles, desks, cabinets and other bases for the goods of heading 8537, not equipped with their apparatus
8538.90.40	Parts for articles of 8535.90.40, 8536.30.40 or 8536.50.40, of ceramic or metallic materials, mech. or elec. reactive to changes in temp.
8538.90.60	Molded parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537
8538.90.81	Other parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537
8539.41.00	Arc lamps
8539.90.00	Parts of electrical filament or discharge lamps
8540.79.10	Klystron tubes
8540.79.20	Microwave tubes (other than magnetrons or klystrons) excluding grid-controlled tubes
8540.89.00	Thermionic, cold cathode or photocathode tubes, nesi
8541.21.00	Transistors, other than photosensitive transistors, with a dissipation rating of less than 1 W
8541.29.00	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more
8541.30.00	Thyristors, diacs and triacs, other than photosensitive devices
8541.40.20	Light-emitting diodes (LED's)
8541.40.70	Photosensitive transistors
8541.40.80	Photosensitive semiconductor devices nesi, optical coupled isolators
8541.40.95	Photosensitive semiconductor devices nesi, other
8541.50.00	Semiconductor devices other than photosensitive semiconductor devices, nesi
8541.60.00	Mounted piezoelectric crystals
8541.90.00	Parts of diodes, transistors, similar semiconductor devices, photosensitive semiconductor devices, LED's and mounted piezoelectric crystals
8543.10.00	Electrical particle accelerators
8543.20.00	Electrical signal generators
8543.30.20	Electrical machines and apparatus for electroplating, electrolysis, or electrophoresis for making printed circuits
8543.30.90	Other electrical machines and apparatus for electroplating, electrolysis, or electrophoresis
8543.70.20	Physical vapor deposition apparatus, nesoi
8543.70.42	Flight data recorders
8543.70.60	Electrical machines and apparatus nesoi, designed for connection to telegraphic or telephonic apparatus, instruments or networks
8543.70.80	Microwave amplifiers
8543.70.95	Touch screens without display capabilities for incorporation in apparatus having a display
8543.70.97	Plasma cleaner machines that remove organic contaminants from electron microscopy specimens and holders
8543.90.12	Parts of physical vapor deposition apparatus of subheading 8543.70
8543.90.15	Assemblies and subassemblies for flight data recorders, consisting of 2 or more parts pieces fastened together, printed circuit assemblies
8543.90.35	Assemblies and subassemblies for flight data recorders, consisting of 2 or more parts pieces fastened together, not printed circuit assys.
8543.90.65	Printed circuit assemblies of flat panel displays other than for reception apparatus for television of heading 8528
8543.90.68	Printed circuit assemblies of electrical machines and apparatus, having individual functions, nesoi

HTS Subheading	Product Description
8544.11.00	Insulated (including enameled or anodized) winding wire, of copper
8544.19.00	Insulated (including enameled or anodized) winding wire, other than of copper
8544.30.00	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships
8544.49.30	Insulated electric conductors nesi, of copper, for a voltage not exceeding 1,000 V, not fitted with connectors
8544.49.90	Insulated electric conductors nesi, not of copper, for a voltage not exceeding 1,000 V, not fitted with connectors
8544.60.20	Insulated electric conductors nesi, for a voltage exceeding 1,000 V, fitted with connectors
8544.60.40	Insulated electric conductors nesi, of copper, for a voltage exceeding 1,000 V, not fitted with connectors
8544.70.00	Optical fiber cables made up of individually sheathed fibers
8601.10.00	Rail locomotives powered from an external source of electricity
8603.10.00	Self-propelled railway or tramway coaches, vans and trucks (o/than those of 8604), powered from an external source of electricity
8603.90.00	Self-propelled railway or tramway coaches, vans and trucks (o/than those of 8604), o/than powered from an external source of electricity
8604.00.00	Railway or tramway maintenance or service vehicles, whether or not self-propelled
8607.12.00	Parts of railway/tramway locomotives/rolling stock, truck assemblies for other than self-propelled vehicles
8607.19.06	Parts of railway/tramway locomotives/rolling stock, parts of axles
8607.19.12	Parts of railway/tramway locomotives/rolling stock, wheels, whether or not fitted with axles
8607.19.15	Parts of railway/tramway locomotives/rolling stock, parts of wheels
8607.19.90	Parts of railway/tramway locomotives/rolling stock, parts of truck assemblies for self-propelled vehicles or for non-self propelled nesoi
8607.21.10	Parts of railway/tramway locomotives/rolling stock, air brakes & parts thereof for non-self-propelled passenger coaches or freight cars
8607.21.50	Parts of railway/tramway locomotives/rolling stock, air brakes & parts thereof for self-propelled vehicles or non-self-propelled stock nesoi
8607.29.10	Parts of railway/tramway locomotives/rolling stock, pts of brakes (o/than air brakes) for non-self-propelled passenger coaches or freight
8607.29.50	Parts of railway/tramway locomotives/rolling stock, pts of brakes (o/th air brakes) for self-propelled vehicles or non-self-propelled nesoi
8607.91.00	Parts, nesoi, of railway/tramway locomotives
8607.99.10	Parts (o/than brake regulators) nesoi, of railway/tramway, non-self-propelled passenger coaches or freight cars
8607.99.50	Parts, nesoi, of railway or tramway rolling stock, nesoi
8608.00.00	Railway or tramway track fixtures and fittings; mechanical signaling, safety or traffic control equipment of all kinds nesoi; parts thereof
8701.10.01	Single axle tractors, other than tractors of 8709
8701.30.10	Track-laying tractors, suitable for agricultural use
8702.10.31	Motor vehicles w/diesel engine, to transport 16 or more persons, incl driver
8702.10.61	Motor vehicles w/diesel engine, to transport 10 to 15 persons, incl driver
8702.20.31	Motor vehicles w/diesel engine & electric motor, to transport 16 or more persons, incl driver
8702.20.61	Motor vehicles w/diesel engine & electric motor, to transport 10 to 15 persons, incl driver
8702.30.31	Motor vehicles w/spark-ign. IC recip. piston engine & electric motor, to transport 16 or more persons, incl driver
8702.30.61	Motor vehicles w/spark-ign. IC recip. piston engine & electric motor, to transport 10 to 15 persons, incl driver
8702.40.31	Motor vehicles w/electric motor, to transport 16 or more persons, incl driver
8702.40.61	Motor vehicles w/electric motor, to transport 10 to 15 persons, incl driver
8702.90.31	Motor vehicles nesoi, to transport 16 or more persons, incl driver

HTS Subheading	Product Description
8702.90.61	Motor vehicles nesoi, to transport 10 to 15 persons, incl driver
8703.21.01	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine, w/cyl capacity <= 1, 000 cc
8703.22.01	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine, w/cyl capacity > 1, 000cc but <=1, 500cc
8703.23.01	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine, w/cyl capacity >1, 500cc but <=3, 000cc
8703.24.01	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine, w/cyl capacity >3, 000cc
8703.31.01	Motor vehicles to transport persons, w/diesel engines, of a cylinder capacity <= 1, 500cc
8703.32.01	Motor vehicles to transport persons, w/diesel engines, of a cylinder capacity > 1, 500cc but <= 2, 500cc
8703.33.01	Motor vehicles to transport persons, w/diesel engines, of a cylinder capacity > 2, 500cc
8703.40.00	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine & elec motor incapable of charge by plug to external source
8703.50.00	Motor vehicles to transport persons, w/diesel engine & elec motor incapable of charge by plug to external source
8703.60.00	Motor vehicles to transport persons, w/spark-ign. IC recip. piston engine & elec motor capable of charge by plug to external source
8703.70.00	Motor vehicles to transport persons, w/diesel engine & elec motor capable of charge by plug to external source
8703.80.00	Motor vehicles to transport persons, w/electric motor for propulsion
8703.90.01	Motor vehicles to transport persons, nesoi
8704.10.10	Mtr. vehicles for transport of goods, cab chassis for dumpers designed for off-highway use
8704.10.50	Mtr. vehicles for transport of goods, complete dumpers designed for off-highway use
8704.21.00	Mtr. vehicles for transport of goods, w/compress.-ign. int. combust. recip. piston engine, w/G.V.W. not over 5 metric tons
8704.22.10	Mtr. vehicles for transport of goods, cab chassis, w/compress.-ign. int. combust. recip. piston engine, w/G.V.W. o/5 but n/o 20 metric tons
8704.22.50	Mtr. vehicl. for transport of goods (o/than cab chassis), w/compress.-ign. int. combust. recip. piston engine, w/G.V.W. o/5 but n/o 20 mtons
8704.23.00	Mtr. vehicles for transport of goods, w/compress.-ign. int. combust. recip. piston engine, w/G.V.W. over 20 metric tons
8704.31.00	Mtr. vehicles for transport of goods, w/spark.-ign. int. combust. recip. piston engine, w/G.V.W. not over 5 metric tons
8704.32.00	Mtr. vehicles for transport of goods, w/spark.-ign. int. combust. recip. piston engine, w/G.V.W. over 5 metric tons
8705.30.00	Mtr. vehicles (o/than for transport of persons or of goods), fire fighting vehicles
8705.40.00	Mtr. vehicles (o/than for transport of persons or of goods), concrete mixers
8706.00.25	Chassis fitted w/engines, for mtr. vehicles of heading 8705
8706.00.30	Chassis fitted w/engines, for tractors suitable for agricultural use
8709.11.00	Electrical, self-propelled, works trucks, not fitted w/lift. equip. and tractors of type used on railway station platforms
8709.19.00	Non-electrical, self-propelled, works trucks, not fitted w/lift. equip. and tractors of type used on railway station platforms
8709.90.00	Parts of self-propelled works trucks, not fitted w/lift. equip. and tractors of the type used on railway station platforms
8711.50.00	Motorcycles (incl. mopeds) and cycles, fitted w/recip. internal-combustion piston engine w/capacity o/800 cc
8802.11.00	Helicopters, with an unladen weight not over 2,000 kg
8802.12.00	Helicopters, with an unladen weight over 2,000 kg
8802.20.00	Airplanes and other powered aircraft, nesoi, with an unladen weight not over 2,000 kg
8802.30.00	Airplanes and other powered aircraft, nesoi, with an unladen weight over 2,000 kg but not over 15,000 kg
8802.40.00	Airplanes and other powered aircraft, nesoi, with an unladen weight over 15,000 kg
8802.60.30	Communication satellites
8802.60.90	Spacecraft, including satellites (o/than communication satellites), and suborbital and spacecraft launch vehicles
8803.10.00	Parts of airplanes and other aircraft, propellers and rotors and parts thereof

HTS Subheading	Product Description
8803.20.00	Parts of airplanes and other aircraft, undercarriages and parts thereof
8803.30.00	Parts of airplanes and helicopters, nesoi
8803.90.30	Parts of communication satellites
8803.90.90	Parts of aircraft (o/than airplanes and helicopters), spacecraft (o/than comm. satell.) and suborbital and launch vehicles, nesoi
8805.10.00	Aircraft launching gear and parts thereof; deck-arrestors or similar gear and parts thereof
8805.21.00	Air combat ground flying simulators and parts thereof
8805.29.00	Ground flying trainers and parts thereof, other than air combat simulators
8901.10.00	Vessels, designed for the transport of persons, cruise ships, excursion boats and similar vessels; ferry boats of all kinds
8901.20.00	Vessels, designed for the transport of goods, tankers
8901.90.00	Vessels, designed for the transport of goods or for the transport of both persons and goods, nesoi
8902.00.00	Vessels, fishing; factory ships and other vessels for processing or preserving fishery products
8904.00.00	Vessels, tugs and pusher craft
8905.10.00	Vessels, dredgers
8905.20.00	Floating or submersible drilling or production platforms
8905.90.50	Vessels, light-vessels, fire-floats, floating cranes, & other vessels nesoi, the navigability of which is subsidiary to their main function
8906.90.00	Vessels (including lifeboats other than row boats), nesoi
8908.00.00	Vessels and other floating structures for breaking up (scrapping)
9002.90.20	Prisms, mounted, for optical uses
9002.90.40	Mirrors, mounted, for optical uses
9002.90.70	Half-tone screens, mounted, designed for use in engraving or photographic processes
9002.90.95	Mounted optical elements, nesi; parts and accessories of mounted optical elements, nesi
9011.10.40	Stereoscopic microscopes, provided with a means for photographing the image
9011.10.80	Stereoscopic microscopes, other than those provided with a means for photographing the image
9011.20.40	Microscopes for microphotography, microcinematography or microprojection, provided with a means for photographing the image
9011.90.00	Parts and accessories for compound optical microscopes, including those for microphotography, microcinematography or microprojection
9012.10.00	Microscopes other than optical microscopes; diffraction apparatus
9012.90.00	Parts and accessories for microscopes other than optical microscopes, and for diffraction apparatus
9013.10.45	Telescopes as parts of machines, appliances, etc. of chapter 90 or section XVI
9013.20.00	Lasers, other than laser diodes
9013.80.70	Liquid crystal and other optical flat panel displays other than for articles of heading 8528, nesoi
9014.10.70	Electrical direction finding compasses
9014.20.20	Optical instruments and appliances (other than compasses) for aeronautical or space navigation
9014.20.40	Automatic pilots for aeronautical or space navigation
9014.20.60	Electrical instruments and appliances (other than compasses) for aeronautical or space navigation
9014.20.80	Nonelectrical instruments and appliances (other than compasses) for aeronautical or space navigation
9014.80.10	Optical navigational instruments, nesi
9014.80.20	Ships' logs and depth-sounding apparatus
9014.80.40	Electrical navigational instruments and appliances, nesi

HTS Subheading	Product Description
9014.80.50	Nonelectrical navigational instruments and appliances, nesi
9014.90.10	Parts and accessories of automatic pilots for aeronautical or space navigation of subheading 9014.20.40
9014.90.20	Parts and accessories of nonelectrical instruments and appliances for aeronautical or space navigation of subheading 9014.20.80
9014.90.40	Parts and accessories of nonelectrical navigational instruments and appliances nesi of subheading 9014.80.50
9014.90.60	Parts and accessories of navigational instruments and appliances, nesi
9015.10.80	Rangefinders, other than electrical
9015.20.40	Electrical theodolites and tachymeters
9015.20.80	Theodolites and tachymeters, other than electrical
9015.40.40	Electrical photogrammetrical surveying instruments and appliances
9015.40.80	Photogrammetrical surveying instruments and appliances, other than electrical
9015.80.20	Optical surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesi
9015.80.60	Seismographs
9015.80.80	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesi, nonoptical
9018.11.30	Electrocardiographs
9018.11.60	Printed circuit assemblies for electrocardiographs
9018.11.90	Parts and accessories of electrocardiographs, other than printed circuit assemblies
9018.12.00	Ultrasonic scanning electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
9018.13.00	Magnetic resonance imaging electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
9018.14.00	Scintigraphic electro-diagnostic apparatus used in medical, surgical, dental or veterinary sciences
9018.19.40	Electro-diagnostic apparatus for functional exploratory examination, and parts and accessories thereof
9018.19.55	Electro-diagnostic patient monitoring systems
9018.19.75	Printed circuit assemblies for electro-diagnostic parameter acquisition modules
9018.19.95	Electro-diagnostic apparatus nesi, and parts and accessories thereof nesi
9018.20.00	Ultraviolet or infrared ray apparatus used in medical, surgical, dental or veterinary sciences, and parts and accessories thereof
9018.90.20	Optical instruments and appliances nesi, used in medical, surgical, dental or veterinary sciences, and parts and accessories thereof
9018.90.30	Anesthetic instruments and appliances nesi, used in medical, surgical, dental or veterinary sciences, and parts and accessories thereof
9018.90.60	Electro-surgical instruments and appliances nesi, other than extracorporeal shock wave lithotripters and parts and accessories thereof
9018.90.75	Electro-medical instruments and appliances nesi, and parts and accessories thereof
9021.50.00	Pacemakers for stimulating heart muscles, excluding parts and accessories thereof
9022.12.00	Computed tomography apparatus based on the use of X-rays
9022.13.00	Apparatus based on the use of X-rays for dental uses (other than computed tomography apparatus)
9022.14.00	Apparatus based on the use of X-rays for medical, surgical or veterinary uses (other than computed tomography apparatus)
9022.19.00	Apparatus based on the use of X-rays other than for medical, surgical, dental or veterinary use
9022.21.00	Apparatus based on the use of alpha, beta or gamma radiations, for medical, surgical, dental or veterinary use
9022.29.80	Apparatus based on the use of alpha, beta or gamma radiations, other than for medical, surgical, dental or veterinary use, nesi

HTS Subheading	Product Description
9022.30.00	X-ray tubes
9022.90.05	Radiation generator units
9022.90.15	Radiation beam delivery units
9022.90.25	X-ray generators, high tension generators, desks, screens, examination or treatment tables, chairs and similar apparatus, nesi
9022.90.40	Parts and accessories of X-ray tubes
9022.90.60	Parts and accessories of apparatus based on the use of X-rays
9022.90.95	Parts and accessories of apparatus based on the use of alpha, beta or gamma radiations
9024.10.00	Machines and appliances for testing the mechanical properties of metals
9024.80.00	Machines and appliances for testing the mechanical properties of materials other than metals
9024.90.00	Parts and accessories of machines and appliances for testing the hardness, strength, compressibility, or other properties of materials
9026.10.20	Electrical instruments and apparatus for measuring or checking the flow or level of liquids
9026.20.40	Electrical instruments and apparatus for measuring or checking the pressure of liquids or gases
9026.80.20	Electrical instruments and apparatus for measuring or checking variables of liquids or gases, nesi
9026.90.20	Parts and accessories of electrical instruments and apparatus for measuring or checking variables of liquids or gases
9026.90.40	Parts and accessories of nonelectrical flow meters, heat meters incorporating liquid supply meters and anemometers
9026.90.60	Parts and accessories of nonelectrical instruments and apparatus for measuring or checking variables of liquids or gases, nesi
9027.20.50	Electrical chromatographs and electrical electrophoresis instruments
9027.20.80	Nonelectrical chromatographs
9027.30.40	Electrical spectrometers, spectrophotometers and spectrographs using optical radiations (ultraviolet, visible, infrared)
9027.30.80	Nonelectrical spectrometers, spectrophotometers and spectrographs using optical radiations (ultraviolet, visible, infrared)
9027.50.10	Exposure meters
9027.50.40	Electrical instruments and apparatus using optical radiations (ultraviolet, visible, infrared), nesi
9027.50.80	Nonelectrical instruments and apparatus using optical radiations (ultraviolet, visible, infrared), nesi
9027.80.25	Nuclear magnetic resonance instruments
9027.80.45	Electrical instruments and apparatus for physical or chemical analysis, measuring viscosity, checking heat, sound, light, etc., nesi
9027.80.80	Nonelectrical instruments and apparatus for physical or chemical analysis, measuring viscosity, checking heat, sound or light, nesi
9027.90.45	Printed circuit assemblies for instruments and apparatus of subheading 9027.80
9027.90.54	Parts and accessories of electrophoresis instruments not incorporating an optical or other measuring device
9027.90.56	Parts and accessories of electrical instruments and apparatus of subheading 9027.20, 9027.30, 9027.50 or 9027.80
9027.90.59	Other parts and accessories of other electrical instruments and apparatus of heading 9027, nesoi
9027.90.64	Parts and accessories of nonelectrical optical instruments and apparatus of subheading 9027.20, 9027.30, 9027.40, 9027.50 or 9027.80
9027.90.84	Parts and accessories of nonelectrical nonoptical instruments and apparatus of heading 9027.20, 9027.30, 9027.40, 9027.50 or 9027.80
9027.90.88	Parts and accessories of nonelectrical instruments and apparatus of heading 9027, nesoi
9028.90.00	Parts and accessories for gas, liquid or electricity supply or production meters
9030.10.00	Instruments and apparatus for measuring or detecting ionizing radiations
9030.20.05	Oscilloscopes and oscillographs, specially designed for telecommunications

HTS Subheading	Product Description
9030.33.34	Resistance measuring instruments
9030.33.38	Other instruments and apparatus, nesi, for measuring or checking electrical voltage, current, resistance or power, without a recording device
9030.39.01	Instruments and apparatus, nesi, for measuring or checking electrical voltage, current, resistance or power, with a recording device
9030.40.00	Instruments and apparatus specially designed for telecommunications
9030.82.00	Instruments and apparatus for measuring or checking electrical quantities, nesoi: for measuring or checking semiconductor wafers or devices
9030.90.25	Printed circuit assemblies for instruments and apparatus for measuring or detecting ionizing radiation
9030.90.46	Parts and accessories for instruments and apparatus for measuring or detecting ionizing radiation, nesi
9030.90.66	Printed circuit assemblies for subheadings and apparatus of 9030.40 & 9030.82
9030.90.68	Printed circuit assemblies, NESOI
9030.90.84	Parts and accessories for instruments and apparatus for measuring or checking semiconductor wafers or devices, nesoi
9030.90.89	Parts and accessories for articles of subheadings 9030.20 to 9030.40, 9030.83 and 9030.89, nesoi
9031.10.00	Machines for balancing mechanical parts
9031.20.00	Test benches
9031.41.00	Optical measuring/checking instruments/appliances for inspecting semiconductor wafers/devices or photomasks/reticle used to mfg such devices
9031.49.10	Profile projectors
9031.49.40	Optical coordinate-measuring machines, nesoi
9031.49.70	Optical instrument & appliance: to inspect masks (not photomask) used to mfg semiconductor devices; to measure contamination on such devices
9031.49.90	Other optical measuring or checking instruments, appliances and machines, nesoi
9031.80.40	Electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor devices or reticles
9031.80.80	Measuring and checking instruments, appliances and machines, nesoi
9031.90.21	Parts and accessories of profile projectors
9031.90.54	Parts & accessories of measuring & checking optical instruments & appliances of subheading 9031.41 or 9031.49.70
9031.90.59	Parts & accessories of measuring & checking optical instruments & appliances, other than test benches or profile projectors, nesoi
9031.90.70	Parts and accessories of articles of subheading 9031.80.40
9031.90.91	Parts and accessories of measuring or checking instruments, appliances and machines, nesoi
9032.10.00	Automatic thermostats
9032.20.00	Automatic manostats
9032.81.00	Hydraulic and pneumatic automatic regulating or controlling instruments and apparatus
9032.89.20	Automatic voltage and voltage-current regulators, designed for use in a 6, 12, or 24 V system
9032.89.40	Automatic voltage and voltage-current regulators, not designed for use in a 6, 12, or 24 V system
9032.89.60	Automatic regulating or controlling instruments and apparatus, nesi
9032.90.21	Parts and accessories of automatic voltage and voltage-current regulators designed for use in a 6, 12, or 24 V system, nesi
9032.90.41	Parts and accessories of automatic voltage and voltage-current regulators, not designed for use in a 6, 12, or 24 V system, nesi
9032.90.61	Parts and accessories for automatic regulating or controlling instruments and apparatus, nesi
9033.00.20	LEDs for backlighting of LCDs
9033.00.30	Touch screens without display capabilities for incorporation in apparatus having a display
9033.00.90	Other parts and accessories for machines, appliances, instruments or apparatus of chapter 90, nesi

Annex B [List 2 - $16 Billion Action]

Note: All products that are classified in the 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in Annex B are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of particular HTSUS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviations "nesoi" and "nesi" mean "not elsewhere specified or included".

HTS Subheading	Product Description
2710.19.30	Lubricating oils, w/or w/o additives, fr. petro oils and bitumin minerals (o/than crude) or preps. 70%+ by wt. fr. petro oils
2710.19.35	Lubricating greases from petro oil/bitum min/70%+ by wt. fr. petro. oils but n/o 10% by wt. of fatty acid salts animal/vegetable origin
2710.19.40	Lubricating greases from petro oil/bitum min/70%+ by wt. fr. petro. oils > 10% by wt. of fatty acid salts animal/vegetable origin
3403.19.10	Lubricating preparations containing 50% but less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals
3403.19.50	Lubricating preparations containing less than 50% by weight of petroleum oils or of oils from bituminous minerals
3403.99.00	Lubricating preparations (incl. lubricant-based preparations), nesoi
3811.21.00	Additives for lubricating oils containing petroleum oils or oils obtained from bituminous minerals
3811.29.00	Additives for lubricating oils, nesoi
3901.10.10	Polyethylene having a specific gravity of less than 0.94 and having a relative viscosity of 1.44 or more, in primary forms
3901.10.50	Polyethylene having a specific gravity of less than 0.94, in primary forms, nesoi
3901.20.10	Polyethylene having a specific gravity of 0.94 or more and having a relative viscosity of 1.44 or more, in primary forms
3901.20.50	Polyethylene having a specific gravity of 0.94 or more, in primary forms, nesoi
3901.30.20	Ethylene copolymer: Vinyl acetate-vinyl chloride-ethylene terpoly w/ < 50% deriv of vinyl acetate, exc polymer aromatic/mod arom monomers
3901.30.60	Ethylene-vinyl acetate copolymers, nesoi
3901.90.10	Polymers of ethylene, nesoi, in primary forms, elastomeric
3901.90.55	Ethylene copolymers, in primary forms, other than elastomeric
3901.90.90	Polymers of ethylene, nesoi, in primary forms, other than elastomeric
3902.10.00	Polypropylene, in primary forms
3902.20.10	Polyisobutylene, elastomeric, in primary forms
3902.20.50	Polyisobutylene, other than elastomeric, in primary forms
3902.30.00	Propylene copolymers, in primary forms
3902.90.00	Polymers of propylene or of other olefins, nesoi, in primary forms
3903.11.00	Polystyrene, expandable, in primary forms
3903.19.00	Polystyrene, other than expandable, in primary forms
3903.20.00	Styrene-acrylonitrile (SAN) copolymers, in primary forms
3903.30.00	Acrylonitrile-butadiene-styrene (ABS) copolymers, in primary forms
3903.90.10	Methyl methacrylate-butadiene-styrene (MBS) copolymers, in primary forms
3903.90.50	Polymers of styrene, nesoi, in primary forms
3904.10.00	Polyvinyl chloride, not mixed with any other substances, in primary forms
3904.21.00	Polyvinyl chloride, mixed with other substances, nonplasticized, in primary forms
3904.22.00	Polyvinyl chloride, mixed with other substances, plasticized, in primary forms
3904.30.20	Vinyl chloride copolymer: Vinyl acetate-vinyl chloride-ethylene terpoly w/< 50% deriv vinyl acetate, exc polymer aromatic/mod arom monomers
3904.30.60	Vinyl chloride-vinyl acetate copolymers, nesoi
3904.40.00	Vinyl chloride copolymers nesoi, in primary forms
3904.50.00	Vinylidene chloride polymers, in primary forms
3904.61.00	Polytetrafluoroethylene (PTFE), in primary forms
3904.69.10	Fluoropolymers, elastomeric, other than polytetrafluoroethylene, in primary forms
3904.69.50	Fluoropolymers, other than elastomeric and other than polytetrafluoroethylene, in primary forms

HTS Subheading	Product Description
3904.90.10	Polymers of vinyl chloride or of other halogenated olefins, nesoi, in primary forms, elastomeric, in primary forms
3904.90.50	Polymers of vinyl chloride or of other halogenated olefins, nesoi, in primary forms, other than elastomeric, in primary forms
3905.12.00	Polyvinyl acetate, in aqueous dispersion
3905.19.00	Polyvinyl acetate, other than in aqueous dispersion, in primary forms
3905.21.00	Vinyl acetate copolymers, in aqueous dispersion
3905.29.00	Vinyl acetate copolymers, other than in aqueous dispersion, in primary forms
3905.30.00	Polyvinyl alcohols, whether or not containing unhydrolyzed acetate groups, in primary forms
3905.91.10	Copolymers of vinyl esters or other vinyls, in primary forms, containing by weight 50% or more of derivatives of vinyl acetate
3905.91.50	Copolymers of vinyl esters or other vinyls, in primary forms, nesoi
3905.99.80	Polymers of vinyl esters or other vinyl polymers, in primary forms, nesoi
3906.10.00	Polymethyl methacrylate, in primary forms
3906.90.10	Acrylic polymers (except PMMA) in primary forms, elastomeric
3906.90.20	Acrylic plastics polymers (except PMMA), in primary forms, nonelastomeric
3906.90.50	Acrylic polymers (except plastics or elastomers), in primary forms, nesoi
3907.10.00	Polyacetals in primary forms
3907.20.00	Polyethers, other than polyacetals, in primary forms
3907.30.00	Epoxide resins in primary forms
3907.40.00	Polycarbonates in primary forms
3907.50.00	Alkyd resins in primary forms
3907.61.00	Having a viscosity number of 78 ml/g or higher
3907.69.00	Polyethylene terephthalate, nesoi
3907.70.00	Poly(lactic acid)
3907.91.20	Unsaturated allyl resins, uncompounded
3907.91.40	Unsaturated allyl resins, nesoi
3907.91.50	Unsaturated polyesters, other than allyl resins in primary forms
3907.99.20	Thermoplastic liquid crystal aromatic polyester copolymers
3907.99.50	Other polyesters nesoi, saturated, in primary forms
3908.10.00	Polyamide-6, -11, -12, -6,6, -6,9, -6,10 or -6,12 in primary form
3908.90.20	Bis(4-amino-3-methylcyclohexyl)methaneisophthalic acid-laurolactam copolymer
3908.90.70	Other polyamides in primary forms
3909.10.00	Urea resins; thiourea resins
3909.20.00	Melamine resins
3909.40.00	Phenolic resins
3909.50.10	Polyurethanes, elastomeric, in primary forms
3909.50.20	Polyurethanes: cements, in primary forms
3909.50.50	Polyurethanes, other than elastomeric or cements, in primary forms
3910.00.00	Silicones in primary forms
3911.10.00	Petroleum resins, coumarone, indene, or coumarone-indene resins and polyterpenes, in primary forms
3911.90.10	Elastomeric polysulfides, polysulfones and other products specified in note 3 to chapter 39, nesoi, in primary forms
3911.90.15	Specified carbodiimide or homopolymer with polyethylene thermoplastic goods

HTS Subheading	Product Description
3911.90.25	Thermoplastic polysulfides, polysulfones & oth products spec in note 3, chapt 39, cont aromatic monomer units or derived therefrom
3911.90.35	Benzenamine; and hydrocarbon novolac cyanate ester
3911.90.45	Thermosetting polysulfides, polysulfones & oth products spec in note 3, chapt 39, cont aromatic monomer units or derived therefrom
3911.90.70	Chlorinated synthetic rubber
3911.90.90	Polysulfides, polysulfones & other products specified in note 3 to chapter 39, nesoi
3912.12.00	Cellulose acetates, nesoi, in primary forms, plasticized
3912.20.00	Cellulose nitrates (including collodions), in primary forms
3912.39.00	Cellulose ethers, other than carboxymethylcellulose and its salts, in primary forms
3912.90.00	Cellulose and its chemical derivatives nesoi, in primary forms
3913.90.10	Chemical derivatives of natural rubber, nesoi, in primary forms
3913.90.50	Natural polymers and modified natural polymers, nesoi, in primary forms
3914.00.20	Cross-linked polyvinylbenzyltrimethylammonium chloride (Cholestyramine resin USP)
3914.00.60	Ion-exchangers based on polymers of headings 3901 to 3913, in primary forms, nesoi
3916.10.00	Monofilament with cross-section dimension over 1 mm, rods, sticks, profile shapes, at most surface-worked, of polymers of ethylene
3916.20.00	Monofilament with cross-section dimension over 1 mm, rods, sticks, profile shapes, at most surface-worked, of polymers of vinyl chloride
3916.90.10	Monofilament with cross-section dimension over 1 mm, rods, sticks, profile shapes, at most surface-worked, of acrylic polymers
3916.90.30	Monafilament nesoi, of plastics, excluding ethylene, vinyl chloride and acrylic polymers
3916.90.50	Rods, sticks and profile shapes, at most surface-worked, of plastics, nesoi
3917.21.00	Tubes, pipes and hoses, rigid, of polymers of ethylene
3917.22.00	Tubes, pipes and hoses, rigid, of polymers of propylene
3917.23.00	Tubes, pipes and hoses, rigid, of polymers of vinyl chloride
3917.29.00	Tubes, pipes and hoses, rigid, of other plastics nesoi
3917.31.00	Flexible plastic tubes, pipes and hoses, having a minimum burst pressure of 27.6 MPa
3917.32.00	Tubes, pipes and hoses, of plastics, other than rigid, not reinforced or otherwise combined with other materials, without fittings
3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi
3919.10.10	Self-adhesive plates, sheets, other flat shapes, of plastics, in rolls n/o 20 cm wide, light-reflecting surface produced by glass grains
3919.10.20	Self-adhesive plates, sheets, other flat shapes, of plastics, in rolls n/o 20 cm wide, not having a light-reflecting glass grain surface
3919.90.10	Self-adhesive plates, sheets, other flat shapes, of plastics, light-reflecting surface produced by glass grains, nesoi
3919.90.50	Self-adhesive plates, sheets, other flat shapes, of plastics, not having a light-reflecting surface produced by glass grains, nesoi
3920.10.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of ethylene
3920.20.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of propylene
3920.30.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of styrene
3920.43.10	Nonadhesive plates/sheets/film/foil/strip made imitation of patent leather, of vinyl chloride polymers, not less 6% plasticizers

HTS Subheading	Product Description
3920.43.50	Nonadhesive plate/sheet/film/foil/strip, noncellular, not comb w/other materials, of vinyl chloride polymers, not less 6% plasticizer, nesoi
3920.49.00	Nonadhesive plates, sheets, film, foil, strip, noncellular, not combined w/other materials, of polymers of vinyl chloride, < 6% plasticizers
3920.51.10	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polymethyl methacrylate, flexible
3920.51.50	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polymethyl methacrylate, not flexible
3920.59.10	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of acrylic polymers, flexible, nesoi
3920.59.40	Transparent sheeting containing 30% or more by weight of lead
3920.59.80	Plates, sheets, film, etc, noncellular, not reinforced, laminated, combined, of other acrylic polymers, nesoi
3920.61.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polycarbonates
3920.62.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyethylene terephthalate
3920.63.10	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of unsaturated polyesters, flexible
3920.63.20	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of unsaturated polyesters, not flexible
3920.69.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyesters, nesoi
3920.71.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of regenerated cellulose
3920.73.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of cellulose acetate
3920.79.05	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of vulcanized fiber
3920.79.10	Nonadhesive films, strips, sheets, noncellular, not combined with other materials, of other cellulose derivatives nesoi, n/o 0.076 mm thick
3920.79.50	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of cellulose derivatives, nesoi
3920.91.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyvinyl butyral
3920.92.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyamides
3920.93.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of amino-resins
3920.94.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of phenolic resins
3920.99.10	Nonadhesive film, noncellular, not combined with other materials, of plastics nesoi, flexible, over 0.152mm thick, not in rolls
3920.99.20	Nonadhesive film, strips and sheets, noncellular, not combined with other materials, of plastics nesoi, flexible
3920.99.50	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of plastics, nesoi
3921.11.00	Nonadhesive plates, sheets, film, foil and strip, cellular, of polymers of styrene
3921.12.11	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, over 70% plastics
3921.12.15	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, n/o 70% plastics
3921.12.19	Nonadhesive plates, sheets, film, foil and strip, cellular, of polymers of vinyl chloride, combined with textile materials, nesoi
3921.12.50	Nonadhesive plates, sheets, film, foil and strip, cellular, of polymers of vinyl chloride, not combined with textile materials
3921.13.11	Nonadhesive plates, sheets, film, foil and strip, cellular, of polyurethanes, with man-made textile fibers, over 70% plastics
3921.13.15	Nonadhesive plates, sheets, film, foil and strip, cellular, of polyurethanes, with man-made textile fibers, not over 70 percent plastics

HTS Subheading	Product Description
3921.13.19	Nonadhesive plates, sheets, film, foil and strip, cellular, of polyurethanes, combined with textile materials nesoi
3921.13.50	Nonadhesive plates, sheets, film, foil and strip, cellular,of polyurethanes, not combined with textile materials, nesoi
3921.14.00	Nonadhesive plates, sheets, film, foil and strip, cellular, of regenerated cellulose
3921.19.00	Nonadhesive plates, sheets, film, foil and strip, cellular, of plastics nesoi
3921.90.11	Nonadhesive plates, sheets, film, foil, strip, of noncellular plastics combined with man-made fibers, n/o 1.492 kg/sq m, over 70% plastics
3921.90.15	Nonadhesive plates, sheets, film, foil, strip, of noncellular plastics combined with man-made fibers, n/o 1.492 kg/sq m, n/o 70% plastics
3921.90.19	Nonadhesive plates, sheets, film, foil and strip, of noncellular plastics combined with textile materials, nesoi, not over 1.492 kg/sq m
3921.90.21	Nonadhesive plates, sheets, film, foil and strip, of noncellular plastics combined with cotton, over 1.492 kg/sq m
3921.90.25	Nonadhesive plates, sheets, film, foil and strip, of noncellular plastics combined with man-made fibers, over 1.492 kg/sq m
3921.90.29	Nonadhesive plates, sheets, film, foil and strip, of noncellular plastics combined with textile materials, nesoi, over 1.492 kg/sq m
3921.90.40	Nonadhesive plates, sheets, film, foil and strip, flexible, nesoi, of noncellular plastics
3921.90.50	Nonadhesive plates, sheets, film, foil and strip, nonflexible, nesoi, of noncellular plastics
7002.20.10	Glass rods of fused quartz or other fused silica, unworked
7308.10.00	Iron or steel, bridges and bridge sections
7308.20.00	Iron or steel, towers and lattice masts
7308.90.30	Iron or steel, not in part alloy steel, columns, pillars, posts, beams and girders
7308.90.60	Iron or steel, columns, pillars, posts, beams and girders, nesoi
7308.90.70	Steel, grating for structures or parts of structures
7308.90.95	Iron or steel, structures (excluding prefab structures of 9406) and parts of structures, nesoi
7614.10.10	Aluminum, stranded wire, cables & the like w/steel core, not electrically insulated, not fitted with fittings & not made up into articles
7614.90.20	Aluminum, elect. conductors of stranded wire, cables & the like (o/than w/steel core), n/elect. insulated, n/fitted w/fittings or articles
8406.82.10	Steam turbines other than for marine propulsion, of an output not exceeding 40 MW
8407.34.05	Spark-ignition reciprocating piston engines used in agricultural tractors, cylinder capacity over 1000 cc to 2000 cc
8407.34.35	Spark-ignition reciprocating piston engines used in agricultural tractors, cylinder capacity over 2000 cc
8407.90.10	Spark-ignition rotary or reciprocating internal-combustion piston engines nesi, installed in agricultural/horticultural machinery/equipment
8407.90.90	Spark-ignition rotary or reciprocating internal-combustion piston engines, for machinery or equipment nesi
8408.20.10	Compression-ignition internal-combustion piston engines to be installed in tractors suitable for agricultural use
8419.60.10	Machinery for liquefying air or gas containing brazed aluminum plate-fin heat exchangers
8419.89.10	Machinery and equipment for the treatment of materials (by a process which changes temperatures), for making paper pulp, paper or paperboard
8419.89.95	Industrial machinery, plant or equipment for the treatment of materials, by process involving a change in temperature, nesoi
8420.10.20	Calendering or similar rolling machines for making paper pulp, paper or paperboard
8420.99.10	Parts of calendering or rolling machines for processing textiles
8424.82.00	Agricultural or horticultural projecting or dispersing equipment including irrigation equipment
8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesi
8432.29.00	Harrows (other than disc), scarifiers, cultivators, weeders and hoes for soil preparation or cultivation

HTS Subheading	Product Description
8432.31.00	No-till direct seeders, planters and transplanters
8432.39.00	Seeders, planters and transplanters, nesoi
8432.42.00	Fertilizer distributors
8443.99.40	Parts of photocopying apparatus of subheading 8443.39.20 specified in additional U.S. note 4 to this chapter
8455.90.40	Parts for metal-rolling mills, other than rolls, in the form of castings or weldments, individually weighing less than 90 tons
8464.10.01	Sawing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass
8465.95.00	Drilling or mortising machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8466.30.80	Special attachments for use solely or principally for machine tools of headings 8456 to 8465, nesoi
8473.50.60	Part/accessory (also face plate and lock latch) of printed circuit assemblies suitable for use w/machine of two or more heading 8469 to 8472
8473.50.90	Parts and accessories, nesoi, suitable for use with machines of two or more of the headings 8469 to 8472
8475.29.00	Machines for manufacturing or hot working glass or glassware, nesoi
8483.30.80	Bearing housings nesi; plain shaft bearings
8486.10.00	Machines and apparatus for the manufacture of boules or wafers
8486.20.00	Machines and apparatus for the manufacture of semiconductor devices or electronic integrated circuits
8486.30.00	Machines and apparatus for the manufacture of flat panel displays
8486.40.00	Machines and apparatus for the manufacture of masks and reticles; for the assembly of electronic integrated circuits; or for the lifting, ha
8486.90.00	Parts and accessories of the machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat pa
8501.10.20	Electric motors of an output of under 18.65 W, synchronous, valued not over $4 each
8501.10.60	Electric motors of an output of 18.65 W or more but not exceeding 37.5 W
8501.20.40	Universal AC/DC motors of an output exceeding 74.6 W but not exceeding 735 W
8501.31.40	DC motors, nesi, of an output exceeding 74.6 W but not exceeding 735 W
8501.31.80	DC generators of an output not exceeding 750 W
8501.32.20	DC motors nesi, of an output exceeding 750 W but not exceeding 14.92 kW
8501.32.60	DC generators of an output exceeding 750 W but not exceeding 75 kW
8501.33.20	DC motors nesi, of an output exceeding 75 kW but under 149.2 kW
8501.33.30	DC motors, nesi, 149.2 kW or more but not exceeding 150 kW
8501.52.40	AC motors nesi, multi-phase, of an output exceeding 750 W but not exceeding 14.92 kW
8501.53.60	AC motors, nesi, multi-phase, 149.2 kW or more but not exceeding 150 kW
8503.00.95	Other parts, nesi, suitable for use solely or principally with the machines in heading 8501 or 8502
8507.80.40	Other storage batteries nesi, of a kind used as the primary source of electrical power for electrically powered vehicles of 8703.90
8507.80.81	Other storage batteries nesi, other than of a kind used as the primary source of power for electric vehicles
8511.80.20	Voltage and voltage-current regulators with cut-out relays designed for use on 6, 12 or 24 V systems
8511.80.40	Voltage and voltage-current regulators with cut-out relays other than those designed for use on 6, 12 or 24 V systems
8511.90.20	Parts of voltage and voltage-current regulators with cut-out relays, designed for use on 6, 12 or 24 V systems
8511.90.40	Parts of voltage and voltage-current regulators with cut-out relays, other than those designed for use on 6, 12 or 24 V systems
8529.10.91	Other antennas and antenna reflectors of all kinds and parts, for use

HTS Subheading	Product Description
8533.90.40	For the goods of subheading 8533.40, of ceramic or metallic materials, electrically or mechanically reactive to changes in temperature
8536.30.80	Electrical apparatus for protecting electrical circuits, for a voltage not exceeding 1,000 V, nesi
8536.50.70	Certain specifed electronic and electromechanical snap-action switches, for a voltage not exceeding 1,000 V
8536.70.00	Connectors for optical fibers, optical fiber bundles or cables
8537.10.30	Electric control panels, for a voltage not exceeding 1,000, assembled with outer housing or supports, for goods of 8421, 8422, 8450 or 8516
8541.10.00	Diodes, other than photosensitive or light-emitting diodes
8541.40.60	Diodes for semiconductor devices, other than light-emitting diodes, nesi
8542.31.00	Electronic intergrated circuits: processors and controllers
8542.32.00	Electronic intergrated circuits: memories
8542.33.00	Electronic intergrated circuits: amplifiers
8542.39.00	Electronic integrated circuits: other
8542.90.00	Parts of electronic integrated circuits and microassemblies
8543.70.45	Other electric synchros and transducers; defrosters and demisters with electric resistors for aircraft
8543.70.99	Other machinery in this subheading
8544.49.10	Insulated electric conductors of a kind used for telecommuncations, for a voltage not exceeding 80 V, not fitted with connectors
8544.49.20	Insulated electric conductors nesoi, for a voltage not exceeding 80 V, not fitted with connectors
8544.60.60	Insulated electric conductors nesi, not of copper, for a voltage exceeding 1,000 V, not fitted with connectors
8601.20.00	Rail locomotives powered by electric accumulators (batteries)
8602.10.00	Diesel-electric locomotives
8605.00.00	Railway or tramway passenger coaches and special purpose railway or tramway coaches, not self-propelled
8606.10.00	Railway or tramway tank cars and the like, not self-propelled
8606.30.00	Railway or tramway self-discharging freight cars (o/than tank cars or insulated/refrig. freight cars), not self-propelled
8606.91.00	Railway or tramway freight cars nesoi, closed and covered, not self-propelled
8606.92.00	Railway or tramway freight cars nesoi, open, with nonremovable sides of a height over 60 cm, not self-propelled
8606.99.01	Railway or tramway freight cars nesoi, not self-propelled
8607.11.00	Parts of railway/tramway locomotives/rolling stock, truck assemblies for self-propelled vehicles
8607.19.03	Parts of railway/tramway locomotives/rolling stock, axles
8607.19.30	Parts of railway/tramway locomotives/rolling stock, parts of truck assemblies for non-self-propelled passenger coaches or freight cars
8607.30.10	Parts of railway/tramway locomotives/rolling stock, hooks and other coupling devices, buffers, pts thereof, for stock of 8605 or 8606
8607.30.50	Parts of railway/tramway locomotives/rolling stock, hooks and other coupling devices, buffers, pts thereof, for stock of 8601 to 8605
8701.20.00	Road tractors for semi-trailers
8701.30.50	Track-laying tractors, not suitable for agricultural use
8701.91.10	Other tractors of engine power <18kW, for agricultural use
8701.91.50	Other tractors of engine power <18kW, not for agricultural use
8701.92.10	Other tractors of engine power => 18kW but < 37kW, for agricultural use
8701.92.50	Other tractors of engine power => 18kW but < 37kW, not for agricultural use
8701.93.10	Other tractors of engine power => 37kW but < 75kW, for agricultural use

HTS Subheading	Product Description
8701.93.50	Other tractors of engine power => 37kW but < 75kW, not for agricultural use
8701.94.10	Other tractors of engine power => 75kW but < 130kW, for agricultural use
8701.94.50	Other tractors of engine power => 75kW but < 130kW, not for agricultural use
8701.95.10	Other tractors of engine power >130kW, for agricultural use
8701.95.50	Other tractors of engine power >130kW, not for agricultural use
8704.90.00	Mtr. vehicles for transport of goods, o/than w/compress. ign. or spark ign. recip. piston engine, nesoi
8705.10.00	Mtr. vehicles (o/than for transport of persons or of goods), mobile cranes
8705.20.00	Mtr. vehicles (o/than for transport of persons or of goods), mobile drilling derricks
8705.90.00	Mtr. vehicles (o/than for transport of persons or of goods), special purpose motor vehicles nesoi
8711.10.00	Motorcycles (incl. mopeds) and cycles, fitted w/recip. internal-combustion piston engine w/capacity n/o 50 cc
8711.60.00	Motorcycles (incl. mopeds) and cycles, w/electric motor for propulsion
8711.90.01	Motorcycles (incl. mopeds) and cycles, nesoi
8901.30.00	Vessels, designed for the transport of goods, refrigerated vessels (o/than tankers)
9001.10.00	Optical fibers, optical fiber bundles and cables, other than those of heading 8544
9001.20.00	Sheets and plates of polarizing material
9014.10.90	Direction finding compasses, other than optical instruments, gyroscopic compasses or electrical
9025.19.40	Pyrometers, not combined with other instruments
9025.19.80	Thermometers, for direct reading, not combined with other instruments, other than liquid-filled thermometers
9025.80.10	Electrical: hydrometers & sim. floating instr., hygrometers, psychometers, & any comb. with or w/o thermometers, pyrometers, & barometers
9027.10.20	Electrical gas or smoke analysis apparatus
9028.10.00	Gas supply or production meters, including calibrating meters thereof
9028.20.00	Liquid supply or production meters, including calibrating meters thereof
9028.30.00	Electricity supply or production meters, including calibrating meters thereof
9029.20.40	Speedometers and tachometers, other than bicycle speedometers
9029.90.80	Parts and accessories of revolution counters, production counters, odometers, pedometers and the like, of speedometers nesi and tachometers
9030.31.00	Multimeters for measuring or checking electrical voltage, current, resistance or power, without a recording device
9030.32.00	Multimeters, with a recording device
9030.84.00	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi: with a recording device
9030.89.01	Instruments and apparatus for measuring, checking or detecting electrical quantities or ionizing radiations, nesoi: w/o a recording device

Annex C – [List 3 - $200 Billion Action]

Part 1

Note: All products that are classified in the 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTS) that are listed in Part 1 of Annex C are covered by the proposed action. Products that are listed in Part 2 of Annex C are partially covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of particular HTSUS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviations "nesoi" and "nesi" mean "not elsewhere specified or included".

HTS Subheading	Product Description
0203.29.20	Frozen retail cuts of meat of swine, nesi
0203.29.40	Frozen meat of swine, other than retail cuts, nesi
0206.10.00	Edible offal of bovine animals, fresh or chilled
0208.10.00	Meat and edible meat offal of rabbits or hares, fresh, chilled or frozen
0208.90.20	Meat and edible offal of deer, fresh, chilled or frozen
0208.90.25	Frog legs, fresh, chilled or frozen
0210.19.00	Meat of swine other than hams, shoulders, bellies (streaky) and cuts thereof, salted, in brine, dried or smoked
0301.11.00	Live ornamental freshwater fish
0301.19.00	Live ornamental fish, other than freshwater
0301.91.00	Live trout
0301.92.00	Live eels
0301.93.02	Live carp
0301.94.01	Other live Fish, Atlantic & Pacific Bluefin Tunas
0301.95.00	Other live Fish, Southern Bluefin Tunas
0301.99.03	Live Tench (Tinca Tinca), sheatfish (Silurus Glanis), bighead carp (Aristichthys Nobilis) and other fish, NESOI
0302.11.00	Trout, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.13.00	Pacific salmon, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.14.00	Atlantic and Danube salmon, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.19.00	Salmonidae other than trout or Pacific, Atlantic & Danube salmon, fresh or chilled, excluding fillets, other meat portions, livers & roes
0302.21.00	Halibut and Greenland turbot, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.22.00	Plaice, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.23.00	Sole, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.24.00	Turbots
0302.29.01	Flat fish, nesi, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.31.00	Albacore or longfinned tunas, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.32.00	Yellowfin tunas, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.33.00	Skipjack or stripe-bellied bonito, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.34.00	Bigeye tunas (Thunnas obesus), fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.35.01	Atlantic & Pacific bluefin tunas, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.36.00	Southern bluefin tunas (Thunnas maccoyii), fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.39.02	Tunas not elsewhere specified or included, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.41.00	Herrings, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.42.00	Anchovies, excl. fillets, livers & roes, fresh or chilled, scaled, in immediate containers weighing with their contents <6.8 kg
0302.43.00	Sardines, sardinella, brisling or sprats, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.44.00	Mackerel, excl. fillets, livers & roes, fresh or chilled
0302.45.11	Jack & horse mackerel, excl. fillets, livers & roes, fresh or chilled, scaled, in immediate containers weighing with their contents <6.8 kg
0302.45.50	Jack & horse mackerel excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers > 6.8 kg

HTS Subheading	Product Description
0302.46.11	Cobia, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.46.50	Cobia, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.47.00	Swordfish, fresh or chilled, excluding livers and roes
0302.49.00	Herrings, anchovies, sardines, nesoi
0302.51.00	Cod, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.52.00	Haddock, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.53.00	Coalfish, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.54.11	Hake, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.54.50	Hake,excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.55.11	Alaska pollack, excl. fillets, livers,roes, fresh or chilled, scaled, in immediate containers weighing with their contents< 6.8 kg
0302.55.50	Alaska pollack excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.56.11	Blue whitings, excl. fillets, livers & roes, fresh or chilled, scaled, in immediate containers weighing with their contents <6.8 kg
0302.56.50	Blue whitings, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.59.11	Bregmacerotidae et al fish, nesi, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing < 6.8 kg
0302.59.50	Bregmacerotidae fish, etc. excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers > 6.8 kg
0302.71.11	Tilapias, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents <6.8 kg
0302.71.50	Tilapias, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.72.11	Catfish, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.72.50	Catfish excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.73.11	Carp, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.73.50	Carp excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.74.00	Eels, fresh or chilled, excluding fillets, other meat portions, livers and roes
0302.79.11	Fish beginning 0302.7, nesi, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers < 6.8 kg
0302.79.50	Fish beginning 0302.7, nesi, excl. fillets, livers & roes, fresh or chilled,not scaled,or scaled in containers>6.8 kg
0302.81.00	Dogfish and other sharks, fresh or chilled, excluding fillets, livers, roes and fish meat of 0304
0302.82.00	Rays & skates, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.83.00	Toothfish excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.84.11	Seabass, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.84.50	Seabass, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.85.11	Seabream, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.85.50	Seabream, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg

HTS Subheading	Product Description
0302.89.11	Fish, nesi, excl. fillets, livers and roes, fresh or chilled, scaled, in immediate containers weighing with their contents 6.8 kg or less
0302.89.50	Fish, nesi, excl. fillets, livers & roes, fresh or chilled, not scaled, or scaled in immediate containers over 6.8 kg
0302.91.20	Sturgeon Roe, fresh or chilled
0302.91.40	Mullet and other fish liver and roes, fresh or chilled
0302.92.00	Shark fins, fresh or chilled, excluding fillet
0302.99.00	Other fish, fresh or chilled, nesoi
0303.11.00	Sockeye salmon (red salmon) (Orncorhynchus nerka), frozen, excluding fillets, other meat portions, livers and roes
0303.12.00	Pacific salmon, other than sockeye, frozen, excluding fillets, other meat portions, livers and roes
0303.13.00	Atlantic salmon and Danube salmon, frozen, excluding livers and roes
0303.14.00	Trout, frozen, excluding fillets, other meat portions, livers and roes
0303.19.01	Salmonidae, other than trout or Atlantic and Danube salmon, nesi, frozen, excluding fillets, other meat portions, livers and roes
0303.23.00	Tilapias, frozen, excluding fillets, other meat portions, livers and roes
0303.24.00	Catfish, frozen, excluding fillets, other meat portions, livers and roes
0303.25.01	Carp, frozen excluding fillets, livers and roes
0303.26.00	Eels, frozen, excluding fillets, other meat portions, livers and roes
0303.29.01	Other fish in 0303.2 grouping nesi, frozen, excluding fillets, other meat portions, livers and roes
0303.31.00	Halibut and Greenland turbot, frozen, excluding fillets, other meat portions & livers and roes
0303.32.00	Plaice, frozen, excluding fillets, other meat portions, livers and roes
0303.33.00	Sole, frozen, excluding fillets, other meat portions, livers and roes
0303.34.00	Turbots, frozen, excluding fillets, other meat portions, livers and roes
0303.39.01	Flat fish, other than halibut, Greenland turbot, plaice and sole, frozen, excluding fillets, other meat portions, livers and roes
0303.41.00	Albacore or longfinned tunas, frozen, excluding fillets, other meat portions, livers and roes
0303.42.00	Yellowfin tunas, frozen, excluding fillets, other meat portions, livers and roes
0303.43.00	Skipjack or stripe-bellied bonito, frozen, excluding fillets, other meat portions, livers and roes
0303.44.00	Bigeye tunas (Thunnas obesus), frozen, excluding fillets, other meat portions, livers and roes
0303.45.01	Atlantic and Pacific bluefin tunas, frozen, excluding fillets, other meat portions, livers and roes
0303.46.00	Southern bluefin tunas (Thunnas maccoyii), frozen, excluding fillets, other meat portions, livers and roes
0303.49.02	Tunas, not elsewhere specified or included, frozen, excluding fillets, other meat portions, livers and roes
0303.51.00	Herrings, frozen, excluding fillets, other meat portions, livers and roes
0303.53.00	Sardines, sardinella, brisling or sprats, frozen, excluding fillets, other meat portions, livers and roes
0303.54.00	Mackerel, frozen, excluding fillets, livers and roes
0303.55.00	Jack & horse mackerel, frozen, excluding fillets, other meat portions, livers and roes
0303.56.00	Cobia, frozen, excluding fillets, other meat portions, livers and roes
0303.57.00	Swordfish steaks,other swordfish , excluding fillets, other meat portions, livers and roes
0303.59.00	Other fish, frozen, excluding fillets, livers, roes and herrings
0303.63.00	Cod, frozen, excluding fillets, other meat portions, livers and roes
0303.64.00	Haddock, frozen, excluding fillets, other meat portions, livers and roes
0303.65.00	Coalfish, frozen, excluding fillets, other meat portions, livers and roes
0303.66.00	Hake, frozen, excluding fillets, other meat portions, livers and roes

HTS Subheading	Product Description
0303.67.00	Alaska pollack, frozen, excluding fillets, other meat portions, livers and roes
0303.68.00	Blue whitings, frozen, excluding fillets, other meat portions, livers and roes
0303.81.00	Dogfish and other sharks, frozen, excluding fillets, livers, roes and fish meat of 0304
0303.82.00	Rays & skates, frozen, excluding fillets, other meat portions, livers and roes
0303.83.00	Toothfish excluding fillets, other meat portions, livers and roes
0303.84.00	Sea bass, frozen, excluding fillets, other meat portions, livers and roes
0303.89.00	Smelts, cusk, pollock, shad, sturgeon, atkafish, fresh-water fish,etc. frozen, excluding fillets, other meat portions, livers and roes
0303.91.20	Sturgeon roe, frozen
0303.91.40	Herring, salmon, alaskan pollock, mullet, other fist liver and roes, frozen
0303.92.00	Shark fins excluding fillets, frozen
0303.99.00	Other fish, frozen, nesoi
0304.31.00	Tilapias, fillets, fresh or chilled
0304.32.00	Catfish, fillets, fresh or chilled
0304.33.00	Nile perch, fillets, fresh or chilled
0304.39.00	Eels or snakeheads, fillets, fresh or chilled
0304.41.00	Salmon fillets, fresh or chilled
0304.42.00	Trout, fillets, fresh or chilled
0304.43.00	"Flat fish" , sole, plaice, etc. fillets, fresh or chilled
0304.44.00	Bregamacerotidae & like fish, fillets, fresh or chilled
0304.45.00	Fresh or chilled swordfish fillets
0304.46.00	Fresh or chilled toothfish fillets
0304.47.00	Dogfish and other shark fillets, frozen or chilled
0304.48.00	Ray and skate fillets, fresh or chilled
0304.49.01	Pike, pickerel, whitefish, tilapia, perch, cusk, other fish fillets, fresh or chilled
0304.51.01	Tilapias, catfish, carp, eels, nile perch, snakeheads, other than fillets, fresh or chilled
0304.52.00	Salmonidae, other than fillets, fresh or chilled
0304.53.00	Bregmacerotidae and other fish, nesi, other than fillets, fresh or chilled
0304.54.00	Fresh or chilled swordfish other than fillets
0304.55.00	Fresh or chilled toothfish other than fillets
0304.56.00	Dogfish and other sharks, fresh or chilled
0304.57.00	Rays and skates, fresh or chilled
0304.59.00	Other fish, nesi, other than fillets, fresh or chilled
0304.61.00	Frozen tilapia fillets
0304.62.00	Frozen catfish fillets
0304.63.00	Frozen Nile perch fillets
0304.69.00	Frozen eel & snakehead fillets
0304.72.50	Fillets, frozen, of haddock, other than above
0304.73.10	Frozen coalfish fillets, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces of uniform weight and dimension
0304.73.50	Other coalfish fillets

HTS Subheading	Product Description
0304.74.10	Frozen hake fillets, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces of uniform weight and dimension
0304.74.50	Fillets, frozen, of hake
0304.79.10	Frozen Bregmacerotidae et al fish fillets,nesi, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces
0304.79.50	Frozen fillets of other fresh-water fish, flat fish, etc., nesi, other than above
0304.82.10	Frozen trout fillets, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces of uniform weight and dimension
0304.82.50	Frozen trout fillets, other than above
0304.83.10	Frozen "flat fish" fillets, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces of uniform weight and dimension
0304.83.50	Frozen "other flat fish" fillets, other than above
0304.84.00	Frozen swordfish fillets
0304.85.00	Frozen toothfish fillets
0304.86.00	Frozen herring fillets
0304.87.00	Frozen tuna fillets
0304.88.00	Dogfish, other shark, ray and skate fillets, frozen
0304.89.10	Other frozen fish fillets, skinned, in blocks weighing over 4.5 kg, to be minced, ground or cut into pieces of uniform weight and dimension
0304.89.50	Other frozen fish fillets, other than above
0304.91.10	Chilled or Frozen Swordfish fillets, in bulk or in immediate containers weighing with their contents over 6.8 kg each
0304.91.90	Chilled or Frozen Swordfish Fillets,nesi
0304.92.10	Chilled or Frozen Toothfish fillets, in bulk or in immediate containers weighing with their contents over 6.8 kg each
0304.92.90	Chilled or Frozen Toothfish Fillets,nesi
0304.93.10	Chilled or Frozen tilapia & like fillets,nesi, in bulk or in immediate containers weighing > 6.8 kg each
0304.93.90	Tilapias , catfish, carp, eels, nile perch & snakehead chilled or frozen fillets,nesi
0304.94.90	Alaska pollack, chilled or frozen fillets,nesi
0304.95.10	Chilled or Frozen fillets,Bregmacerotidae & like, nesi, in bulk or in immediate containers > 6.8 kg each
0304.96.00	Dogfish and other sharks, frozen, NESOI
0304.97.00	Ray and skates, frozen, NESOI
0304.99.11	Chilled or Frozen fillets,nesi, in bulk or in immediate containers weighing with their contents over 6.8 kg each
0304.99.91	Chilled or Frozen fillets,nesi
0305.10.20	Flours, meals and pellets of fish, fit for human consumption, in bulk or in immediate containers weighing with contents over 6.8 kg each
0305.10.40	Flours, meals and pellets of fish, fit for human consumption, other than in bulk or immediate containers weighing contents over 6.8 kg each
0305.20.20	Sturgeon roe, dried, smoked, salted or in brine
0305.20.40	Fish livers and roes, other than sturgeon roe, dried, smoked, salted or in brine
0305.31.01	Tilapia, catfish, carp, eel, nile perch, snakehead fillets, dried or salted in brine, but not smoked
0305.32.00	"Flat fish" fillets, nesi, dried, salted or in brine, but not smoked
0305.39.20	Fillets of herrings, dried, salted or in brine, but not smoked, in immediate containers weighing with their contents 6.8 kg or less each

HTS Subheading	Product Description
0305.39.40	Fillets of mackerel, dried, salted or in brine, but not smoked, in immediate containers weighing with their contents 6.8 kg or less each
0305.39.61	Herring and other fist fillets, dried, salted or in brine, but not smoked
0305.41.00	Smoked Pacific, Atlantic and Danube salmon, including fillets
0305.42.00	Smoked herrings, including fillets
0305.43.00	Smoked trout, including fillets
0305.44.01	Tilapia, catfish, carp, eel, nile perch, snakehead including fillets, smoked
0305.49.20	Smoked mackerel, including fillets
0305.49.40	Smoked fish, including fillets, NESOI
0305.51.00	Dried cod, whether or not salted but not smoked
0305.52.00	Tilapia, catfish, carp, eel, nile perch, snakehead, not smoked, dried, whether or not salted
0305.53.00	Fish of families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae,Melanonidae, Merlucciidae, Moridae and Muraenolepididae, dried but not smoked
0305.54.00	Herrings, anchovies, sardines, sardinella, brisling or sprat, mackerel, Indian mackeral, seerfish, dried, whether or not salted, but not smoked
0305.59.00	Dried fish, other than cod or shark fins, whether or not salted but not smoked
0305.61.20	Herrings, in brine or salted but not dried or smoked, in immediate containers weighing with their contents 6.8 kg or less each
0305.61.40	Herrings, in brine or salted but not dried or smoked, other than in immediate containers weighing with their contents 6.8 kg or less each
0305.62.00	Cod, in brine or salted but not dried or smoked
0305.63.20	Anchovies, in brine or salted but not dried or smoked, in immediate airtight containers weighing with their contents 6.8 kg or less each
0305.63.40	Anchovies, in brine or salted but not dried or smoked, in immediate containers, nesi, weighing with their contents 6.8 kg or less each
0305.63.60	Anchovies, in brine or salted but not dried or smoked, other than in immediate containers weighing with their contents 6.8 kg or less each
0305.64.10	Tilapias, catfish, carp, eel, Nile perch, or snakehead, in brine or salted but not dried or smoked, in immediate containers <6.8 kg
0305.64.50	Tilapias, catfish, carp, eel, Nile perch, or snakehead, in brine or salted but not dried or smoked, other than in containers <6.8 kg
0305.69.10	Cusk, haddock, hake, and pollock, in brine or salted but not dried or smoked
0305.69.20	Mackerel, in brine or salted but not dried or smoked, in immediate containers weighing with their contents 6.8 kg or less each
0305.69.30	Mackerel, in brine or salted but not dried or smoked, other than in immediate containers weighing with their contents 6.8 kg or less each
0305.69.40	Salmon, in brine or salted but not dried or smoked
0305.69.50	Fish, nesi, in brine or salted but not dried or smoked, in immediate containers weighing with their contents 6.8 kg or less each
0305.69.60	Fish, nesi, in brine or salted but not dried or smoked, other than in immediate containers weighing with their contents 6.8 kg or less each
0305.71.00	Dried shark fins, whether or not salted but not smoked
0305.72.00	Fish heads, tails, and maws, whether or not salted but not smoked
0305.79.00	Edible fish offal, other fish heads tails and maws or shark fins, whether or not salted but not smoked
0306.11.00	Rock lobster and other sea crawfish, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.12.00	Lobsters excluding rock lobster, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.14.20	Crabmeat, frozen

HTS Subheading	Product Description
0306.14.40	Crabs, cooked in shell or uncooked (whether in shell or not), dried, salted or in brine, frozen
0306.15.00	Norway lobsters, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.16.00	Cold-water shrimps and prawns, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.17.00	Other shrimps and prawns, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.19.00	Crustateans, nesi (including flours, meals and pellets of crustaceans fit for human consumption), cooked in shell or uncooked, etc., frozen
0306.31.00	Live rock lobster and other sea crawfish, frozen or chilled
0306.32.00	Live lobsters (Homarus spp.), frozen or chilled, except rock lobster
0306.33.20	Crabmeat, fresh or chilled
0306.33.40	Live crabs, fresh or chilled, other than crabmeat
0306.34.00	Live Norway lobsters, frozen or chilled
0306.35.00	Cold water shrimps and prawns, shell-on or peeled, live, frozen, or chilled
0306.36.00	Shrimps and prawns, other than cold water shrimp, shell-on or peeled, live, frozen or chilled
0306.39.00	Flours, meals and pellets of crustaceans, fress or chilled, fit for human consumption, or other crustaceans, live, fresh or chilled
0306.91.00	Rock lobster and other sea crawfish nesoi
0306.92.00	Lobsters (Homarus SPP.), except rock lobster nesoi
0306.93.20	Crabmeat, nesoi
0306.93.40	Crabs, other than crabmeat, nesoi
0306.94.00	Norway lobsters (Nephrops Norvegicus), nesoi
0306.95.00	Other shrimps and prawns, shell-on or peeled
0306.99.00	Flours, meals and pellets of crustaceans, fit for human consumption or crustraceans nesoi
0307.11.00	Oysters, whether in shell or not, live, fresh, or chilled
0307.12.00	Oysters, frozen
0307.19.01	Oysters, fresh or chilled
0307.21.00	Scallops, including queen scallops, whether in shell or not, live, fresh or chilled
0307.22.00	Scallops, including queen scallops, of the genera Pecten, Chlamys or Placopecten, frozen
0307.29.01	Scallops, including queen scallops, of the genera Pecten, Chlamys or Placopecten, dried, salted or in brine
0307.31.00	Mussels, whether in shell or not, live, fresh or chilled
0307.32.00	Mussels (Mytilus Spp., Perna Spp.), frozen
0307.39.01	Mussels (Mytilus Spp., Perna Spp.), dried, salted or in brine
0307.42.00	Squid or cuttle fish, live, fresh or chilled
0307.43.00	Squid or cuttle fish, frozen
0307.49.01	Squid or cuttle fish, dried, salted or in brine
0307.51.00	Octopus, live, fresh or chilled
0307.52.00	Octopus, frozen
0307.59.01	Octopus, dried, salted or in brine
0307.60.00	Snails, other than sea snails, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine
0307.71.00	Clams, cockles and ark shells, whether in shell or not, live, fresh or chilled
0307.72.00	Clams, cockles and ark shells, frozen
0307.79.01	Clams, cockles and ark shells, dried salted or in brine
0307.81.00	Abalone, whether in shell or not, live, fresh or chilled

HTS Subheading	Product Description
0307.82.00	Live stromboid conch, fresh or chilled
0307.83.00	Abalone, including flours, meals and pellets fit for human consumption, frozen
0307.84.00	Stromboid conchs (Strombus Spp.), frozen
0307.87.00	Abalone, including edible flours, meals and pellets, nesoi
0307.88.00	Stromboid conchs, nesoi
0307.91.02	Conch and other molluscs NESOI, including flours, meals and pellets, fit for human consumption, live, fresh o chilled
0307.92.00	Conch and other molluscs NESOI, including flours, meals and pellets, fit for human consumption, frozen
0307.99.02	Molluscs, including flours, meals and pellets fit for human consumption, nesoi
0308.11.00	Sea cucumbers, live, fresh or chilled
0308.12.00	Frozen sea cucumbers
0308.19.01	Sea cucumbers, not frozen
0308.21.00	Sea urchins, live, fresh or chilled
0308.22.00	Frozen sea urchins
0308.29.01	Sea urchins, not frozen
0308.30.00	Jellly fish, live, fresh, chilled, frozen, dried, salted smoked, or in brine
0308.90.00	Other aquatic invertebrates, oth than molluscs & crustaceans, nesi, live, fresh or chilled, dried, salted, smoked or in brine
0404.10.05	Whey protein concentrates
0404.10.08	Modified whey (except protein conc.), subject to gen. note 15 of the HTS
0404.10.11	Modified whey (except protein conc.), wheth/not conc. or sweetened, subject to add US note 10 to Ch.4
0404.10.15	Modified whey (except protein conc.), wheth/not conc. or sweetened, not subject to gen. note 15 or
0404.10.20	Fluid whey, whether or not concentrated or containing added sweeteners
0404.10.48	Whey (except modified whey), dried, whether or not conc. or sweetened, subject to gen. note 15 of the HTS
0404.10.50	Whey (except modified whey), dried, whether or not conc. or sweetened, subject to add. US note 12 to Ch. 4
0404.10.90	Whey (except modified whey), dried, whether or not conc. or sweetened, not subject to gen. note 15 or add US nte 12 to Ch.4
0405.10.05	Butter subject to general note 15 (outside quota)
0405.10.10	Butter subject to quota pursuant to chapter 4 additional US note 6
0405.10.20	Butter not subject to general note 15 and in excess of quota in chapter 4 additional U.S. note 6
0407.19.00	Birds' eggs, in shell, fertilized eggs for incubation, other than Gallus domesticus
0407.21.00	Birds' eggs, in shell, other fresh, not fertilized eggs for incubation, of species Gallus domesticus
0407.29.00	Birds' eggs, in shell, other fresh, not fertilized eggs for incubation, other than species Gallus domesticus
0407.90.00	Birds' eggs, in shell, fresh, preserved or cooked
0408.11.00	Egg yolks, dried, whether or not containing added sweeteners
0408.19.00	Egg yolks, other than dried, whether or not containing added sweeteners
0408.99.00	Birds' eggs, not in shell, other than dried, whether or not containing added sweeteners
0409.00.00	Natural honey
0410.00.00	Edible products of animal origin, nesi
0505.90.20	Feather meal and waste
0505.90.60	Skins and parts of birds with their feathers or down (except meal and waste) nesoi
0506.10.00	Ossein and bones treated with acid

HTS Subheading	Product Description
0506.90.00	Bones & horn-cores, unworked, defatted, simply prepared (but not cut to shape) or degelatinized; powder & waste of these products
0507.90.00	Tortoise shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared; waste and powder
0508.00.00	Coral, shells, cuttlebone and similar materials, unworked or simply prepared, but not cut to shape; powder and waste thereof
0510.00.40	Cantharides; bile; glands and other animal products nesi, used in pharmaceutical products
0511.10.00	Bovine semen
0511.91.00	Products of fish, crustaceans, molluscs or other aquatic invertebrates nesi; dead animals of chapter 3, unfit for human consumption
0511.99.20	Parings and similar waste of raw hides or skins; glue stock nesi
0511.99.30	Animal products chiefly used as food for animals or as ingredients in such food, nesi
0511.99.33	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material
0511.99.36	Natural sponges of animal origin
0511.99.40	Animal products nesi; dead animals of chapter 1, unfit for human consumption
0703.10.20	Onion sets, fresh or chilled
0703.10.30	Pearl onions not over 16 mm in diameter, fresh or chilled
0703.10.40	Onions, other than onion sets or pearl onions not over 16 mm in diameter, and shallots, fresh or chilled
0703.20.00	Garlic, fresh or chilled
0703.90.00	Leeks and other alliaceous vegetables nesi, fresh or chilled
0704.10.20	Cauliflower and headed broccoli, fresh or chilled, if entered June 5 to October 15, inclusive, in any year
0704.10.40	Cauliflower and headed broccoli, fresh or chilled, not reduced in size, if entered Oct. 16 through June 4, inclusive
0704.10.60	Cauliflower and headed broccoli, fresh or chilled, reduced in size, if entered Oct. 16 through June 4, inclusive
0704.90.20	Cabbage, fresh or chilled
0704.90.40	Kohlrabi, kale and similar edible brassicas nesi, including sprouting broccoli, fresh or chilled
0706.10.05	Carrots, fresh or chilled, reduced in size
0706.10.10	Carrots, fresh or chilled, not reduced in size, under 10 cm in length
0706.10.20	Carrots, fresh or chilled, not reduced in size, 10 cm or over in length
0706.10.40	Turnips, fresh or chilled
0706.90.20	Radishes, fresh or chilled
0706.90.30	Beets and horseradish, fresh or chilled
0706.90.40	Salsify, celeriac, radishes and similar edible roots nesi, fresh or chilled
0707.00.50	Cucumbers, including gherkins, fresh or chilled, if entered May 1 to June 30, inclusive, or Sept. 1 to Nov. 30, inclusive, in any year
0708.10.20	Peas, fresh or chilled, shelled or unshelled, if entered July 1 to Sept. 30, inclusive, in any year
0708.10.40	Peas, fresh or chilled, shelled or unshelled, if entered Nov. 1 through the following June 30, inclusive
0708.20.20	Cowpeas (other than black-eye peas), fresh or chilled, shelled or unshelled
0708.20.90	Beans nesi, fresh or chilled, shelled or unshelled
0708.90.15	Lentils, fresh or chilled, shelled or unshelled
0708.90.40	Leguminous vegetables nesi, fresh or chilled, shelled or unshelled
0709.40.20	Celery, other than celeriac, fresh or chilled, reduced in size
0709.40.40	Celery, other than celeriac, fresh or chilled, not reduced in size, if entered April 15 to July 31, inclusive, in any year

HTS Subheading	Product Description
0709.40.60	Celery, other than celeriac, fresh or chilled, not reduced in size, if entered August 1 through the following April 14, inclusive
0709.51.01	Mushrooms of the genus Agaricus, fresh or chilled
0709.59.10	Truffles, fresh or chilled
0709.59.90	Mushrooms, other than of the genus Agaricus, fresh or chilled
0709.60.20	Chili peppers, fresh or chilled
0709.60.40	Fruits of the genus capsicum (peppers) (ex. chili peppers) or of the genus pimenta (e.g., Allspice), fresh or chilled
0709.93.20	Squash, fresh or chilled
0709.99.05	Jicamas and breadfruit, fresh or chilled
0709.99.10	Chayote (Sechium edule), fresh or chilled
0709.99.14	Okra, fresh or chilled
0709.99.30	Fiddlehead greens, fresh or chilled
0709.99.45	Sweet corn, fresh or chilled
0709.99.90	Vegetables, not elsewhere specified or included, fresh or chilled
0710.10.00	Potatoes, uncooked or cooked by steaming or boiling in water, frozen
0710.21.20	Peas, uncooked or cooked by steaming or boiling in water, frozen, if entered July 1 through September 30, inclusive, in any year
0710.21.40	Peas, uncooked or cooked by steaming or boiling in water, frozen, if entered Jan. 1 through June 30, or Oct. 1 through Dec. 31, inclusive
0710.22.10	Lima beans, uncooked or cooked by steaming or boiling in water, frozen, not reduced in size, entered Nov. 1 through the following May 31
0710.22.15	Lima beans, frozen, entered June 1 - October 31
0710.22.20	Cowpeas (other than black-eye peas), uncooked or cooked by steaming or boiling in water, frozen, not reduced in size
0710.22.25	Frozen string beans (snap beans), not reduced in size
0710.22.37	Frozen beans nesi, not reduced in size
0710.22.40	Beans nesi, uncooked or cooked by steaming or boiling in water, frozen, reduced in size
0710.29.05	Chickpeas (garbanzos), uncooked or cooked by steaming or boiling in water, frozen
0710.29.25	Pigeon peas, uncooked or cooked by steaming or boiling in water, frozen, if entered July 1 through September 30, inclusive, in any year
0710.29.30	Pigeon peas, uncooked or cooked by steaming or boiling in water, frozen, if entered Oct. 1 through the following June 30, inclusive
0710.29.40	Leguminous vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen
0710.30.00	Spinach, New Zealand spinach and orache spinach (garden spinach), uncooked or cooked by steaming or boiling in water, frozen
0710.40.00	Sweet corn, uncooked or cooked by steaming or boiling in water, frozen
0710.80.15	Bamboo shoots and water chestnuts (other than Chinese water chestnuts), uncooked or cooked by steaming or boiling in water, frozen
0710.80.20	Mushrooms, uncooked or cooked by steaming or boiling in water, frozen
0710.80.40	Tomatoes, uncooked or cooked by steaming or boiling in water, frozen, if entered Mar. 1 thru July 14, incl. or Sept. 1 thru Nov. 14, incl.
0710.80.45	Tomatoes, uncooked or cooked by steaming or boiling in water, frozen, if entered July 15 through August 31, inclusive, in any year
0710.80.50	Tomatoes, uncooked or cooked by steaming or boiling in water, frozen, if entered Nov. 15 through the following February, incl.

HTS Subheading	Product Description
0710.80.65	Brussels sprouts, uncooked or cooked by steaming or boiling in water, frozen, not reduced in size
0710.80.70	Vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen, not reduced in size
0710.80.93	Okra, reduced in size, frozen
0710.80.97	Vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen, reduced in size
0710.90.11	Mixtures of pea pods and water chestnuts (other than Chinese water chestnuts), uncooked or cooked by steaming or boiling in water, frozen
0710.90.91	Mixtures of vegetables not elsewhere specified or included, uncooked or cooked by steaming or boiling in water, frozen
0711.40.00	Cucumbers including gherkins, provisionally preserved but unsuitable in that state for immediate consumption
0711.51.00	Mushrooms of the genus Agaricus, provisionally preserved but unsuitable in that state for immediate consumption
0711.59.10	Mushrooms, other than of the genus Agaricus, provisionally preserved but unsuitable in that state for immediate consumption
0711.90.20	Leguminous vegetables, provisionally preserved but unsuitable in that state for immediate consumption
0711.90.50	Onions, provisionally preserved but unsuitable in that state for immediate consumption
0711.90.65	Vegetables nesoi, and mixtures of vegetables, provisionally preserved but unsuitable in that state for immediate consumption
0712.20.20	Dried onion powder or flour
0712.20.40	Dried onions whole, cut, sliced or broken, but not further prepared
0712.31.10	Air dried or sun dried mushrooms of the genus Agaricus, whole, cut, sliced, broken or in powder, but not further prepared
0712.31.20	Dried (not air or sun dried) mushrooms of the genus Agaricus, whole, cut, sliced, broken or in powder, but not further prepared
0712.32.00	Dried wood ears (Auricularia spp.), whole, cut, sliced, broken or in powder, but not further prepared
0712.33.00	Dried jelly fungi (Tremella spp), whole, cut, sliced, broken or in powder, but not further prepared
0712.39.10	Air dried or sun dried mushrooms (other than of the genus Agaricus), whole, cut, sliced, broken or in powder, but not further prepared
0712.39.20	Dried (not air or sun dried) mushrooms (other than of the genus Agaricus), whole, cut, sliced, broken or in powder, but not further prepared
0712.39.40	Dried truffles, whole, cut, sliced, broken or in powder, but not further prepared
0712.90.10	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared
0712.90.15	Dried olives, not ripe
0712.90.20	Dried olives, ripe
0712.90.30	Dried potatoes, whether or not cut or sliced but not further prepared
0712.90.40	Dried garlic, whole, cut, sliced, broken or in powder, but not further prepared
0712.90.60	Dried fennel, marjoram, parsley, savory and tarragon, crude or not manufactured
0712.90.65	Dried parsley nesi, whole, cut, sliced, broken or in powder, but not further prepared
0712.90.70	Dried fennel, marjoram, savory and tarragon nesi, whole, cut, sliced, broken or in powder, but not further prepared
0712.90.74	Tomatoes, dried in powder
0712.90.78	Tomatoes, dried, whole, other
0712.90.85	Dried vegetables nesoi, and mixtures of dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared
0713.10.10	Seeds of peas of a kind used for sowing
0713.10.20	Dried split peas, shelled

HTS Subheading	Product Description
0713.10.40	Dried peas, nesi, shelled
0713.20.10	Seeds of chickpeas (garbanzos) of a kind used for sowing
0713.20.20	Dried chickpeas (garbanzos), shelled
0713.31.10	Seeds of beans of a kind used for sowing
0713.31.20	Dried beans, shelled, if entered May 1 through August 31, inclusive, in any year
0713.31.40	Dried beans, shelled, if entered September 1 through the following April 30, or withdrawn for consumption at any time
0713.32.10	Seeds of small red (adzuki) beans of a kind used for sowing
0713.32.20	Dried small red (adzuki) beans, shelled
0713.33.10	Seeds of kidney beans, including white pea beans of a kind used for sowing
0713.33.20	Dried kidney beans, including white pea beans, shelled, if entered May 1 through August 31, inclusive, in any year
0713.33.40	Dried kidney beans, including white pea beans, shelled, if entered Sept. 1 through April 30, or withdrawn for consumption at any time
0713.34.20	Dried Bambara beans, shelled, if entered for consumption from May 1 through August 31, inclusive, in any year
0713.34.40	Dried Bambara beans, shelled, if entered for consumption other than above period, or withdrawn for consumption
0713.35.00	Dried cowpeas, shelled
0713.39.11	Seeds of beans nesi, of a kind used for sowing
0713.39.21	Dried beans nesi, shelled, if entered for consumption from May 1 through August 31, inclusive, in any year
0713.39.41	Dried beans nesi, shelled, if entered for consumption September 1 through April 30, or withdrawn for consumption at any time
0713.40.10	Lentil seeds of a kind used for sowing
0713.40.20	Dried lentils, shelled
0713.50.10	Seeds of broad beans and horse beans of a kind used for sowing
0713.50.20	Dried broad beans and horse beans, shelled
0713.60.60	Dried pigeon pea seeds, shelled, if entered for consumption during the period from May 1 through August 31, inclusive, in any year
0713.60.80	Dried pigeon pea seeds, shelled, if entered Sept. 1 through the following April 30, or withdrawn for consumption at any time
0713.90.11	Seeds of leguminous vegetables nesi, of a kind used for sowing
0713.90.50	Dried guar seeds, shelled
0713.90.61	Dried leguminous vegetables nesi, shelled, if entered for consumption during the period from May 1 through August 31, inclusive, in any year
0713.90.81	Dried leguminous vegetales, nesi, shelled, if entered Sept. 1 through the following April 30, or withdrawn for consumption at any time
0714.10.20	Cassava (manioc), fresh, chilled or dried, whether or not sliced or in the form of pellets
0714.20.10	Sweet potatoes, frozen, whether or not sliced or in the form of pellets
0714.20.20	Sweet potatoes, fresh, chilled or dried, whether or not sliced or in the form of pellets
0714.30.10	Fresh or chilled yams (Dioscorea spp.), whether or not sliced or in the form of pellets
0714.30.20	Frozen yams (Dioscorea spp.)
0714.30.60	Dried yams (Dioscorea spp.), whether or not sliced but not in pellets
0714.40.10	Fresh or chilled taro (Colocasia spp.), whether or not sliced or in the form of pellets
0714.40.20	Frozen taro (Colocasia spp.)

HTS Subheading	Product Description
0714.40.50	Dried taro (Colocasia spp.), in the form of pellets
0714.40.60	Dried taro (Colocasia spp.), whether or not sliced but not in pellets
0714.50.10	Fresh or chilled yautia (Xanthosoma spp.), whether or not sliced or in the form of pellets
0714.50.20	Frozen yautia (Xanthosoma spp.)
0714.50.50	Dried yautia (Xanthosoma spp.), in the form of pellets
0714.50.60	Dried yautia (Xanthosoma spp.), whether or not sliced but not in pellets
0714.90.05	Chinese water chestnuts, fresh or chilled
0714.90.39	Fresh or chilled arrowroot/salep/Jerusalem artichokes/similar roots & tubers, nesi
0714.90.41	Mixtures of pea pods and Chineses water chestnuts, frozen
0714.90.42	Other mixtures of Chinese water chestnuts, frozen
0714.90.44	Chinese water chestnuts, not mixed, frozen
0714.90.46	Frozen dasheens/arrowroot/salep/Jerusalem artichokes/similar roots & tubers, nesi
0714.90.48	Chinese water chestnuts, dried
0714.90.51	Dried dasheens, arrowroot, salep, Jerusalem artichokes and similar roots and tubers nesoi, in the form of pellets
0714.90.61	Dried dasheens, arrowroot, salep, Jerusalem artichokes, and similar roots and tubers nesoi, whether or not sliced but not in pellets
0801.11.00	Coconuts, desiccated
0801.19.01	Coconuts, fresh, not in the inner shell (endocarp)
0801.31.00	Cashew nuts, fresh or dried, in shell
0801.32.00	Cashew nuts, fresh or dried, shelled
0802.11.00	Almonds, fresh or dried, in shell
0802.12.00	Almonds, fresh or dried, shelled
0802.22.00	Hazelnuts or filberts, fresh or dried, shelled
0802.31.00	Walnuts, fresh or dried, in shell
0802.32.00	Walnuts, fresh or dried, shelled
0802.41.00	Chestnuts, fresh or dried, in shell
0802.42.00	Chestnuts, fresh or dried, shelled
0802.51.00	Pistachios, fresh or dried, in shell
0802.52.00	Pistachios, fresh or dried, shelled
0802.62.00	Macadamia nuts, shelled
0802.80.20	Areca nuts, fresh or dried, shelled
0802.90.10	Pecans, fresh or dried, in shell
0802.90.15	Pecans, fresh or dried, shelled
0803.10.20	Plantains, dried
0803.90.00	Bananas, fresh or dried
0804.10.20	Dates, fresh or dried, whole, with or without pits, packed in units weighing (with immediate container, if any) not over 4.6 kg
0804.10.40	Dates, fresh or dried, whole, with pits, packed in units weighing over 4.6 kg
0804.10.60	Dates, fresh or dried, whole, without pits, packed in units weighing over 4.6 kg
0804.10.80	Dates, fresh or dried, other than whole
0804.20.40	Figs, fresh or dried, whole, in units weighing more than 0.5 kg each

HTS Subheading	Product Description
0804.20.60	Figs, fresh or dried, whole, in immediate containers weighing with their contents 0.5 kg or less
0804.20.80	Figs, fresh or dried, other than whole (including fig paste)
0804.30.20	Pineapples, fresh or dried, not reduced in size, in bulk
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates or other packages
0804.30.60	Pineapples, fresh or dried, reduced in size
0804.50.40	Guavas, mangoes, and mangosteens, fresh, if entered during the period September 1 through May 31, inclusive
0804.50.60	Guavas, mangoes, and mangosteens, fresh, if entered during the period June 1 through August 31, inclusive
0804.50.80	Guavas, mangoes, and mangosteens, dried
0805.10.00	Oranges, fresh or dried
0805.21.00	Mandarins and other similar citrus hybrids including tangerines, satsumas, clementines, wilkings, fresh or dried
0805.22.00	Clementines, fresh or dried, other
0805.29.00	Wilkings and similar citrus hybrids, fresh or dried, other
0806.20.10	Raisins, made from dried seedless grapes
0806.20.20	Raisins, made from other than seedless grapes
0806.20.90	Grapes, dried, other than raisins
0808.10.00	Apples, fresh
0808.30.20	Pears, fresh, if entered during the period from April 1 through June 30, inclusive
0808.30.40	Pears, fresh, if entered during the period from July 1 through the following March 31, inclusive
0808.40.20	Quinces, fresh, if entered during the period from April 1 through June 30, inclusive
0808.40.40	Quinces, fresh, if entered during the period from July 1 through the following March 31, inclusive
0809.29.00	Other cherries, fresh
0809.30.20	Peaches, including nectarines, fresh, if entered during the period from June 1 through November 30, inclusive
0809.30.40	Peaches, including nectarines, fresh, if entered during the period from December 1 through the following May 31, inclusive
0810.10.20	Strawberries, fresh, if entered during the period from June 15 through September 15, inclusive
0810.10.40	Strawberries, fresh, if entered during the period from September 16 through the following June 14, inclusive
0810.20.10	Raspberries and loganberries, fresh, if entered during the period from September 1 through the following June 30, inclusive
0810.30.00	Black, white or red currants and gooseberries (other than kiwifruit), fresh
0810.40.00	Cranberries, blueberries and other fruits of the genus Vaccinium, fresh
0810.70.00	Persimmons, fresh
0810.90.27	Other berries and tamarinds, fresh
0810.90.46	Fruit, not elsewhere specified or included, fresh
0811.10.00	Strawberries, frozen, in water or containing added sweetening
0811.20.20	Raspberries, loganberries, black currants and gooseberries, frozen, in water or containing added sweetening
0811.20.40	Blackberries, mulberries and white or red currants, frozen, in water or containing added sweetening
0811.90.10	Bananas and plantains, frozen, in water or containing added sweetening
0811.90.20	Blueberries, frozen, in water or containing added sweetening
0811.90.22	Boysenberries, frozen, in water or containing added sweetening
0811.90.25	Cashew apples, mameyes colorados, sapodillas, soursops and sweetsops, frozen, in water or containing added sweetening
0811.90.30	Coconut meat, frozen, in water or containing added sweetening

HTS Subheading	Product Description
0811.90.35	Cranberries, frozen, in water or containing added sweetening
0811.90.40	Papayas, frozen, in water or containing added sweetening
0811.90.50	Pineapples, frozen, in water or containing added sweetening
0811.90.52	Mangoes, frozen, whether or not previously steamed or boiled
0811.90.55	Melons, frozen, in water or containing added sweetening
0811.90.80	Fruit, nesi, frozen, whether or not previously steamed or boiled
0812.90.10	Mixtures of two or more fruits, provisionally preserved, but unsuitable in that state for consumption
0812.90.20	Citrus fruit, provisionally preserved, but unsuitable in that state for immediate consumption
0812.90.30	Figs, provisionally preserved, but unsuitable in that state for immediate consumption
0812.90.40	Pineapples, provisionally preserved, but unsuitable in that state for immediate consumption
0812.90.50	Strawberries, provisionally preserved, but unsuitable in that state for immediate consumption
0812.90.90	Fruit and nuts nesi, including mixtures containing nuts, provisionally preserved, but not for immediate consumption
0813.10.00	Apricots, dried
0813.20.10	Prunes and plums, soaked in brine and dried
0813.20.20	Prunes and plums, dried, (except if presoaked in brine)
0813.30.00	Apples, dried
0813.40.10	Papayas, dried
0813.40.15	Barberries, dried
0813.40.20	Berries except barberries, dried
0813.40.30	Cherries, dried
0813.40.40	Peaches, dried
0813.40.80	Tamarinds, dried
0813.40.90	Fruit nesi, dried, other than that of headings 0801 to 0806, and excluding mixtures
0813.50.00	Mixtures of nuts or dried fruits of Chapter 8
0814.00.10	Peel of orange or citron, fresh, frozen, dried or provisionally preserved in brine, in sulfur water or other preservative solutions
0814.00.40	Lime peel, fresh, frozen or in brine
0814.00.80	Peel of citrus fruit, excl. orange or citron and peel, nesi, of melon, fresh, frozen, dried or provisionally preserved
1001.11.00	Durum wheat, seed
1001.99.00	Wheat & meslin other than durum or seed wheat
1003.10.00	Barley, seed
1003.90.20	Barley, other than seed, for malting purposes
1003.90.40	Barley, not seed, other than for malting purposes
1004.10.00	Oats, seed
1004.90.00	Oats, other than seed
1005.90.20	Yellow dent corn
1005.90.40	Corn (maize), other than seed and yellow dent corn
1006.20.20	Basmati rice, husked
1006.20.40	Husked (brown) rice, other than Basmati
1006.30.10	Rice semi-milled or wholly milled, whether or not polished or glazed, parboiled

HTS Subheading	Product Description
1006.30.90	Rice semi-milled or wholly milled, whether or not polished or glazed, other than parboiled
1006.40.00	Broken rice
1007.10.00	Grain sorghum, seed
1007.90.00	Grain sorghum, other than seed
1008.10.00	Buckwheat
1008.21.00	Millet, seed
1008.29.00	Millet, other than seed
1008.30.00	Canary seed
1008.50.00	Quinoa (Chenopodium quinoa)
1008.90.01	Cereals nesi (including wild rice)
1101.00.00	Wheat or meslin flour
1102.20.00	Corn (maize) flour
1102.90.20	Buckwheat flour
1102.90.25	Rice flour
1102.90.27	Rye flour
1102.90.30	Cereal flours nesi, mixed together
1102.90.60	Cereal flours, other than of wheat or meslin, rye, corn, rice or buckwheat
1103.11.00	Groats and meal of wheat
1103.13.00	Groats and meal of corn (maize)
1103.19.12	Groats and meal of oats
1103.19.14	Groats and meal of rice
1103.19.90	Groats and meal of cereals other than wheat, oats, corn (maize) or rice
1103.20.00	Pellets of cereals
1104.12.00	Rolled or flaked grains of oats
1104.19.10	Rolled or flaked grains of barley
1104.19.90	Rolled or flaked grains of cereals, other than of barley or oats
1104.22.00	Grains of oats, hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
1104.23.00	Grains of corn (maize), hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
1104.29.10	Grains of barley, hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
1104.29.90	Grains of cereals other than barley, oats or corn, hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
1104.30.00	Germ of cereals, whole, rolled, flaked or ground
1105.10.00	Flour, meal and powder of potatoes
1105.20.00	Flakes, granules and pellets, of potatoes
1106.10.00	Flour, meal and powder of the dried leguminous vegetables of heading 0713
1106.20.10	Flour, meal and powder of Chinese water chestnuts
1106.20.90	Flour, meal and powder of sago, or of roots or tubers of heading 0714 (excluding Chinese water chestnuts)
1106.30.20	Flour, meal and powder of banana and plantain
1106.30.40	Fruit and nut flour, meal and powder of the products of chapter 8, other than of banana and plantain
1107.10.00	Malt, not roasted
1107.20.00	Malt, roasted

HTS Subheading	Product Description
1108.11.00	Wheat starch
1108.12.00	Corn (maize) starch
1108.13.00	Potato starch
1108.14.00	Cassava (manioc) starch
1108.19.00	Starches other than wheat, corn (maize), potato or cassava (manioc) starches
1108.20.00	Inulin
1109.00.10	Wheat gluten, whether or not dried, to be used as animal feed
1109.00.90	Wheat gluten, whether or not dried, to be used for other than animal feed
1201.10.00	Soybeans, whether or not broken, seed
1201.90.00	Soybeans, whether or not broken, other than seed
1202.30.40	Peanuts (ground-nuts), seed, not roasted or cooked, shelled, subject to add. US note 2 to Ch.12
1204.00.00	Flaxseed (linseed), whether or not broken
1205.10.00	Low erucic acid rape or colza seeds, whether or not broken
1205.90.00	Rape or colza seeds (other than of low erucic acid), whether or not broken
1206.00.00	Sunflower seeds, whether or not broken
1207.40.00	Sesame seeds, whether or not broken
1207.50.00	Mustard seeds, whether or not broken
1207.60.00	Safflower (Carthamus tintorius) seeds
1207.70.00	Melon seeds
1207.91.00	Poppy seeds, whether or not broken
1207.99.03	Other oil seeds and oleaginous fruits whether or not broken, incl niger seeds, hemp seeds and seeds nesoi
1208.10.00	Flours and meals of soybeans
1208.90.00	Flours and meals of oil seeds or oleaginous fruits other than those of mustard or soybeans
1209.10.00	Sugar beet seeds of a kind used for sowing
1209.21.00	Alfalfa (lucerne) seed of a kind used for sowing
1209.25.00	Rye grass seeds of a kind used for sowing
1209.29.10	Beet seed, other than sugar beet seed, of a kind used for sowing
1209.29.91	Seeds of forage plants of a kind used for sowing, not elsewhere specified or included
1209.30.00	Seeds of herbaceous plants cultivated principally for their flowers
1209.91.10	Cauliflower seeds of a kind used for sowing
1209.91.20	Celery seeds of a kind used for sowing
1209.91.40	Onion seeds of a kind used for sowing
1209.91.50	Parsley seeds of a kind used for sowing
1209.91.60	Pepper seeds of a kind used for sowing
1209.91.80	Vegetable seeds, nesi, of a kind used for sowing
1209.99.20	Tree and shrub seeds of a kind used for sowing
1209.99.41	Seeds, fruits and spores, of a kind used for sowing, nesi
1210.10.00	Hop cones, fresh or dried, neither ground, powdered nor in the form of pellets
1211.20.10	Ginseng roots, fresh or dried, whether or not cut, crushed or powdered
1211.20.15	Ginseng roots, frozen or chilled
1211.30.00	Coca leaf, of a kind used in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes

HTS Subheading	Product Description
1211.40.00	Poppy straw, of a kind used in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes
1211.50.00	Ephedra
1211.90.20	Mint leaves, crude or not manufactured, of a kind used in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes
1211.90.40	Mint leaves nesi, of a kind used in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes
1211.90.92	Plants, parts of plants (including seeds and fruits), used in perfumery, pharmacy, insecticidal, fungicidal or similar puproses, other, fresh or dried
1211.90.93	Plants, parts of plants (including seeds and fruits), used in perfumery, pharmacy, insecticidal, fungicidal or similar purposes, chilled or frozen
1212.21.00	Seaweeds and other algae, fresh, chilled, frozen or dried, whether or not ground, fit for human consumption
1212.29.00	Seaweeds and other algae, fresh, chilled, frozen or dried, whether or not ground, other than for human consumption
1212.92.00	Locust beans (carob)
1212.99.20	Nectarine stones and kernels of a kind used primarily for human consumption, not elsewhere specified or included
1212.99.30	Apricot, peach (other than nectarine) or plum stones and kernels used primarily for human consumption, not elsewhere specified or included
1212.99.92	Fruit stone & kernel (not apricot/peach/plum) & other vegetable products used primary human consumption, nesoi
1213.00.00	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
1214.10.00	Alfalfa (lucerne) meal and pellets
1214.90.00	Rutabagas, mangolds, fodder roots, hay, clover, sainfoin, kale, lupines, vetches & forage products nesi
1401.10.00	Bamboos, of a kind used primarily for plaiting
1401.90.20	Willow (osier), of a kind used primarily for plaiting
1401.90.40	Lime bark, raffia, reeds, rushes, cleaned, bleached or dyed cereal straw, other vegetable materials nesi, used primarily for plaiting
1404.20.00	Cotton linters
1404.90.10	Vegetable hair not elsewere specified or included
1404.90.30	Istle of a kind used primarily in brooms or brushes
1404.90.40	Piassava, couch-grass and other vegetable materials nesoi, of a kind used primarily in brooms or brushes
1404.90.90	Other vegetable materials nesoi
1504.10.20	Cod-liver oil and its fractions
1504.10.40	Fish-liver oils and their fractions, other than cod-liver oil and its fractions
1504.20.20	Cod oil and its fractions, other than liver oil
1504.20.40	Herring oil and its fractions, other than liver oil
1504.20.60	Fats and oils and their fractions, of fish other than cod and herring, excluding liver oil
1505.00.10	Wool grease, crude
1505.00.90	Fatty substances derived from wool grease (including lanolin)
1506.00.00	Animal fats and oils and their fractions nesi, whether or not refined, but not chemically modified
1602.32.00	Prepared or preserved meat or meat offal of chickens, nesoi
1603.00.10	Clam juice
1603.00.90	Extracts and juices of meat, fish, crustaceans, molluscs or other aquatic invertebrates, other than clam juice
1604.11.20	Prepared or preserved salmon, whole or in pieces, but not minced, in oil, in airtight containers
1604.11.40	Prepared or preserved salmon, whole or in pieces, but not minced, other than in oil and in airtight containers

HTS Subheading	Product Description
1604.12.20	Prepared or preserved herrings, whole or in pieces, but not minced, in oil, in airtight containers
1604.12.40	Herrings, whole or in pieces, but not minced, in tomato sauce, smoked or kippered, in immediate containers over 0.45 kg each
1604.12.60	Herrings prepared or preserved, whole or in pieces, but not minced, nesi
1604.13.10	Smoked sardines, in oil, not skinned nor boned, $1/kg or more in tin-plate containers, or $1.10/kg or more in other airtight containers
1604.13.20	Sardines, not smoked, sardinella, brisling or sprats, neither skinned nor boned, in oil, in airtight containers
1604.13.30	Sardines, sardinella, brisling or sprats, skinned or boned, in oil, in airtight containers
1604.13.40	Sardines, sardinella, brisling, sprats in containers with their contents under 225 g each, except those in oil and in airtight containers
1604.13.90	Sardines, sardinella and brisling or sprats (not in oil and airtight cont.), prepared or preserved, not minced, cont. 225 g or more
1604.14.10	Tunas and skipjack, whole or in pieces, but not minced, in oil, in airtight containers
1604.14.22	Tunas and skipjack, not in oil, in airtight cont., n/o 7 kg, not of U.S. possessions, product within quota
1604.14.30	Tunas and skipjack, not in oil, in airtight containers, n/o 7 kg, not of U.S. possessions, over quota
1604.14.40	Tunas and skipjack, not in airtight containers, not in oil, in bulk or in immediate containers weighing with contents over 6.8 kg each
1604.14.50	Tunas and skipjack, not in airtight containers, not in bulk or in immediate containers weighing with contents over 6.8 kg each
1604.14.70	Bonito (Sarda spp.), in oil
1604.14.80	Bonito (Sarda spp.), not in oil
1604.15.00	Prepared or preserved mackerel, whole or in pieces, but not minced
1604.16.20	Anchovies, whole or in pieces but not minced, in oil, in airtight containers
1604.16.40	Prepared or preserved anchovies, whole or in pieces, not minced, not in oil, in immediate containers with their contents 6.8 kg or less ea.
1604.16.60	Prepared or preserved anchovies, whole or in pieces, but not minced, not in oil, nesi
1604.17.10	Prepared or preserved eels, whole or in pieces, but not minced, in airtight containers, not in oil
1604.17.40	Eel portions similar to fish sticks and like products of any size or shape, breaded, coated with batter, not cooked nor in oil
1604.17.50	Eel similar to fish sticks and like products of any size or shape, if breaded, coated with batter, cooked or in oil
1604.17.60	Prepared or preserved eel, in oil and in bulk or in immediate containers weighing over 7 kg each
1604.17.80	Prepared or preserved eel, whole or in pieces, but not minced, nesi
1604.18.10	Shark fins, not in oil, in airtight containters
1604.18.90	Shark fins, not in airtight containers
1604.19.10	Bonito, yellowtail and pollock, whole or in pieces, but not minced, in airtight containers, not in oil
1604.19.22	Other fish, excluding bonito, yellowtail and pollock, in airtight containers, not in oil
1604.19.25	Bonito, yellowtail and pollock, whole or in pieces, but not minced, in airtight containers, in oil
1604.19.32	Other fish, excluding bonito, yellowtail and pollock, in airtight containers, in oil
1604.19.41	Fish sticks and like products of any size or shape, fillets or other portions of fish, breaded, coated with batter, not cooked nor in oil
1604.19.51	Fish sticks and like products of any size or shape, fillets or other portions of fish, if breaded, coated with batter, cooked or in oil
1604.19.61	Prepared or preserved fish nesi, in oil and in bulk or in immediate containers weighing over 7 kg each
1604.19.82	Fish, whole or in pieces, but not minced, prepared or preserved, nesoi
1604.20.05	Products containing meat of crustaceans, molluscs or other aquatic invertebrates, prepared meals

HTS Subheading	Product Description
1604.20.10	Fish pastes
1604.20.15	Fish balls, cakes and puddings, in oil
1604.20.20	Fish balls, cakes and puddings, not in oil, in immediate airtight containers, weighing with their contents not over 6.8 kg each
1604.20.25	Fish balls, cakes and puddings, not in oil, and in immediate nonairtight containers weighing with their contents not over 6.8 kg each
1604.20.30	Fish balls, cakes and puddings, not in oil, not in immediate containers, weighing with their contents not over 6.8 kg each
1604.20.40	Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared, not cooked nor in oil
1604.20.50	Fish sticks and similar products of any size or shape, if breaded, coated with batter or similarly prepared, cooked or in oil
1604.20.60	Prepared or preserved fish, other than whole or in pieces, nesi
1604.31.00	Caviar
1604.32.30	Caviar substitutes prepared from fish eggs, boiled and in airtight containers
1604.32.40	Caviar substitutes prepared from fish eggs, nesi
1605.10.05	Crab products containing fish meat; prepared meals of crab
1605.10.20	Crabmeat, prepared or preserved, in airtight containers
1605.10.40	Crabmeat, prepared or preserved, other than in airtight containers
1605.10.60	Crabs, other than crabmeat, prepared or preserved
1605.21.05	Shrimp & prawns not in airtight containers: fish meat and prepared meals
1605.21.10	Shrimp & prawns not in airtight containers: other than fish meat and prepared meals
1605.29.05	Shrimp & prawns in airtight containers: fish meat and prepared meals
1605.29.10	Shrimp & prawns in airtight containers: other than fish meat and prepared meals
1605.30.05	Lobster products containing fish meat; prepared meals of lobster
1605.30.10	Lobster, prepared or preserved, not containing fish meat, nesi
1605.40.05	Crustacean products nesi, containing fish meat; prepared meals of crustaceans, nesi
1605.40.10	Crustaceans nesi, prepared or preserved, not containing fish meat, nesi
1605.51.05	Oysters, fish meat or prepared meals
1605.51.40	Smoked oysters
1605.51.50	Oysters, prepared or preserved, but not smoked
1605.52.05	Scallops, including queen scallops as containing fish meat; prepared meals
1605.52.60	Scallops, including queen scallops, prepared or preserved
1605.53.05	Mussels, containing fish meats or in prepared meals
1605.53.60	Mussels, prepared or preserved
1605.54.05	Cuttle fish and squid, as containing fish meat; prepared meals
1605.54.60	Cuttle fish and squid, prepared or preserved
1605.55.05	Octopus, as containing fish meat or prepared meals
1605.55.60	Octopus, prepared or preserved
1605.56.05	Products of clams, cockles, and arkshells containing fish meat; prepared meals
1605.56.10	Razor clams, in airtight containers, prepared or preserved, nesi
1605.56.15	Boiled clams in immediate airtight containers, the contents of which do not exceed 680 g gross weight
1605.56.20	Clams, prepared or preserved, excluding boiled clams, in immediate airtight containers, nesi

HTS Subheading	Product Description
1605.56.30	Clams, prepared or preserved, other than in airtight containers
1605.56.60	Cockles and arkshells, prepared or preserved
1605.57.05	Products of abalone containing fish meat; prepared meals of abalone
1605.57.60	Abalone, prepared or preserved
1605.58.05	Products of snails, other than sea snails, containing fish meat; prepared meals of snails other than sea snails
1605.58.55	Prepared or preserved snails, other than sea snails
1605.59.05	Products of molluscs nesi containing fish meat; prepared meals of molluscs nesi
1605.59.60	Molluscs nesi, prepared or preserved
1605.61.00	Sea cucumbers, prepared or preserved
1605.62.00	Sea urchins, prepared or preserved
1605.63.00	Jelly fish, prepared or preserved
1605.69.00	Other aquatic invertebrates, nesi, prepared or preserved
1701.99.10	Cane/beet sugar & pure sucrose, refined, solid, w/o added coloring or flavoring, subject to add. US 5 to Ch.17
1701.99.50	Cane/beet sugar & pure sucrose, refined, solid, w/o added coloring or flavoring, not subject to gen. note 15 or add. US 5 to Ch.17
1702.90.90	Sugars and sugar syrups, and articles containing sugar, neosi
1704.90.35	Sugar confections or sweetmeats ready for consumption, not containing cocoa, other than candied nuts or cough drops
1704.90.90	Sugar confectionery, w/o cocoa, nesoi
1901.90.91	Flour-, meal-, starch-, malt extract- or dairy-based food preps not containing cocoa and not containing specific amounts of dairy, nesoi
1902.19.20	Uncooked pasta, not stuffed or otherwise prepared, not containing eggs, exclusively pasta
1902.19.40	Uncooked pasta, not stuffed or otherwise prepared, not containing eggs, nesi, including pasta packaged with sauce preparations
1902.20.00	Stuffed pasta, whether or not cooked or otherwise prepared
1902.30.00	Pasta nesi
1905.90.10	Bread, pastry, cake, biscuit and similar baked products nesi, and puddings whether or not containing chocolate, fruit, nuts or confectionery
2001.10.00	Cucumbers including gherkins, prepared or preserved by vinegar or acetic acid
2001.90.20	Capers, prepared or preserved by vinegar or acetic acid, nesi
2001.90.25	Artichokes, prepared or preserved by vinegar or acetic acid
2001.90.30	Beans, prepared or preserved by vinegar or acetic acid
2001.90.34	Onions, prepared or preserved by vinegar or acetic acid
2001.90.35	Pimientos, prepared or preserved by vinegar or acetic acid
2001.90.38	Vegetables (including olives) nesoi, prepared or preserved by vinegar or acetic acid
2001.90.42	Chestnuts, prepared or preserved by vinegar or acetic acid
2001.90.48	Chinese water chestnuts, prepared or preserved by vinegar or acetic acid
2001.90.50	Walnuts, prepared or preserved by vinegar or acetic acid
2001.90.60	Fruits, nuts, and other edible parts of plants, nesi, prepared or preserved by vinegar or acetic acid
2002.10.00	Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid
2002.90.40	Tomato prep/pres ex by vinegar/acetic acid, powder
2002.90.80	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, nesoi

HTS Subheading	Product Description
2003.10.01	Mushrooms of the genus Agaricus, prepared or preserved otherwise than by vinegar or acetic acid
2003.90.10	Truffles
2003.90.80	Mushrooms other than of the genus Agaricus or truffles, prepared or preserved otherwise than by vinegar or acetic acid
2004.10.80	Potatoes (not Solano), prepared or preserved otherwise than by vinegar or acetic acid, frozen
2004.90.80	Beans, prepared or preserved otherwise than by vinegar or acetic acid, frozen
2004.90.85	Vegetables and mixtures of vegetables, nesoi, prepared or preserved other than by vinegar or acetic acid, frozen, not preserved by sugar
2005.20.00	Potato preparations, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.40.00	Peas, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.51.20	Black-eye cowpeas, shelled, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.51.40	Beans other than black-eye cowpeas, shelled, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.59.00	Beans, not shelled, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.60.00	Asparagus, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.70.25	Olives, green, in a saline solution, pitted or stuffed, not place packed
2005.70.60	Olives (not green), in a saline solution, canned, pitted
2005.70.70	Olives (not green), in a saline solution, in airtight containers of glass or metal but not canned
2005.70.75	Olives (not green), in a saline solution, not canned, nesi
2005.70.97	Olives, prepared or preserved otherwise than by vinegar, acetic acid or saline soln, not frozen, nesoi
2005.80.00	Sweet corn, prepared or preserved otherwise than by vinegar, acetic acid or sugar, not frozen
2005.91.60	Bamboo shoots in airtight containers, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, not preserved by sugar
2005.91.97	Bamboo shoots, not in airtight containers, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, not preserved by sugar
2005.99.10	Carrots in airtight containers, prepared or preserved otherwise than by vinegar, acetic acid or sugar, not frozen
2005.99.20	Onions, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.30	Sauerkraut, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.41	Whole or Sliced water chestnuts, other than Chinese water chestnuts, prepared or preserved otherwise than by vinegar or acetic acid or sugar
2005.99.50	Pimientos, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.55	Fruits of the genus Capsicum or Pimenta, not pimientos, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.80	Artichokes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.85	Chickpeas (garbanzos), prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005.99.97	Vegetables nesoi,& mixtures of vegetables,prepared or preserved otherwise than by vinegar or acetic acid, not frozen, not preserved by sugar
2006.00.20	Cherries, preserved by sugar (drained, glace or crystallized)
2006.00.30	Ginger root, preserved by sugar (drained, glace or crystallized)
2006.00.40	Pineapples, preserved by sugar (drained, glace or crystallized)
2006.00.50	Mixtures of vegetables, fruit, nuts, fruit-peel or other parts of plants, preserved by sugar (drained, glace or crystallized)
2006.00.60	Citrus fruit or peel of citrus or other fruit, except mixtures, preserved by sugar (drained, glace or crystallized)
2006.00.70	Fruit nesi, and nuts, except mixtures, preserved by sugar (drained, glace or crystallized)
2006.00.90	Vegetables and parts of plants, nesoi, preserved by sugar (drained, glace or crystallized), except mixtures,

HTS Subheading	Product Description
2007.10.00	Homogenized cooked preparations of fruit put up for retail sale as infant food or for dietetic purposes, in cont. not over 250 grams, net
2007.91.10	Citrus fruit pastes and purees, being cooked preparations
2007.91.40	Orange marmalade
2007.99.05	Lingonberry and raspberry jams
2007.99.10	Strawberry jam
2007.99.15	Currant and other berry jams, nesi
2007.99.20	Apricot jam
2007.99.25	Cherry jam
2007.99.35	Peach jam
2007.99.40	Pineapple jam
2007.99.45	Jams, nesi
2007.99.48	Apple, quince and pear pastes and purees, being cooked preparations
2007.99.50	Guava and mango pastes and purees, being cooked preparations
2007.99.60	Strawberry pastes and purees, being cooked preparations
2007.99.65	Fruit pastes and purees, nesi, and nut pastes and purees, being cooked preparations
2007.99.70	Currant and berry fruit jellies
2007.99.75	Fruit jellies, other than currant and berry
2008.11.02	Peanut butter and paste, subject to gen. note 15 of the HTS
2008.11.05	Peanut butter and paste, subject to add. US note 5 to Ch. 20, not GN15
2008.11.15	Peanut butter and paste, nesoi, not subject to gen note 15 or add US note 5 to Ch. 20
2008.11.22	Blanched peanuts, subject to gen. note 15 of the HTS
2008.11.25	Blanched peanuts, subject to add. US note 2 to Ch. 12, not GN15
2008.11.42	Peanuts, otherwise prepared or preserved, nesoi, subject to gen. note 15 of the HTS
2008.11.45	Peanuts, otherwise prepared or preserved, nesoi, subject to add. US note 2 to chap. 12, not GN15
2008.19.10	Brazil nuts and cashew nuts, otherwise prepared or preserved, nesi
2008.19.15	Coconuts, otherwise prepared or preserved, nesi
2008.19.20	Filberts, otherwise prepared or preserved, nesi
2008.19.25	Pecans, otherwise prepared or preserved, nesi
2008.19.30	Pignolia and pistachio nuts, otherwise prepared or preserved, nesi
2008.19.40	Almonds, otherwise prepared or preserved, nesi
2008.19.50	Watermelon seeds, otherwise prepared or preserved, nesi
2008.19.85	Mixtures of nuts or other seeds otherwise prepared or preserved, nesi
2008.19.90	Other nuts and seeds nesi, excluding mixtures, otherwise prepared or preserved, nesi
2008.20.00	Pineapples, otherwise prepared or preserved, nesi
2008.30.10	Peel of oranges, mandarins, clementines, wilkings and similar citrus hybrids, otherwise prepared or preserved, nesi
2008.30.20	Peel of lemons, otherwise prepared or preserved, nesi
2008.30.30	Peel of citrus fruit, nesi, otherwise prepared or preserved, nesi
2008.30.40	Oranges (other than peel or pulp), otherwise prepared or preserved, nesi
2008.30.42	Satsumas, prepared or preserved, in airtight containers, aggregate quantity n/o 40,000 metric tons/calandar yr
2008.30.46	Satsumas, prepared or preserved, in airtight containers, aggregate quantity o/40,000 metric tons/calandar yr

HTS Subheading	Product Description
2008.30.48	Mandarins (other than satsuma), prepared or preserved, nesoi
2008.30.55	Clementines, wilkings and similar citrus hybrids (other than peel or pulp), otherwise prepared or preserved, nesi
2008.30.70	Grapefruit (other than peel or pulp), otherwise prepared or preserved, nesi
2008.30.80	Kumquats (other than peel or pulp), otherwise prepared or preserved, nesi
2008.30.96	Citrus fruit nesoi (including bergamots), other than peel or pulp, otherwise prepared or preserved, nesoi
2008.40.00	Pears, otherwise prepared or preserved, nesi
2008.50.20	Apricot pulp, otherwise prepared or preserved, nesi
2008.50.40	Apricots, other than pulp, otherwise prepared or preserved, nesi
2008.60.00	Cherries, otherwise prepared or preserved, nesi
2008.70.10	Nectarines, otherwise prepared or preserved, not elsewhere specified or included
2008.70.20	Peaches (excluding nectarines), otherwise prepared or preserved, not elsewhere specified or included
2008.80.00	Strawberries, otherwise prepared or preserved, nesi
2008.93.00	Cranberries
2008.97.10	Mixtures of fruit or edible parts of plants, in airtight cont. excl. apricots, citrus, peaches or pears (incl. canned tropical fruit salad)
2008.97.90	Mixtures of fruit or other edible parts of plants, otherwise prepared or preserved, nesi (excluding tropical fruit salad)
2008.99.05	Apples, otherwise prepared or preserved, nesi
2008.99.15	Bananas, other than pulp, otherwise prepared or preserved, nesi
2008.99.18	Blueberries, otherwise prepared or preserved, nesi.
2008.99.21	Berries, other than cranberries, blueberries and strawberries, otherwise prepared or preserved, nesi
2008.99.23	Cashew apples, mameyes colorados, sapodillas, soursops and sweetsops, otherwise prepared or preserved, nesi
2008.99.25	Dates, otherwise prepared or preserved, nesi
2008.99.28	Figs, otherwise prepared or preserved, nesi
2008.99.29	Grapes, otherwise prepared or preserved, nesi
2008.99.30	Guavas, otherwise prepared or preserved, nesi
2008.99.35	Lychees and longans, otherwise prepared or preserved, nesi
2008.99.40	Mangoes, otherwise prepared or preserved, nesi
2008.99.50	Papayas, other than pulp, otherwise prepared or preserved, nesi
2008.99.60	Plums (including prune plums and sloes), otherwise prepared or preserved, nesi
2008.99.61	Soybeans, otherwise prepared or preserved, nesi
2008.99.63	Sweet ginger, otherwise prepared or preserved, nesi
2008.99.70	Chinese water chestnuts, otherwise prepared or preserved, frozen, not elsewhere specified or included
2008.99.71	Chinese water chestnuts, otherwise prepared or preserved, not frozen, not elsewhere specified or included
2008.99.80	Pulp of fruit nesi, and other edible parts of plants nesi, excluding mixtures, otherwise prepared or preserved, nesi
2008.99.91	Bean cake, bean stick, miso, other fruit, nuts and other edible parts of plans, prepared or preserved
2009.11.00	Orange juice, frozen, unfermented and not containing added spirit
2009.29.00	Grapefruit juice, of a Brix value exceeding 20, unfermented
2009.31.20	Lime juice, of a Brix value not exceeding 20, fit for beverage purposes, unfermented

HTS Subheading	Product Description
2009.31.40	Citrus juice of any single citrus fruit (other than orange, grapefruit or lime), Brix value not exceeding 20, not concentrated, unfermented
2009.31.60	Citrus juice of any single citrus fruit (other than orange, grapefruit or lime), of a Brix value not exceeding 20, concentrated, unfermented
2009.39.60	Citrus juice of any single citrus fruit (other than orange, grapefruit or lime), of a Brix value exceeding 20, unfermented
2009.41.40	Pineapple juice, of a Brix value not exceeding 20, concentrated (in degree of concentration greater than 3.5), unfermented
2009.49.40	Pineapple juice, of a Brix value exceeding 20, concentrated (in degree of concentration greater than 3.5)
2009.50.00	Tomato juice, concentrated or not concentrated
2009.69.00	Grape juice (including grape must), of a Brix value exceeding 30, unfermented
2009.71.00	Apple juice, of a Brix value not exceeding 20, unfermented
2009.79.00	Apple juice, of a Brix value exceeding 20, unfermented
2009.89.20	Pear juice, concentrated or not concentrated
2009.89.65	Cherry juice, concentrated or not concentrated
2009.89.70	Juice of any other single fruit, nesoi, (including berries), concentrated or not concentrated
2009.89.80	Juice of any single vegetable, other than tomato, concentrated or not concentrated
2009.90.40	Mixtures of fruit juices, or mixtures of vegetable and fruit juices, concentrated or not concentrated
2103.10.00	Soy sauce
2103.90.80	Mixed condiments and mixed seasonings, not described in add US note 3 to Ch. 21
2106.10.00	Protein concentrates and textured protein substances
2201.10.00	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored
2201.90.00	Waters (incl. ice, snow and steam), ot/than mineral waters or aerated waters, not cont. added sugar or other sweetening matter nor flavored
2202.10.00	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored
2202.99.30	Orange juice, fortified with vitamins or minerals not made from a juice having a degree of concentration of >=1.5
2202.99.35	Orange juice fortified with vitamins or minerals, nesoi
2202.99.36	Juice of any single fruit or vegetable (except orange juice) fortified with vitamins or minerals, in nonconcentrated form
2202.99.37	Fruit or vegetable juices, fortified with vitamins or minerals, mixtures of juices in non-concentrated form
2202.99.90	Nonalcoholic beverages, nesoi, excluding fruit or vegetable juices of heading 2009
2203.00.00	Beer made from malt
2204.10.00	Sparkling wine, made from grapes
2204.21.20	Effervescent grape wine, in containers holding 2 liters or less
2204.21.30	Tokay wine (not carbonated) not over 14% alcohol, in containers not over 2 liters
2204.21.50	Wine other than Tokay (not carbonated), not over 14% alcohol, in containers not over 2 liters
2204.21.60	"Marsala" wine, over 14% vol. alcohol, in containers holding 2 liters or less
2204.21.80	Grape wine, other than "Marsala", not sparkling or effervescent, over 14% vol. alcohol, in containers holding 2 liters or less
2206.00.45	Rice wine or sake
2206.00.90	Fermented beverages (other than grape wine, beer, cider, prune wine, sake, vermouth, or other effervescent wines)
2207.10.30	Undenatured ethyl alcohol of 80 percent vol. alcohol or higher, for beverage purposes

HTS Subheading	Product Description
2207.10.60	Undenatured ethyl alcohol of 80 percent vol. alcohol or higher, for nonbeverage purposes
2209.00.00	Vinegar and substitutes for vinegar obtained from acetic acid
2301.10.00	Flours, meals, and pellets, of meat or meat offal unfit for human consumption; greaves (cracklings)
2301.20.00	Flours, meals, and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption
2302.30.00	Bran, sharps (middlings) and other residues, derived from the sifting, milling or other working of wheat
2302.40.01	Bran, sharps (middlings) and other residues, derived from the sifting, milling or other working of cereals, excluding corn, rice and wheat
2302.50.00	Bran, sharps (middlings) and other residues, derived from the sifting, milling or other working of leguminous plants
2303.10.00	Residues of starch manufacture and similar residues
2303.20.00	Beet-pulp, bagasse and other waste of sugar manufacture
2303.30.00	Brewing or distilling dregs and waste
2304.00.00	Oilcake and other solid residues, resulting from the extraction of soybean oil
2305.00.00	Oilcake and other solid residues, resulting from the extraction of peanut (ground-nut) oil
2306.20.00	Oilcake and other solid residues, resulting from the extraction of vegetable fats or oils, of linseed
2306.30.00	Oilcake and other solid residues, resulting from the extraction of vegetable fats or oils, of sunflower seeds
2306.41.00	Oilcake and other solid residues, resulting from the extraction of vegetable fats or oils, of low erucic acid rape or colza seeds
2306.49.00	Oilcake and other solid residues, resulting from the extraction of vegetable fats/oils, of rape or colza seeds (other than low erucic acid)
2306.90.01	Oilcake and other solid residues, resulting from the extraction of vegetable fats or oils, nesi
2308.00.95	Dehydrated marigolds, of a kind used in animal feeding, not elsewhere specified or included
2308.00.98	Vegetable materials and vegetable waste, vegetable residues and byproducts, of a kind used in animal feeding, nesoi
2309.10.00	Dog or cat food, put up for retail sale
2309.90.10	Mixed feed or mixed feed ingredients used in animal feeding
2309.90.70	Other preps nes with a basis of vitamin B12, for supplementing animal in animal feeding, not cont milk or egg prods
2309.90.95	Other preps nes of a kind used in animal feeding, not cont milk or egg prods
2401.10.44	Tobacco, not stemmed or stripped, not or not over 35% wrapper tobacco, oriental or turkish type, cigarette leaf
2401.20.05	Leaf tobacco, the product of two or more countries or dependencies, when mixed or packed together, partly or wholly stemmed, not threshed
2401.20.14	Wrapper tobacco, partly or wholly stemmed (stripped), not threshed or similarly processed
2401.20.18	Tobacco containing over 35% wrapper tobacco, partly or wholly stemmed (stripped), not threshed or similarly processed
2401.20.23	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly processed, not or n/over 35% wrapper, oriental or turkish, cigarette lea
2401.20.26	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly processed, not or n/over 35% wrapper, not cigarette leaf
2401.20.29	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly processed, not or n/over 35% wrapper, cigar binder and filler
2401.20.31	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly proc., not or n/over 35% wrapper, flue-cured burley etc, not for cigaret
2401.20.33	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly proc., not or n/over 35% wrapper, des. in addl US note 5 to ch. 24

HTS Subheading	Product Description
2401.20.35	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly proc., not or n/over 35% wrapper, flue-cured burley etc, other nesi
2401.20.57	Tobacco, partly or wholly stemmed/stripped, n/threshed or similarly proc., not or n/over 35% wrapper, not flue-cured burley etc., other nesi
2401.20.60	Tobacco, partly or wholly stemmed (stripped), threshed or similarly processed, from cigar leaf
2401.20.75	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not from cigar leaf , oriental or turkish
2401.20.83	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not from cigar leaf , not oriental or turkish, not for cigarett
2401.20.85	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not from cigar leaf , described in addl US note 5 to chap 24
2401.20.87	Tobacco, partly or wholly stemmed/stripped, threshed or similarly processed, not from cigar leaf , not oriental or turkish, other nesi
2401.30.03	Tobacco refuse, tobacco stems, not cut, ground or pulverized
2401.30.06	Tobacco refuse, from cigar leaf, tobacco stems, cut, ground or pulverized
2401.30.09	Tobacco refuse, from cigar leaf, other than tobacco stems
2401.30.13	Tobacco refuse, from oriental or turkish type, tobacco stems, not cut, ground or pulverized
2401.30.16	Tobacco refuse, from oriental or turkish type, tobacco stems, cut, ground or pulverized
2401.30.19	Tobacco refuse, from oriental or turkish type, other than tobacco stems
2401.30.23	Tobacco refuse, from other tobacco, other than for cigarettes, tobacco stems, not cut, ground or pulverized
2401.30.25	Tobacco refuse, from other tobacco, other than for cigarettes, tobacco stems, cut, ground or pulverized
2401.30.27	Tobacco refuse, from other tobacco, other than for cigarettes,tother than tobacco stems
2401.30.33	Tobacco refuse, from other tobacco, for cigarettes, described in addl US note 5 to chap 24, tobacco stems, not cut, ground or pulverized
2401.30.35	Tobacco refuse, from other tobacco, for cigarettes, described in addl US note 5 to chap 24, tobacco stems, cut, ground or pulverized
2401.30.37	Tobacco refuse, from other tobacco, for cigarettes, described in addl US note 5 to chap 24, not tobacco stems
2401.30.70	Tobacco refuse, from other tobacco, for cigarettes, other nesi
2402.10.30	Cigars, cheroots and cigarillos containing tobacco, each valued less than 15 cents
2402.10.60	Cigars, cheroots and cigarillos containing tobacco, each valued 15 cents or over but less than 23 cents
2402.10.80	Cigars, cheroots and cigarillos containing tobacco, each valued 23 cents or over
2402.20.10	Cigarettes containing tobacco and clove
2402.20.80	Cigarettes containing tobacco but not containing clove, paper-wrapped
2402.20.90	Cigarettes containing tobacco, nesi
2402.90.00	Cigars, cheroots and cigarillos and cigarettes of tobacco substitutes
2403.11.00	Water pipe tobacco, whether or not containing tobacco substitutes
2403.19.20	Smoking tobacco, whether or not containing tobacco substitutes, prepared for marketing directly to consumer as packaged
2403.19.30	Smoking tobacco, other than for water pipes, whether or not containing tobacco subst, other, to be used in products other than cigarettes
2403.19.60	Smoking tobacco, not water pipe, whether or not containing substitutes, other, to be used in cigarettes, in addl US note 5 to chapter
2403.19.90	Smoking tobacco, not water pipe, whether or not containing substitutes, other, to be used in cigarettes, other nesi
2403.91.43	"Homogenized" or "reconstituted" tobacco, not suitable for use as wrapper tobacco, to be used in products other than cigarettes

HTS Subheading	Product Description
2403.99.20	Other manufactured tobacco, tobacco substitutes, tobacco extracts or essences, prepared for marketing directly to consumer as packaged
2403.99.30	Other manufactured tobacco, tobacco substitutes, tobacco extracts or essences, other, to be used in products other than cigarettes
2403.99.60	Other manufactured tobacco, tobacco substitutes, tobacco extracts or essences, to be used in cigarettes, described in addl US note 5 to chap
2403.99.90	Other manufactured tobacco, tobacco substitutes, tobacco extracts or essences, other, to be used in cigarettes, other nesi
2501.00.00	Salt & pure sodium chloride, whether or not in aqueous solution or cont. added anticaking or free-flowing agents; sea water
2502.00.00	Iron pyrites, unroasted
2503.00.00	Sulfur of all kinds, other than sublimed, precipitated and colloidal sulfur
2505.10.10	Natural silica and quartz sands, containing by weight 95% or more of silica and not more than 0.6% of oxide of iron
2505.10.50	Natural silica and quartz sands, nesoi
2505.90.00	Natural sands, other than silica or quartz sands and other than metal-bearing sands of chapter 26
2506.10.00	Quartz (other than natural sands)
2506.20.00	Quartzite
2507.00.00	Kaolin and other kaolinic clays, whether or not calcined
2508.10.00	Bentonite clay, whether or not calcined
2508.40.01	Clays, (not including expanded clays of heading 6806), nesoi, whether or not calcined
2508.50.00	Andalusite, kyanite and sillimanite, whether or not calcined
2508.60.00	Mullite
2508.70.00	Chamotte or dinas earths
2509.00.10	Chalk, crude
2509.00.20	Chalk, other than crude
2510.10.00	Natural calcium phosphates, natural aluminum calcium phosphates and phosphatic chalk, unground
2510.20.00	Natural calcium phosphates, natural aluminum calcium phosphates and phosphatic chalk, ground
2511.20.00	Natural barium carbonate (witherite), whether or not calcined
2512.00.00	Siliceous fossil meals and similar siliceous earths, whether or not calcined, of an apparent specific gravity of 1 or less
2513.10.00	Pumice
2513.20.10	Emery; natural corundum, nat. garnet and other nat. abrasives, whether or not heat-treated, all the foregoing crude or in irregular pieces
2513.20.90	Emery; natural corundum, nat. garnet and other nat. abrasives, whether or not heat-treated, all the foregoin not crude or irregular pieces
2514.00.00	Slate, whether or not roughly trimmed or merely cut into blocks or slabs of a rectangular (including square) shape
2515.11.00	Marble and travertine, crude or roughly trimmed
2515.12.10	Marble, merely cut into blocks or slabs of a rectangular (including square) shape
2515.12.20	Travertine, merely cut into blocks or slabs of a rectangular (including square) shape
2515.20.00	Calcareous monument.or build.stone (o/than marble/traver.) of spec. gravity >=2.5 & alabaster, crude, rough, trimmed or cut blocks or slabs
2516.11.00	Granite, crude or roughly trimmed
2516.12.00	Granite, merely cut into blocks or slabs of a rectangular (including square) shape

HTS Subheading	Product Description
2516.20.10	Sandstone, crude or roughly trimmed
2516.20.20	Sandstone, merely cut into blocks or slabs of a rectangular (including square) shape
2516.90.00	Porphyry, basalt and other monument. or build. stone (except granite/sandstone), crude or roughly trimmed or cut into rect. blocks/slabs
2517.10.00	Pebbles, gravel, broken or crushed stones, for concrete aggregates, road metalling, ballast, shingle or flint, whether o/not heat-treated
2517.20.00	Macadam of slag, dross or similar industrial waste, whether or not incorporating pebbles, gravel, etc.
2517.30.00	Tarred macadam
2517.41.00	Granules, chippings and powder of marble, whether or not heat-treated
2517.49.00	Granules, chippings and powder, of travertine/calcareous monument. or build.stone (except marble)/granite/porphyry/basalt/sandstone etc.
2518.10.00	Dolomite, not calcined, whether or not or roughly trimmed or merely cut into blocks or slabs of a rectangular (including square) shape
2518.20.00	Dolomite, calcined, whether or not roughly trimmed or merely cut into blocks or slabs of a rectangular (including square) shape
2518.30.00	Agglomerated dolomite (including tarred dolomite)
2520.10.00	Gypsum; anhydrite
2520.20.00	Plasters (of calcined gypsum or calcium sulfate), whether or not colored, with or without small quantities of accelerators or retarders
2521.00.00	Limestone flux; limestone and other calcareous stone, of a kind used for the manufacture of lime or cement
2522.10.00	Quicklime (other than calcium oxide and hydroxide of heading 2825)
2522.20.00	Slaked lime (other than calcium oxide and hydroxide of heading 2825)
2522.30.00	Hydraulic lime (other than calcium oxide and hydroxide of heading 2825)
2523.10.00	Clinkers of portland, aluminous, slag, supersulfate and similar hydraulic cements
2523.21.00	Portland cement (white cement), whether or not artificially colored
2523.29.00	Portland cement (other than white cement), whether or not colored
2523.30.00	Aluminous cement, whether or not colored
2523.90.00	Slag cement, supersulfate cement and other hydraulic cements, nesoi, whether or not colored
2524.10.00	Crocidolite
2524.90.00	Asbestos other than crocidolite
2525.10.00	Mica, crude or rifted into sheets or splittings
2525.20.00	Mica, powder
2525.30.00	Mica, waste
2528.00.00	Borates, natural and conc., but n/incl. borates from nat. brine; nat. boric acid w/not over 85% H3B03 by dry weight
2529.10.00	Feldspar
2529.30.00	Leucite; nepheline and nepheline syenite
2530.10.00	Vermiculite, perlite and chlorites, unexpanded
2530.20.10	Kieserite
2530.20.20	Epsom salts (natural magnesium sulfates)
2530.90.10	Natural cryolite; natural chiolite
2530.90.20	Natural micaceous iron oxides
2601.11.00	Iron ores and concentrates (other than roasted iron pyrites), not agglomerated
2601.12.00	Iron ores and concentrates (other than roasted iron pyrites), agglomerated

HTS Subheading	Product Description
2601.20.00	Roasted iron pyrites
2604.00.00	Nickel ores and concentrates
2607.00.00	Lead ores and concentrates
2612.10.00	Uranium ores and concentrates
2614.00.30	Synthetic rutile
2614.00.60	Titanium ores and concentrates, other than synthetic rutile
2615.10.00	Zirconium ores and concentrates
2615.90.30	Synthetic tantalum-niobium concentrates
2615.90.60	Niobium, tantalum or vanadium ores and concentrates, nesoi
2616.10.00	Silver ores and concentrates
2616.90.00	Precious metal (other than silver) ores and concentrates
2617.90.00	Metal ores and concentrates, nesoi
2618.00.00	Granulated slag (slag sand) from the manufacture of iron or steel
2619.00.30	Ferrous scale
2619.00.90	Slag, dross and other waste (except ferrous scale) from the manufacture of iron or steel
2620.11.00	Hard zinc spelter
2620.19.30	Zinc dross and skimmings (not from from the mfr. of iron or steel)
2620.19.60	Ash and residues (not from the mfr. of iron or steel), containing mainly zinc, other than hard zinc spelter/zinc dross & skimmings
2620.21.00	Leaded gasoline sludges and leaded anti-knock compound sludges, containing mainly lead
2620.29.00	Ash and residues (other than from the manufacture of iron or steel), containing mainly lead, nesoi
2620.30.00	Ash and residues (not from the mfr. of iron or steel), containing mainly copper
2620.60.10	Ash/residues contain arsenic, mercury, thallium or their mixtures, kind used only for extraction of arsenic or manufacture of its compounds
2620.60.90	Ash/residue contain arsenic,mercury,thallium/their mixtures,kind used only for extraction of those metals or manufacture of their compounds
2620.91.00	Ash and residues (other than from the manufacture of iron or steel), containing antimony, beryllium, cadmium, chromium or their mixtures
2620.99.10	Ash and residues (other than from the manufacture of iron or steel), containing mainly vanadium
2620.99.20	Ash and residues (other than from the manufacture of iron or steel), containing mainly tungsten
2620.99.30	Materials (ash and residues) not provided for elsewhere in heading 2620 containing by weight over 10 percent nickel
2620.99.50	Slag (other than from the manufacture of iron or steel) contains over 40% titanium & if has over 2% Cu/Pb/Zn is not for recovery thereof
2620.99.75	Residues (not from mfr. of iron or steel) cont. metals/metal compounds nesoi, and n/adv. in value or cond. & if > 2% Cu/Pb/Zn n/for recovery
2620.99.85	Other ash and residues (other than from the manufacture of iron or steel), containing metals or metal compounds, nesoi
2621.90.00	Other slag and ash, including seaweed ash (kelp), not elsewhere specified or included
2701.11.00	Coal, anthracite, whether or not pulverized, but not agglomerated
2701.12.00	Coal, bituminous, whether or not pulverized, but not agglomerated
2701.19.00	Coal, other than anthracite or bituminous, whether or not pulverized, but not agglomerated
2701.20.00	Coal, briquettes, ovoids and similar solid fuels manufactured from coal
2702.10.00	Lignite (excluding jet), whether or not pulverized, but not agglomerated

HTS Subheading	Product Description
2702.20.00	Lignite (excluding jet), agglomerated
2703.00.00	Peat (including peat litter), whether or not agglomerated
2705.00.00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases or other gaseous hydrocarbons
2706.00.00	Tars (including reconstituted tars), distill. from coal, lignite or peat, and other mineral tars, whether dehydrated or partially distilled
2707.10.00	Benzene, from distillation of hi-temp coal tar or in which wt. of aromatic components o/wt. of nonaromatic components
2707.20.00	Toluene, from distillation of hi-temp coal tar or in which wt. of aromatic components o/wt. of nonaromatic components
2707.30.00	Xylenes, from distillation of hi-temp coal tar or in which wt. of aromatic components o/wt. of nonaromatic components
2707.40.00	Naphthalene, from distillation of hi-temp coal tar or in which wt. of aromatic components o/wt. of nonaromatic components
2707.50.00	Aromatichydrocarbon mix.(from dist.ofhi-temp coaltar or wt.of aromatic > nonaromatic),65%+ by vol.(incl.losses) dist. at 250 C/ASTM D 86
2707.91.00	Creosote oils, from dist.of hi-temp coal tar or wt. of aromatic exceeds nonaromatic
2707.99.10	Light oil, from dist.of hi-temp coal tar or wt. of aromatic exceeds nonaromatic
2707.99.20	Picolines, from dist.of hi-temp coal tar or wt. of aromatic exceeds nonaromatic
2707.99.40	Carbazole, from dist.of hi-temp coal tar or wt. of aromatic exceeds nonaromatic, w/purity of 65% or more by wt.
2707.99.55	Metacresol/orthocresol/paracresol/metaparacresol (from dist.of hi-temp coal tar or wt. of aromatic > nonaromatic), w/purity of 75%+ by wt.
2707.99.59	Phenols, nesoi
2707.99.90	Other products of hi-temp coal tar distillation and like products in which aromatic constituents exceed nonaromatic constituents, nesi
2708.10.00	Pitch, obtained from coal tar or other mineral tars
2708.20.00	Pitch coke, obtained from coal tar or other mineral tars
2709.00.10	Petroleum oils and oils from bituminous minerals, crude, testing under 25 degrees A.P.I.
2709.00.20	Petroleum oils and oils from bituminous minerals, crude, testing 25 degrees A.P.I. or more
2710.12.15	Light oil motor fuel from petroleum oils and bituminous minerals (o/than crude) or preps. 70%+ by wt. from petroleum oils
2710.12.18	Light oil motor fuel blending stock from petroleum oils & bituminous minerals (o/than crude) or prep 70%+ by wt. from petroleum oils
2710.12.25	Naphthas (exc. motor fuel/mtr fuel blend. stock) fr petroleum oils & bitumin minerals (o/than crude) or preps 70%+ by wt. fr petroleum oils
2710.12.45	Light oil mixt. of hydrocarbons fr petro oils & bitum min(o/than crude) or prep 70%+ wt. fr petro oils, nesoi,n/o 50% any single hydrocarbon
2710.12.90	Light oils and preparations from petroleum oils & oils from bituminous min. or preps 70%+ by wt. from petro. oils or bitum. min., nesoi
2710.19.06	Distillate and residual fuel oil (including blends) derived from petroleum or oils from bituminous minerals, testing < 25 degrees A.P.I.
2710.19.11	Distillate and residual fuel oil (including blends) derived from petroleum oils or oil of bituminous minerals, testing 25 degree A.P.I. or >
2710.19.16	Kerosene-type jet fuel from petroleum oils and oils of bitumin minerals (o/than crude) or preps. 70%+ by wt. from petroleum oils
2710.19.24	Kerosene motor fuel (not jet) from petro oils and bitumin minerals (o/than crude) or preps. 70%+ by wt. from petroleum oils
2710.19.25	Kerosene motor fuel blending stock (not jet), from petro oils and bitumin. minerals (o/than crude) or preps. 70%+ by wt. from petro oils

HTS Subheading	Product Description
2710.19.26	Kerosene (ex. motor fuel/mtr fuel blend stock/xc jet), fr petro oils and bitumin minerals (o/than crude) or preps 70%+ by wt fr petro oils
2710.19.45	Mixture of hydrocarbons from petro oils & bitum. min. or preps.70%+ by wt. fr. petro. oils, nesoi, n/o 50% any single hydrocarbon
2710.19.90	Petroleum oils & oils from bituminous minerals or preps nesoi 70%+ by wt. from petroleum oils or bitum. min., not waste, nesoi
2710.20.05	Dist and resid fuel oil (including blends) derived from petro or oils fr bitum min, testing under 25 degrees A.P.I., contng biodiesel
2710.20.10	Dist and resid fuel oil (including blends) derived from petro or oils fr bitum min testing 25 degree A.P.I. or >, contng biodiesel
2710.20.15	Kerosene-type jet fuel/mtr ful/mtr ful blend stck fr pet oils & bitumin min (o/th crude), or preps. 70%+ by w fr pet oils, ctg biodiesel
2710.20.25	Kerosene (ex jet fuel,mtr ful/mtr ful blend stck/jet), fr pet oils and bitumin. min (o/th crude) or preps 70%+ by wt fr pet oils, ctg biodie
2711.11.00	Natural gas, liquefied
2711.12.00	Propane, liquefied
2711.13.00	Butanes, liquefied
2711.14.00	Ethylene, propylene, butylene and butadiene, liquefied
2711.19.00	Liquefied petroleum gases and other gaseous hydrocarbons, nesoi
2711.21.00	Natural gas, in gaseous state
2711.29.00	Petroleum gases and other gaseous hydrocarbons, except natural gas
2712.10.00	Petroleum jelly
2712.90.10	Montan wax (whether or not colored), obtained by synthesis or other process
2712.90.20	Mineral waxes (i.e.,paraffin w/0.75%+ oil, microcrystall. wax, slack lignite & peat waxes, ozokerite), obtained by synthesis
2713.11.00	Coke, petroleum, not calcined
2713.12.00	Coke, petroleum coke, calcined
2713.20.00	Petroleum bitumen
2713.90.00	Residues (except petroleum coke or petroleum bitumen) of petroleum oils or of oils obtained from bituminous materials
2714.10.00	Bituminous or oil shale and tar sands
2714.90.00	Bitumen and asphalt, natural; asphaltites and asphaltic rocks
2715.00.00	Bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch
2801.10.00	Chlorine
2801.20.00	Iodine
2801.30.10	Fluorine
2801.30.20	Bromine
2802.00.00	Sulfur, sublimed or precipitated; colloidal sulfur
2803.00.00	Carbon (carbon blacks and other forms of carbon not elsewhere specified or included)
2804.10.00	Hydrogen
2804.21.00	Argon
2804.29.00	Rare gases, other than argon
2804.30.00	Nitrogen
2804.40.00	Oxygen

HTS Subheading	Product Description
2804.50.00	Boron; tellurium
2804.61.00	Silicon containing by weight not less than 99.99 percent of silicon
2804.80.00	Arsenic
2804.90.00	Selenium
2805.11.00	Sodium
2805.12.00	Calcium
2805.19.10	Strontium
2805.19.20	Barium
2805.19.90	Alkali metals, other than sodium
2805.40.00	Mercury
2806.10.00	Hydrogen chloride (Hydrochloric acid)
2806.20.00	Chlorosulfuric acid
2807.00.00	Sulfuric acid; oleum
2808.00.00	Nitric acid; sulfonitric acids
2809.10.00	Diphosphorus pentoxide
2809.20.00	Phosphoric acid and polyphosphoric acids
2810.00.00	Oxides of boron; boric acids
2811.11.00	Hydrogen fluoride (Hydrofluoric acid)
2811.12.00	Hydrogen cyanide
2811.19.30	Hydrobromic acid
2811.19.61	Sulfamic acid and other inorganic acids NESOI
2811.21.00	Carbon dioxide
2811.22.10	Synthetic silica gel
2811.22.50	Silicon dioxide, other than synthetic silica gel
2811.29.10	Arsenic trioxide
2811.29.20	Selenium dioxide
2811.29.30	Sulfur dioxide
2811.29.50	Other inorganic oxygen compounds of nonmetals, nesoi
2812.11.00	Carbonyl dichloride (Phosgene)
2812.12.00	Phosphorus oxychloride
2812.13.00	Phosphorus trichloride
2812.14.00	Phosphorus pentachloride
2812.15.00	Sulfur monochloride
2812.16.00	Sulfur dichloride
2812.17.00	Thionyl chloride
2812.19.00	Other chlorides and chloride oxides
2812.90.00	Halides and halide oxides of nonmetals, excluding chlorides and chloride oxides
2813.10.00	Carbon disulfide
2813.90.10	Arsenic sulfides
2813.90.20	Phosphorus sulfides
2813.90.50	Sulfides of nonmetals, excluding carbon disulfide and sulfides of arsenic or phosphorus

HTS Subheading	Product Description
2814.10.00	Anhydrous ammonia
2814.20.00	Ammonia in aqueous solution
2815.11.00	Sodium hydroxide (Caustic soda), solid
2815.12.00	Sodium hydroxide (Caustic soda), in aqueous solution (Soda lye or liquid soda)
2815.20.00	Potassium hydroxide (Caustic potash)
2815.30.00	Peroxides of sodium or potassium
2816.10.00	Hydroxide and peroxide of magnesium
2816.40.10	Oxides, hydroxides and peroxides of strontium
2817.00.00	Zinc oxide; zinc peroxide
2818.30.00	Aluminum hydroxide
2819.10.00	Chromium trioxide
2819.90.00	Chromium oxides and hydroxides, other than chromium trioxide
2820.10.00	Manganese dioxide
2820.90.00	Manganese oxides, other than manganese dioxide
2821.10.00	Iron oxides and hydroxides
2821.20.00	Earth colors containing 70 percent or more by weight of combined iron evaluated as Fe2O3
2822.00.00	Cobalt oxides and hydroxides; commercial cobalt oxides
2823.00.00	Titanium oxides
2824.10.00	Lead monoxide (Litharge, massicot)
2824.90.10	Lead suboxide (Leady litharge)
2824.90.20	Red lead and orange lead
2824.90.50	Lead oxides, nesoi
2825.10.00	Hydrazine and hydroxylamine and their inorganic salts
2825.20.00	Lithium oxide and hydroxide
2825.30.00	Vanadium oxides and hydroxides
2825.40.00	Nickel oxides and hydroxides
2825.50.10	Cupric oxide
2825.50.20	Cuprous oxide
2825.50.30	Copper hydroxides
2825.60.00	Germanium oxides and zirconium dioxide
2825.90.10	Beryllium oxide and hydroxide
2825.90.15	Niobium oxide
2825.90.75	Cadmium oxide
2825.90.90	Other inorganic bases; other metal oxides, hydroxides and peroxides, nesoi
2826.12.00	Fluorides of aluminum
2826.19.10	Ammonium fluoride
2826.19.20	Sodium fluoride
2826.19.90	Fluorides, other than of ammonium, sodium or aluminum
2826.30.00	Sodium hexafluoroaluminate (Synthetic cryolite)
2826.90.10	Fluorosilicates of sodium or of potassium
2827.10.00	Ammonium chloride

HTS Subheading	Product Description
2827.20.00	Calcium chloride
2827.31.00	Magnesium chloride
2827.32.00	Aluminum chloride
2827.35.00	Nickel chloride
2827.39.30	Titanium chlorides
2827.39.45	Barium chloride
2827.39.55	Iron chlorides
2827.39.60	Cobalt chlorides
2827.39.65	Zinc chloride
2827.39.90	Chlorides, nesoi
2827.41.00	Chloride oxides and chloride hydroxides of copper
2827.49.10	Chloride oxides and chloride hydroxides of vanadium
2827.51.00	Bromides of sodium or potassium
2827.59.25	Bromides or bromide oxides of ammonium, calcium, or zinc
2827.59.51	Other bromides and bromide oxides, other than ammonium, calcium or zinc
2827.60.10	Iodide and iodide oxide of calcium or copper
2827.60.20	Iodide and iodide oxide of potassium
2827.60.51	Iodides and iodide oxides, other than of calcium, copper or potassium
2828.10.00	Commercial calcium hypochlorite and other calcium hypochlorites
2828.90.00	Hypochlorites, except of calcium; hypobromites; chlorites
2829.11.00	Sodium chlorate
2829.19.01	Other chlorates and perchlorates, other than sodium
2829.90.05	Potassium bromate
2829.90.40	Perchlorates, perbromates, iodates, periodates; of potassium
2829.90.61	Other perbromates, iodates and periodates other than potassium
2830.10.00	Sodium sulfides
2830.90.10	Zinc sulfide, luminescent grade, purity>= 99.99 % By wt.
2830.90.15	Zinc sulfide excluding luminescent grade
2830.90.20	Cadmium sulfide
2830.90.90	Polysulfides; sulfides, other than those of zinc and cadmium
2831.10.10	Sodium formaldehyde sulfoxylate
2831.10.50	Dithionites and sulfoxylates of sodium
2831.90.00	Dithionites and sulfoxylates, other than those of sodium
2832.10.00	Sodium sulfites
2832.20.00	Sulfites, except sodium sulfites
2832.30.10	Sodium thiosulfate
2832.30.50	Thiosulfates, except sodium thiosulfate
2833.11.10	Disodium sulfate, crude (Salt cake)
2833.11.50	Disodium sulfate, other than crude
2833.19.00	Sodium sulfates, other than disodium sulfate
2833.21.00	Magnesium sulfate

HTS Subheading	Product Description
2833.22.00	Aluminum sulfate
2833.24.00	Nickel sulfate
2833.25.00	Copper sulfate
2833.27.00	Barium sulfate
2833.29.10	Cobalt sulfate
2833.29.20	Iron sulfate
2833.29.30	Vanadium sulfate
2833.29.40	Chromium sulfate
2833.29.45	Zinc sulfate
2833.29.51	Other sulfates nesoi
2833.30.00	Alums
2833.40.20	Sodium peroxosulfates (sodium persulfates)
2833.40.60	Peroxosulfates (persulfates), nesoi
2834.10.10	Sodium nitrite
2834.10.50	Nitrites, other than of sodium
2834.21.00	Potassium nitrate
2834.29.05	Bismuth nitrate
2834.29.10	Calcium nitrate
2834.29.20	Strontium nitrate
2834.29.51	Nitrates, nesoi
2835.10.00	Phosphinates (hypophosphites) and phosphonates (phosphites)
2835.22.00	Mono- or disodium phosphates
2835.24.00	Potassium phosphate
2835.25.00	Calcium hydrogenorthophosphate ("Dicalcium phosphate")
2835.26.00	Other phosphates of calcium, nesoi
2835.29.10	Aluminum phosphate
2835.29.20	Triammonium phosphate
2835.29.30	Trisodium phosphate
2835.29.51	Other phosphates nesoi
2835.31.00	Sodium triphosphate (Sodium tripolyphosphate)
2835.39.10	Potassium polyphosphate
2835.39.50	Polyphosphates, other than sodium triphosphate and potassium polyphosphate
2836.20.00	Disodium carbonate
2836.30.00	Sodium hydrogencarbonate (Sodium bicarbonate)
2836.40.10	Dipotassium carbonate
2836.40.20	Potassium hydrogencarbonate (Potassium bicarbonate)
2836.50.00	Calcium carbonate
2836.60.00	Barium carbonate
2836.91.00	Lithium carbonates
2836.92.00	Strontium carbonate
2836.99.10	Cobalt carbonates

HTS Subheading	Product Description
2836.99.20	Bismuth carbonate
2836.99.30	Commercial ammonium carbonate, containing ammonium carbamate, and other ammonium carbonates
2836.99.40	Lead carbonate
2836.99.50	Carbonates nesoi, and peroxocarbonates (percarbonates)
2837.11.00	Sodium cyanide
2837.20.10	Potassium ferricyanide
2837.20.51	Complex cyanides, excluding potassium ferricyanide
2839.11.00	Sodium metasilicates
2839.19.00	Sodium silicates except sodium metasilicates
2839.90.10	Potassium silicate
2839.90.50	Other alkali metal silicates nesoi
2840.11.00	Anhydrous disodium tetraborate (refined borax)
2840.19.00	Disodium tetraborate (refined borax) except anhydrous
2840.20.00	Borates, other than disodium tetraborate (refined borax)
2840.30.00	Peroxoborates (perborates)
2841.30.00	Sodium dichromate
2841.50.10	Potassium dichromate
2841.50.91	Chromates except of zinc or lead and dichromates except of sodium or potassium; peroxochromates
2841.61.00	Potassium permanganate
2841.69.00	Manganites, manganates and permanganates (except potassium permanganate)
2841.90.10	Vanadates
2841.90.20	Ammonium perrhenate
2841.90.30	Potassium stannate
2841.90.40	Aluminates
2841.90.45	Chromates of zinc or of lead
2841.90.50	Salts of oxometallic or peroxometallic acids nesoi
2842.10.00	Double or complex silicates
2842.90.10	Fulminates, cyanates and thiocyanates
2842.90.90	Salts of inorganic acids or peroxoacids nesoi, excluding azides
2843.10.00	Colloidal precious metals
2843.21.00	Silver nitrate
2843.29.01	Silver compounds, other than silver nitrate
2843.30.00	Gold compounds
2843.90.00	Inorganic or organic compounds of precious metals, excluding those of silver and gold; amalgams of precious metals
2844.10.10	Natural uranium metal
2844.10.20	Natural uranium compounds
2844.10.50	Alloys, dispersions (including cermets), ceramic products and mixtures containing natural uranium or natural uranium compounds
2845.10.00	Heavy water (Deuterium oxide)
2847.00.00	Hydrogen peroxide, whether or not solidified with urea
2849.10.00	Calcium carbide

HTS Subheading	Product Description
2849.90.10	Boron carbide
2849.90.20	Chromium carbide
2849.90.50	Carbides, nesoi
2850.00.05	Hydride, nitride, azide, silicide and boride of calcium
2850.00.07	Hydride, nitride, azide, silicide and boride of titanium
2850.00.10	Hydride, nitride, azide, silicide and boride of tungsten
2850.00.20	Hydride, nitride, azide, silicide and boride of vanadium
2850.00.50	Hydrides, nitrides, azides, silicides and borides other than of calcium, titanium, tungsten or vanadium
2852.10.10	Mercuric oxide, mercuric cyanide, mercuric oxycyanide and mercuric potassium cyanide
2852.10.90	Other chemically defined compounds of mercury excluding amalgams
2852.90.05	Albuminates, tannates, and phosphides of mercury
2852.90.90	Inorganic or organic compounds of mercury, not chemically defined, not albuminates, tannates, or phosphides, excluding amalgams
2853.10.00	Cyanogen chloride (Chlorocyan)
2853.90.10	Phosphor copper containing more than 15% by weight of phosphorus, excluding ferrosphosphorus
2853.90.50	Phosphides, whether or not chemically defined, excluding ferrophosphorus, of other metals or of nonmetals
2853.90.90	Other phosphides, excl ferrophosphorous, nesoi
2901.10.10	Ethane and butane
2901.10.30	n-Pentane and isopentane
2901.10.40	Saturated acyclic hydrocarbon (not ethane,butane,n-pentane or isopentane),derived in whole or part from petroleum,shale oil or natural gas
2901.10.50	Saturated acyclic hydrocarbon (not ethane,butane,n-pentane or isopentane),not derived in whole or part petroleum,shale oil or natural gas
2901.21.00	Ethylene
2901.22.00	Propene (Propylene)
2901.23.00	Butene (Butylene) and isomers thereof
2901.24.10	Buta-l,3-diene
2901.24.20	Isoprene, having a purity of 95 percent or more by weight
2901.24.50	Isoprene less than 95 percent pure
2901.29.10	Unsaturated acyclic hydrocarbons, nesoi, derived in whole or in part from petroleum, shale oil or natural gas
2901.29.50	Unsaturated acyclic hydrocarbons, nesoi, not derived in whole or in part from petroleum, shale oil or natural gas
2902.11.00	Cyclohexane
2902.19.00	Cyclanic hydrocarbons (except cyclohexane), cyclenic hydrocarbons and cycloterpenes
2902.20.00	Benzene
2902.30.00	Toluene
2902.41.00	o-Xylene
2902.42.00	m-Xylene
2902.43.00	p-Xylene
2902.44.00	Mixed xylene isomers
2902.50.00	Styrene
2902.60.00	Ethylbenzene
2902.70.00	Cumene

HTS Subheading	Product Description
2902.90.10	Pseudocumene
2902.90.20	Acenaphthene, chrysene, cymene, dimethylnaphthalenes, fluoranthene, fluorene, indene, mesitylene, and other specified cyclic hydrocarbons
2902.90.30	Alkylbenzenes and polyalkylbenzenes
2902.90.40	Anthracene and 1,4-di-(2-methylstyryl)benzene
2902.90.60	Biphenyl (diphenyl), in flakes
2902.90.90	Cyclic hydrocarbons, nesoi
2903.11.00	Chloromethane (Methyl chloride) & chloroethane (Ethyl chloride)
2903.12.00	Dichloromethane (Methylene chloride)
2903.13.00	Chloroform (Trichloromethane)
2903.14.00	Carbon tetrachloride
2903.15.00	1,2-Dichloroethane (Ethylene dichloride)
2903.19.05	1,2-Dichloropropane (Propylene dichloride) and dichlorobutanes
2903.19.10	Hexachloroethane and tetrachloroethane
2903.19.30	sec-Butyl chloride
2903.19.60	Saturated chlorinated derivatives of acyclic hydrocarbons, nesoi
2903.22.00	Trichloroethylene
2903.23.00	Tetrachloroethylene (Perchloroethylene)
2903.29.00	Unsaturated chlorinated derivatives of acyclic hydrocarbons, nesoi
2903.31.00	Ethylene dibromide
2903.39.15	Acetylene tetrabromide; alkyl bromides; methylene dibromide; and vinyl bromide
2903.71.00	Chlorodifluoromethane
2903.72.00	Dichlorotrifluoroethanes
2903.73.00	Dichlorofluoroethanes
2903.74.00	Chlorodifluoroethanes
2903.75.00	Dichloropentafluoropropanes
2903.76.00	Bromochlorodifluoromethane, bromotrifluoromethane and dibromotetrafluoroethanes
2903.78.00	Other perhalogenated acyclic hydrocarbon derivatives, nesoi
2903.79.90	Other halogenated derivatives of acyclic hydrocarbons containing two or more different halogens, nesoi
2903.81.00	1,2,3,4,5,6-Hexachlorocyclohexane (HCH (ISO)), including Lindane(ISO, INN)
2903.82.00	Aldrin (ISO), chlordane (ISO) and heptachlor (ISO)
2903.83.00	Halogenated derivatives of cyclanic cyclenic or cycloterpenic hydrocarbons: Mirex (ISO)
2903.89.15	Halogenated products derived in whole or in part from benzene or other aromatic hydrocarbon, described in additional U.S. note 3 to sec. VI
2903.89.20	Halogenated derivatives derived in whole or in part from benzene or other aromatic hydrocarbon, nesoi
2903.89.40	1,3,5,7,9,11-Hexabromocyclododecane
2903.89.60	Tetrabromocyclooctane
2903.89.70	Other halogenated derivatives of cyclanic etc hydrocarbons not deriv from benzene or other aromatic hydrocarbons
2903.91.10	Chlorobenzene
2903.91.20	o-Dichlorobenzene
2903.91.30	p-Dichlorobenzene

HTS Subheading	Product Description
2903.92.00	Hexachlorobenzene (ISO) and DDT (clofenatone (INN), (1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane))
2903.94.00	Halogenated derivatives of aromatic hydrocarbons, hexabromobiphenyls
2903.99.10	m-Dichlorobenzene; 1,1-dichloro-2,2-bis(p-ethylphenyl)ethane; and trichlorobenzenes
2903.99.20	Benzyl chloride (alpha-Chlorotoluene); benzotrichloride (alpha,alpha,alpha-trichlorotoluene)
2903.99.23	Pentabromoethylbenzene
2903.99.27	Tribromocumene
2903.99.30	Pesticides derived from halogenated derivatives of aromatic hydrocarbons
2904.10.04	2-Anthracenesulfonic acid
2904.10.08	Benzenesulfonyl chloride
2904.10.10	m-Benzenedisulfonic acid, sodium salt; 1,5-naphthalenedisulfonic acid; and p-toluenesulfonyl chloride
2904.10.15	Mixtures of 1,3,6-naphthalenetrisulfonic acid and 1,3,7-naphthalenetrisulfonic acid
2904.10.32	Aromatic derivatives of hydrocarbons containing only sulfo groups, their salts and ethyl esters, described in add. U.S. note 3 to sec. VI
2904.10.37	Aromatic derivatives of hydrocarbons containing only sulfo groups, their salts and ethyl esters, nesoi
2904.10.50	Nonaromatic derivatives of hydrocarbons containing only sulfo groups, their salts and ethyl esters, nesoi
2904.20.10	p-Nitrotoluene
2904.20.15	p-Nitro-o-xylene
2904.20.20	Trinitrotoluene
2904.20.30	5-tert-Butyl-2,4,6-trinitro-m-xylene (Musk xylol) and other artificial musks
2904.20.35	Nitrated benzene, nitrated toluene (except p-nitrotoluene) or nitrated naphthalene
2904.20.40	Aromatic derivatives of hydrocarbons containing only nitro or only nitroso groups, described in additional U.S. note 3 to section VI
2904.20.45	Aromatic derivatives of hydrocarbons containing only nitro or only nitroso groups, nesoi
2904.20.50	Nonaromatic derivatives of hydrocarbons containing only nitro or only nitroso groups, nesoi
2904.31.00	Perfluorooctane sulfonic acid
2904.32.00	Ammonium perfluorooctane sulfonate
2904.33.00	Lithium perfluorooctane sulfonate
2904.34.00	Potassium perfluorooctane sulfonate
2904.35.00	Other salts of perfluorooctane sulfonic acid
2904.36.00	Perfluorooctane sulfonyl fluoride
2904.91.00	Trichloronitromethane (chloropicrin)
2904.99.04	Monochloromononitrobenzenes; o-nitrochlorobenzene; p-nitrochlorobenzene
2904.99.08	Monochloromononitrobenzenes nesoi
2904.99.15	4-Chloro-3-nitro-a,a,a-trifluorotoluene; 2-Chloro-5-nitro-a,a,a-trifluorotoluene; and 4-Chloro-3,5-dinitro-a,a,a-trifluorotoluene
2904.99.20	Nitrotoluenesulfonic acids
2904.99.30	1-Bromo-2-nitrobenzene; 1,2-Dichloro-4-nitrobenzene and o-Fluoronitrobenzene
2904.99.35	4,4'-Dinitrostilbene-2,2'-disulfonic acid
2904.99.40	Sulfonated, nitrated or nitrosated derivatives of aromatic products described in additional US note 3 to section 6
2904.99.47	Other sulfonated, nitrated or nitrosated derivatives of aromatic hydrocarbons excluding aromatic products described in add US note 3 to section 6
2904.99.50	Nonaromatic sulfonated, nitrated or nitrosated derivatives of hydrocarbons, nesoi

HTS Subheading	Product Description
2905.11.10	Methanol (Methyl alcohol) imported only for use in producing synthetic natural gas (SNG) or for direct use as a fuel
2905.11.20	Methanol (Methyl alcohol), other than imported only for use in producing synthetic natural gas (SNG) or for direct use as fuel
2905.12.00	Propan-1-ol (Propyl alcohol) and Propan-2-ol (isopropyl alcohol)
2905.13.00	Butan-1-ol (n-Butyl alcohol)
2905.14.10	tert-Butyl alcohol, having a purity of less than 99 percent by weight
2905.14.50	Butanols other than butan-1-ol and tert-butyl alcohol having a purity of less than 99 percent by weight
2905.16.00	Octanol (Octyl acohol) and isomers thereof
2905.17.00	Dodecan-1-ol (Lauryl alcohol); hexadecan-1-ol (Cetyl alcohol); octadecan-1-ol (Stearyl alcohol)
2905.19.10	Pentanol (Amyl alcohol) and isomers thereof
2905.19.90	Saturated monohydric alcohols, nesoi
2905.22.10	Geraniol
2905.22.20	Isophytol
2905.22.50	Acyclic terpene alcohols, other than geraniol and isophytol
2905.29.10	Allyl alcohol
2905.29.90	Unsaturated monohydric alcohols, other than allyl alcohol or acyclic terpene alcohols
2905.31.00	Ethylene glycol (Ethanediol)
2905.32.00	Propylene glycol (Propane-1,2-diol)
2905.39.10	Butylene glycol
2905.39.20	Neopentyl glycol
2905.39.60	Hexylene glycol
2905.39.90	Dihydric alcohols (diols), nesoi
2905.41.00	2-Ethyl-2-(hydroxymethyl)propane-1,3-diol (Trimethylolpropane)
2905.42.00	Pentaerythritol
2905.49.10	Triols and tetrols
2905.49.20	Esters of glycerol formed with the acids of heading 2904
2905.49.30	Xylitol
2905.49.40	Polyhydric alcohols derived from sugars, nesoi
2905.49.50	Polyhydric alcohols, nesoi
2905.59.10	Halogenated, sulfonated, nitrated or nitrosated derivatives of monohydric alcohols
2905.59.30	Dibromoneopentylglycol
2905.59.90	Halogenated, sulfonated, nitrated or nitrosated derivatives of acyclic alcohols, nesoi
2906.11.00	Menthol
2906.12.00	Cyclohexanol, methylcyclohexanols and dimethylcyclohexanols
2906.13.10	Inositols
2906.13.50	Sterols
2906.19.10	4,4'-Isopropylidenedicyclohexanol;and mixt. w/not less 90% stereoisomers of 2-isopropyl-5-methylcyclohexanol but n/o 30% any 1 stereoisomer
2906.19.30	Terpineols
2906.19.50	Other cyclanic, cyclenic or cycloterpenic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives
2906.21.00	Benzyl alcohol

HTS Subheading	Product Description
2906.29.10	Phenethyl alcohol
2906.29.20	Odoriferous or flavoring compounds of aromatic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2906.29.30	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol); and p-nitrobenzyl alcohol
2906.29.60	Other aromatic alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives
2907.11.00	Phenol (Hydroxybenzene) and its salts
2907.12.00	Cresols and their salts
2907.13.00	Octylphenol, nonylphenol and their isomers; salts thereof
2907.15.10	alpha-Naphthol
2907.15.30	2-Naphthol
2907.15.60	Naphthols and their salts, other than alpha-Naphthol and 2-Naphthol
2907.19.10	Alkylcresols
2907.19.20	Alkylphenols
2907.19.40	Thymol
2907.19.61	2-t-Butyl ethyl phenol; and 6-t-butyl-2,4-xylenol and ylenols and their salts
2907.19.80	Other monophenols
2907.21.00	Resorcinol and its salts
2907.22.10	Hydroquinone (Quinol) and its salts, photographic grade
2907.22.50	Hydroquinone (Quinol) and its salts, other than photographic grade
2907.23.00	4,4'-Isopropylidenediphenol (Bisphenol A, Diphenylolpropane) and its salts
2907.29.05	Phenol-alcohols
2907.29.15	4,4'-Biphenol
2907.29.25	tert-Butylhydroquinone
2907.29.90	Other polyphenols, nesoi
2908.11.00	Pentachlorophenol (ISO)
2908.19.05	2,2-Bis(4-hydroxyphenyl)-1,1,1,3,3,3-hexafluoropropane
2908.19.10	6-Chloro-m-cresol [OH=1]; m-chlorophenol; and chlorothymol
2908.19.20	Pentachlorophenol and its salts; and 2,4,5-trichlorophenol and its salts
2908.19.25	Tetrabromobisphenol A
2908.19.35	Derivatives of phenols or phenol-alcohols containing only halogen substituents and their salts described in add. U.S. note 3 to sec. VI
2908.19.60	Other halogenated, sulfonated, nitrated or nitrosated derivatives of phenol or phenol-alcohols
2908.91.00	Dinoseb (ISO) and its salts
2908.92.00	4,6-Dinitro-o-cresol (DNOC (ISO)) and its salts
2908.99.03	Specified derivatives of phenols or phenol-alcohols containing only sulfo groups, their salts and esters
2908.99.09	1,8-Dihydroxynaphthalene-3,6-disulfonic acid and its sodium salt
2908.99.12	Derivatives nesoi,of phenols or phenol-alcohols cont. only sulfo groups, their salts and esters, described in add. U.S. note 3 to section VI
2908.99.15	Derivatives of phenol or phenol-alcohols containing only sulfo groups, their salts and esters, nesoi
2908.99.20	p-Nitrophenol
2908.99.33	Dinitro-o-cresols (other than 4,6-dinitro-o-cresol) and 4-nitro-m-cresol
2908.99.40	Dinitrobutylphenol and its salts

HTS Subheading	Product Description
2908.99.80	Halogenated, sulfonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols described in additional U.S. note 3 to section VI
2908.99.90	Halogenated, sulfonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols, nesoi
2909.11.00	Diethyl ether
2909.19.14	Methyl tertiay-butyl ether. (MTBE)
2909.19.18	Ethers of acyc monohydric alcohols & deriv, nesoi
2909.19.30	Triethylene glycol dichloride
2909.19.60	Ethers of polyhydric alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2909.20.00	Cyclanic, cyclenic or cycloterpenic ethers and their halogenated, sulfonated, nitrated or nitrosated derivatives
2909.30.05	5-Chloro-2-nitroanisole; 6-chloro-3-nitro-p-dimethoxybenzene; and dimethyl diphenyl ether
2909.30.20	Odoriferous or flavoring compounds of aromatic ethers and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2909.30.40	Aromatic ethers and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi, described in add. U.S. note 3 to section VI
2909.30.60	Other aromatic ethers and their halogenated, sulfonated, nitrated, or nitrosated derivatives, nesoi
2909.41.00	2,2'-Oxydiethanol (Diethylene glycol, Digol)
2909.43.00	Monobutyl ethers of ethylene glycol or of diethylene glycol
2909.44.01	Monoalkyl ethers of ethylene glycol or of diethylene glycol
2909.49.05	Guaifenesin
2909.49.10	Other aromatic ether-alcohols, their halogenated, sulfonated, nitrated or nitrosated derivatives described in add. US note 3 to section VI
2909.49.15	Aromatic ether-alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2909.49.20	Nonaromatic glycerol ethers
2909.49.30	Di-pentaerythritol having a purity of 94% or more by weight
2909.49.60	Other non-aromatic ether-alcohols and their halogenated, sulfonated, nitrated or nitrosated derivatives
2909.50.10	4-Ethylguaiacol
2909.50.20	Guaiacol and its derivatives
2909.50.40	Odoriferous or flavoring compounds of ether-phenols, ether-alcohol-phenols & their halogenated, sulfonated, nitrated, nitrosated derivatives
2909.50.45	Ether-phenols, ether-alcohol-phenols & their halogenated, sulfonated, nitrated, nitrosated derivatives nesoi, in add. U.S. note 3 to sec. VI
2909.50.50	Ether-phenols, ether-alcohol-phenols and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2909.60.10	Aromatic alcohol, ether and ketone peroxides and their halogenated, sulfonated, nitrated, nitrosated derivatives, in add. US note 3 sec. VI
2909.60.20	Aromatic alcohol peroxides, ether peroxides, ketone peroxides and their halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2909.60.50	Nonaromatic alcohol, ether and ketone peroxides and their halogenated, sulfonated, nitrated or nitrosated derivatives
2910.10.00	Oxirane (Ethylene oxide)
2910.20.00	Methyloxirane (Propylene oxide)
2910.30.00	1-Chloro-2,3-epoxypropane (Epichlorohydrin)
2910.40.00	Dieldrin
2910.50.00	Endrin
2910.90.10	Butylene oxide

HTS Subheading	Product Description
2910.90.20	Aromatic epoxides, epoxyalcohols, epoxyphenols and epoxyethers, with a three-membered ring, and their derivatives, nesoi
2910.90.91	Other nonaromatic epoxides, epoxyalcohols and epoxyethers, with a three-membered ring and their halogenated, sulfonated, nitrated or nitrosated deriv
2911.00.10	1,1-Bis-(1-methylethoxy)cyclohexane
2911.00.50	Acetals and hemiacetals, whether or not with other oxygen function, and their halogenated, sulfonated, nitrated or nitrosated derivatives
2912.11.00	Methanal (Formaldehyde)
2912.12.00	Ethanal (Acetaldehyde)
2912.19.10	Citral
2912.19.20	Odoriferous or flavoring compounds of acyclic aldehydes without other oxygen function, nesoi
2912.19.25	Butanal (Butyraldehyde, normal isomer)
2912.19.30	Glyoxal
2912.19.50	Acyclic aldehydes without other oxygen function, nesoi
2912.21.00	Benzaldehyde
2912.29.10	Phenylacetaldehyde
2912.29.30	3,4-Dimethylbenzaldehyde; paraldehyde, USP grade; and p-tolualdehyde
2912.29.60	Other cyclic aldehydes without other oxygen function
2912.42.00	Ethylvanillin (3-Ethoxy-4-hydroxy-benzaldehyde)
2912.49.10	p-Anisaldehyde
2912.49.15	P-Hydroxybenzaldehyde
2912.49.26	Other aromatic aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols and aldehydes with other oxygen function
2912.49.55	Hydroxycitronellal
2912.49.60	Nonaromatic aldehyde-alcohols, other than hydroxycitronellal
2912.49.90	Nonaromatic aldehyde-ethers, aldehyde-phenols and aldehydes with other oxygen function, nesoi
2912.50.10	Metaldehyde from cyclic polymers of aldehydes
2912.50.50	Cyclic polymers of aldehydes, other than Metaldehyde.
2912.60.00	Paraformaldehyde
2913.00.20	4-Fluoro-3-phenoxybenzaldehyde
2913.00.40	Aromatic halogenated, sulfonated, nitrated or nitrosated derivatives of product of heading 2912
2913.00.50	Nonaromatic halogenated, sulfonated, nitrated or nitrosated derivatives of products of heading 2912
2914.11.10	Acetone, derived in whole or in part from cumene
2914.11.50	Acetone, not derived in whole or in part from cumene
2914.12.00	Butanone (Methyl ethyl ketone)
2914.13.00	4-Methylpentan-2-one (Methyl isobutyl ketone)
2914.19.00	Acyclic ketones without other oxygen function, nesoi
2914.22.10	Cyclohexanone
2914.22.20	Methylcyclohexanone
2914.23.00	Ionones and methylionones
2914.29.10	Isophorone
2914.29.30	Natural camphor
2914.29.31	Synthetic camphor

HTS Subheading	Product Description
2914.29.50	Cyclanic, cyclenic or cycloterpenic ketones without other oxygen function, nesoi
2914.31.00	Phenylacetone (Phenylpropan-2-one)
2914.39.10	7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene; 1-(2-Naphthalenyl)ethanone; and 6-Acetyl-1,1,2,3,3,5-hexamethylindan
2914.39.90	Aromatic ketones without other oxygen function, nesoi
2914.40.10	4-Hydroxy-4-methylpentan-2-one (Diacetone alcohol)
2914.40.20	1,2,3-Indantrione monohydrate (Ninhydrin)
2914.40.40	Aromatic ketone-alcohols and ketone-aldehydes, nesoi
2914.40.60	1,3-Dihydroxyacetone
2914.40.90	Nonaromatic ketone-alcohols and ketone-aldehydes, nesoi
2914.50.10	5-Benzoyl-4-hydroxy-2-methoxy-benzenesulfonic acid
2914.50.30	Aromatic ketone-phenols and ketones with other oxygen function
2914.50.50	Nonaromatic ketone-phenols and ketones with other oxygen function
2914.61.00	Anthraquinone
2914.69.10	Photographic chemicals of quinones
2914.71.00	Halogenated, sulfonated, nitrated or nitrosated derivatives: chlordecone (ISO)
2914.79.10	2,3-dichloro-1,4-naphthoquinone and other artificial musks
2914.79.30	Anthraquinone disulfonic acid, sodium salt; and 4-(3,4-Dichlorophenyl)-1-tetralone
2914.79.60	1-Chloro-5-hexanone
2914.79.90	Other halogenated, sulfonated, nitrated or nitrosated derivatives of nonaromatic ketones and quinones whether or not with other ogygen function
2915.11.00	Formic acid
2915.12.00	Salts of formic acid
2915.13.10	Aromatic esters of formic acid
2915.13.50	Nonaromatic esters of formic acid
2915.21.00	Acetic acid
2915.24.00	Acetic anhydride
2915.29.10	Cupric acetate monohydrate
2915.29.20	Sodium acetate
2915.29.30	Cobalt acetates
2915.29.50	Other salts of acetic acid
2915.31.00	Ethyl acetate
2915.32.00	Vinyl acetate
2915.33.00	n-Butyl acetate
2915.36.00	Dinoseb (ISO) acetate
2915.39.10	Benzyl acetate
2915.39.20	Odoriferous or flavoring compounds of aromatic esters of acetic acid, other than benzyl acetate
2915.39.31	Aromatic esters of acetic acid described in additional U.S. note 3 to section VI
2915.39.40	Linalyl acetate
2915.39.45	Odoriferous or flavoring compounds of nonaromatic esters of acetic acid, nesoi
2915.39.47	Acetates of polyhydric alcohols or of polyhydric alcohol ethers
2915.39.60	Bis(bromoacetoxy)butene

HTS Subheading	Product Description
2915.39.70	Isobutyl acetate
2915.39.80	2-Ethoxyethyl acetate (Ethylene glycol, monoethyl ether acetate)
2915.39.90	Other non-aromatic esters of acetic acid
2915.40.10	Chloroacetic acids
2915.40.30	Aromatic salts and esters of chlorocetic acids, nesoi
2915.40.50	Nonaromatic salts and esters of chlorocetic acids, nesoi
2915.50.10	Propionic acid
2915.50.20	Aromatic salts and esters of propionic acid
2915.50.50	Nonaromatic salts and esters of propionic acid
2915.60.10	Aromatic salts and esters of butyric acids and valeric acids
2915.60.50	Butyric acids, valeric acids, their nonaromatic salts and esters
2915.70.01	Palmitic acid, stearic acid, their salts and esters
2915.90.10	Fatty acids of animal or vegetable origin, nesoi
2915.90.14	Valproic acid
2915.90.18	Saturated acyclic monocarboxylic acids, nesoi
2915.90.20	Aromatic anhydrides, halides, peroxides and peroxyacids, of saturated acyclic monocarboxylic acids, and their derivatives, nesoi
2915.90.50	Nonaromatic anhydrides, halides, peroxides and peroxyacids, of saturated acyclic monocarboxylic acids, and their derivatives, nesoi
2916.11.00	Acrylic acid and its salts
2916.12.10	Aromatic esters of acrylic acid
2916.12.50	Nonaromatic esters of acrylic acid
2916.13.00	Methacrylic acid and its salts
2916.14.10	Dicyclopentenyloxyethyl methacrylate
2916.14.20	Other esters of methacrylic acid
2916.15.10	Oleic, linoleic or linolenic acids
2916.15.51	Salts and esters of oleic, linoleic or linolenic acids
2916.16.00	Binapacryl (ISO)
2916.19.10	Potassium sorbate
2916.19.20	Sorbic acid
2916.19.30	Unsaturated acyclic monocarboxylic acids, nesoi
2916.19.50	Unsaturated acyclic monocarboxylic acid anhydrides, halides, peroxides, peroxyacids and their derivatives, nesoi
2916.20.10	Tefluthrin
2916.20.50	Cyclanic, cyclenic or cycloterpenic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives
2916.31.11	Benzoic acid and its salts
2916.31.20	Odoriferous or flavoring compounds of benzoic acid esters
2916.31.30	Benzoic acid esters, except odoriferous or flavoring compounds, described in additional U.S. note 3 to section VI
2916.31.50	Benzoic acid esters, nesoi
2916.32.10	Benzoyl peroxide
2916.32.20	Benzoyl chloride

HTS Subheading	Product Description
2916.34.10	Phenylacetic acid (alpha-Toluic acid)
2916.34.55	Phenylacetic acid salts, nesoi
2916.39.03	Benzoic anhydride; tert-butyl peroxybenzoate; p-nitrobenzoyl chloride; 2-nitro-m-toluic acid; and 3-nitro-o-toluic acid
2916.39.04	Specified derivatives of benzoic and toluic acids
2916.39.06	Cinnamic acid
2916.39.16	4-Chlorobenzoic acid
2916.39.17	2,2-Dichlorophenylacetic acid ethyl ester and m-toluic acid
2916.39.21	Odoriferous or flavoring compounds of aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and derivatives
2916.39.46	Aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and derivatives described in add'l US note 3 to section VI
2916.39.77	Phenylacetic acid esters, nesoi
2917.11.00	Oxalic acid, its salts and esters
2917.12.10	Adipic acid
2917.12.20	Plasticizers of adipic acid salts and esters
2917.12.50	Adipic acid salts and esters, nesoi
2917.13.00	Azelaic acid, sebacic acid, their salts and esters
2917.14.10	Maleic anhydride derived in whole or in part from benzene or other aromatic hydrocarbons
2917.14.50	Maleic anhydride, except derived in whole or in part from benzene or other aromatic hydrocarbons
2917.19.10	Ferrous fumarate
2917.19.15	Fumaric acid, derived in whole or in part from aromatic hydrocarbons
2917.19.17	Fumaric acid except derived in whole or in part from aromatic hydrocarbons
2917.19.20	Specified acyclic polycarboxylic acids and their derivatives, described in additional U.S. note 3 to section VI
2917.19.23	Maleic acid
2917.19.27	Succinic acid, glutaric acid, and their derivatives, and derivatives of adipic, fumeric and maleic acids, nesoi
2917.19.35	Malonic acid
2917.19.40	Acyclic polycarboxylic acids, derived from aromatic hydrocarbons, and their derivatives, nesoi
2917.20.00	Cyclanic, cyclenic or cycloterpenic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives
2917.32.00	Dioctyl orthophthalates
2917.33.00	Dinonyl or didecyl orthophthalates
2917.34.01	Esters of orthophthalic acid, nesoi
2917.35.00	Phthalic anhydride
2917.36.00	Terephthalic acid and its salts
2917.37.00	Dimethyl terephthalate
2917.39.04	1,2,4-Benzenetricarboxylic acid,1,2-dianhydride(trimellitic anhydride);naphthalic anhydride;phthalic acid;& 4-sulfo-1,8-naphthalic anhydride
2917.39.12	4,4'-(Hexafluoroisopropyl-indene)bis(phthalic anhydride)
2917.39.15	Isophthalic acid
2917.39.20	Plasticizers of aromatic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives
2917.39.30	Aromatic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives nesoi, in add. U.S. note 3 to sec. VI

HTS Subheading	Product Description
2917.39.70	Other aromatic polycarboxylic acids and their derivatives (excluding those described in additional US note 3 to section VI
2918.11.10	Lactic acid
2918.11.51	Salts and esters of lactic acid
2918.12.00	Tartaric acid
2918.13.10	Potassium antimony tartrate (Tartar emetic)
2918.13.20	Potassium bitartrate (Cream of tartar)
2918.13.30	Potassium sodium tartrate (Rochelle salts)
2918.13.50	Salts and esters of tartaric acid, nesoi
2918.14.00	Citric acid
2918.15.10	Sodium citrate
2918.15.50	Salts and esters of citric acid, except sodium citrate
2918.16.10	Gluconic acid
2918.16.50	Salts and esters of gluconic acid
2918.17.00	2,2-Diphenyl-2-hydroxyacetic acid (benzilic acid)
2918.18.00	Chlorobenzilate (ISO)
2918.19.11	Benzilic acid, methyl ester
2918.19.12	Phenylglycolic acid (Mandelic acid)
2918.19.15	Phenylglycolic (Mandelic) acid salts and esters
2918.19.60	Malic acid
2918.19.90	Nonaromatic carboxylic acids with alcohol function, without other oxygen function, and their derivatives, nesoi
2918.21.10	Salicylic acid and its salts, suitable for medicinal use
2918.21.50	Salicylic acid and its salts, not suitable for medicinal use
2918.23.10	Salol (Phenyl salicylate) suitable for medicinal use
2918.23.20	Odoriferous or flavoring compounds of other esters of salicyclic acid and their salts, nesoi
2918.23.30	Esters of salicylic acid and their salts, described in additional U.S. note 3 to section VI
2918.23.50	Esters of salicylic acid and their salts, nesoi
2918.29.04	2,3-Cresotic acid; m-hydroxybenzoic acid;2-hydroxybenzoic acid, calcium salt; and other specified carboxylic acids w/phenol function
2918.29.06	1,6-hexanediol-bis(3,5-dibutyl-4-hydroxyphenyl)propionate
2918.29.08	m-Hydroxybenzoic acid
2918.29.20	Gentisic acid; and hydroxycinnamic acid and its salts
2918.29.22	p-Hydroxybenzoic acid
2918.29.30	Gallic acid
2918.29.39	4,4-Bis(4-hydroxyphenyl)-pentanoic acid; and 3,5,6-triclorosalicylic acid
2918.29.65	Carboxylic acids with phenol function but w/o other oxygen function, described in add'l. U.S. note 3 to section VI
2918.29.75	Other carboxylic acids w/phenol function but w/o other oxygen function & their derivatives (excluding goods of add. US note 3 to section VI)
2918.30.10	1-Formylphenylacetic acid, methyl ester
2918.30.15	2-Chloro-4,5-difluoro-beta-oxobenzenepropanoic acid, ethyl ester; and ethyl 2-keto-4-phenylbutanoate
2918.30.25	Aromatic carboxylic acids w/aldehyde or ketone function but w/o other oxygen function & their deriv desc. in add US note 3 to sec VI, nesoi

HTS Subheading	Product Description
2918.30.30	Aromatic carboxylic acids with aldehyde or ketone function, but without other oxygen function, and derivatives, nesoi
2918.30.70	Dimethyl acetyl succinate; oxalacetic acid diethyl ester sodium salt; 4,4,4-trifluoro-3-oxobutanoic acid, both ethyl & methyl ester versions
2918.30.90	Non-aromatic carboxylic acids w/aldehyde or ketone function but w/o other oxygen func. their anhydrides, halides, peroxides, etc derivatives
2918.91.00	2, 4, 5-T (ISO) (2, 4, 5-trichlorophenoxyacetic acid), its salts and esters
2918.99.05	p-Anisic acid; clofibrate and 3-phenoxybenzoic acid
2918.99.18	4-(4-Chloro-2-methyl-phenoxy)butyric acid; p-chlorophenoxyacetic acid; and 2-(2,4-dichlorophenoxy)propionic acid
2918.99.43	Aromatic carboxylic acids with add'l oxygen function and their anhydrides, halide, etc deriv described in add US note 3 to sect VI, nesoi
2919.10.00	Tris (2,3-dibromopropyl phosphate)
2919.90.15	Triphenyl phosphate plasticizers
2919.90.25	Other aromatic plasticizers
2919.90.30	Aromatic phosphoric esters and their salts, including lactophosphates, and their derivatives, not used as plasticizers
2919.90.50	Nonaromatic phosphoric esters and their salts, including lactophosphates, and their derivatives
2920.11.00	Parathion (ISO) and parathion-methyl (ISO) (methyl-parathion)
2920.19.10	O,O-Dimethyl-O-(4-nitro-m-tolyl)-phosphorothioate (Fenitrothion)
2920.19.40	Other aromatic thiophosphoric esters (phosphorothioates) and their salts; their halogenated, sulfonated, nitrated or nitrosated derivatives
2920.19.50	Nonaromatic phosphorothioates, their salts and halogenated, sulfonated, nitrated or nitrosated derivatives, nesoi
2920.21.00	Dimethyl phosphite
2920.23.00	Trimethyl phosphite
2920.24.00	Triethyl phosphite
2920.29.00	Other phosphite esters and their salts; their haolgenated, sulfonated, nitrated or nitrosated derivatives
2920.30.00	Endosulfan (ISO)
2920.90.10	Aromatic pesticides of esters of other inorganic acids (excluding hydrogen halides), their salts and their derivatives
2920.90.20	Aromatic esters of other inorganic acids (excluding hydrogen halides) their salts and their derivatives, nesoi
2921.11.00	Methylamine, di- or trimethylamine, and their salts
2921.13.00	2-(N,N-Diethylamino)ethyl chloride hydrochloride
2921.14.00	2-(N,N,-Diisopropylamino)ethyl chloride hydrochloride
2921.19.11	Mono- and triethylamines; mono-, di-, and tri(propyl- and butyl-) monoamines; salts of any of the foregoing
2921.19.31	3-Amino-3-methyl-1-butyne; (Dimethylamino)isopropyl chloride hydrochloride
2921.19.61	N,N-Dialkyl (methyl, ethyl, N-Propyl or Isopropyl)-2-Chloroethylamines and their protonated salts; Acylcic monoamines and their derivatives, nesoi
2921.21.00	Ethylenediamine and its salts
2921.22.05	Hexamethylenediamine adipate (Nylon salt)
2921.22.10	Hexamethylenediamine and its salts (except Nylon salt), derived in whole or in part from adipic acid
2921.22.50	Hexamethylenediamine and its salts (except Nylon salt), not derived in whole or in part from adipic acid
2921.29.00	Acyclic polyamines, their derivatives and salts, other than ethylenediamine or hexamethylenediamine and their salts

HTS Subheading	Product Description
2921.30.05	1,3-Bis(aminoethyl)cyclohexane
2921.30.10	Cyclanic, cyclenic, cycloterpenic mono- or polyamines, derivatives and salts, from any aromatic compound desc in add US note 3, sec. VI
2921.30.30	Cyclanic, cyclenic, cycloterpenic mono- or polyamines and their derivative, deriv from any aromatic cmpd (excl goods in add US note 3 sec VI
2921.30.50	Cyclanic, cyclenic or cycloterpenic mono- or polyamines, and their derivatives and salts, from any nonaromatic compounds
2921.41.10	Aniline
2921.41.20	Aniline salts
2921.42.15	N-Ethylaniline and N,N-diethylaniline
2921.42.16	2,4,5-Trichloroaniline
2921.42.21	Metanilic acid
2921.42.22	Sulfanilic acid
2921.42.23	3,4-Dichloroaniline
2921.42.36	m-Chloroaniline;2-chloro-4-nitroaniline;2,5-dicholoraniline-4-sulfonic acid & its monosodium salt; & other specified aniline derivatives
2921.42.90	Other aniline derivatives and their salts
2921.43.04	3-Chloro-o-toluidine; and 6-chloro-o-toluidine
2921.43.08	4-Chloro-o-toluidine hydrochloride; 5-chloro-o-o-toluidine; 6-chloro-2-toluidine-sulfonic acid; 4-chloro-a,a,a-trifluoro-o-toluidine;& other
2921.43.15	alpha,alpha,alpha-Trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine (Trifluralin)
2921.43.19	alpha,alpha,alpha-Trifluoro-o-toluidine; alpha,alpha,alpha-trifluoro-6-chloro-m-toluidine
2921.43.22	N-Ethyl-N-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine
2921.43.24	2-Amino-5-chloro-4-ethyl-benzenesulfonic acid; 2-amino-5-chloro-p-toluenesulfonic acid; p-nitro-o-toluidine; and 3-(trifluoromethyl)aniline
2921.43.40	Toluidines and their derivatives; salts thereof; described in additional U.S. note 3 to section VI
2921.43.90	Other toluidines and their derivatives; and salts thereof, nesoi
2921.44.05	4,4'-Bis(alpha,alpha-dimethlbenzyl)diphenylamine; and N-nitrosodiphenylamine
2921.44.10	Nitrosodiphenylamine
2921.44.20	Diphenylamine and its derivatives (except nitrodiphenylamine); salts thereof, described in additional U.S. note 3 to section VI
2921.44.70	Diphenylamine and its derivatives; salts thereof; excluding goods in additional U.S. note 3 to section VI
2921.45.10	7-Amino-1,3-naphthalenedisulfonic acid, specified naphthalenesulfonic acids and their salts; N-phenyl-2-napthylamine
2921.45.20	Specified aromatic monoamines and their derivatives; salts thereof
2921.45.25	Mixture of 5- & 8-amino-2-naphthalenesulfonic acid;2-naphthalamine-o-sulfonic acid;& o-naphthionic acid (1-amino-2-naphthalenesulfonic acid)
2921.45.90	Aromatic monoamines and their derivatives and salts thereof nesoi
2921.49.10	4-Amino-2-stilbenesulfonic acid and its salts, p-ethylaniline; 2,4,6-trimethylaniline (Mesidine); and specified xylidines
2921.49.45	Aromatic monoamines and their derivatives nesoi; salts thereof, described in additional U.S. note 3 to section VI
2921.49.50	Aromatic monoamines and their derivatives and salts thereof, nesoi
2921.51.10	4-Amino-2-(N,N-diethylamino)toluene hydrochloride; m- and o-phenylenediamine; toluene-2,4- and -2,5-diamine; and toluene-2,5-diamine sulfate

HTS Subheading	Product Description
2921.51.30	o-, m-, p-Phenylenediamine, diaminotoluenes, and their derivatives, and salts thereof, described in additional U.S. note 3 to section VI
2921.51.50	o-, m-, p-Phenylenediamine, and diaminotoluenes and their derivatives, and salts thereof, nesoi
2921.59.04	1,8-diaminonaphthalene (1,8-naphthalenediamino)
2921.59.08	5-Amino-2-(p-aminoanilino)benzenesulfonic acid; 4,4-diamino-3-biphenylsulfonic acid; 3,3-dimethylbenzidine (o-tolidine); & other specified
2921.59.17	4,4'-Benzidine-2,2'-disulfonic acid;1,4-diaminobenzene-2-sulfonic acid;4,4'-methylenebis-(2,6-diethylaniline);m-xylenediamine; and 1 other
2921.59.20	4,4'-Diamino-2,2'-stilbenedisulfonic acid
2921.59.30	4,4'-Methylenedianiline
2921.59.40	Aromatic polyamines and their derivatives and salts thereof, described in additional U.S. note 3 to section VI
2921.59.80	Aromatic polyamines and their derivatives; salts thereof nesoi
2922.11.00	Monoethanolamine and its salts
2922.12.00	Diethanolamine and its salts
2922.15.00	Triethanolamine
2922.16.00	Diethylammonium perfluorooctane sulfonate
2922.17.00	Methyldiethanolamine and ethyldiethanolamine
2922.18.00	2-(N,N-Diisopropylamino)ethanol
2922.21.10	1-Amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and other specified aminohydroxynaphthalenesulfonic acids and their salts
2922.21.25	1-Amino-8-hydroxy-4,6-naphthalenedisulfonic acid, monosodium salts
2922.21.50	Aminohydroxynaphthalene sulfonic acids and their salts, nesoi
2922.29.03	o-Anisidine; p-anisidine; and p-phenetidine
2922.29.08	m-Nitro-p-anisidine and m-nitro-o-anisidine, nesoi
2922.29.10	2-Amino-6-chloro-4-nitrophenol and other specified amino-naphthols and amino-phenols, their ethers and esters; salts thereof
2922.29.13	o-Aminophenol; and 2,2-bis-[4-(4-aminophenoxy)phenyl]propane
2922.29.20	4-Chloro-2,5-dimethoxyaniline; and 2,4-dimethoxyaniline
2922.29.26	Amino-naphthols and other amino-phenols and their derivatives used as fast color bases
2922.29.27	Drugs of amino-naphthols and -phenols, their ethers and esters, except those cont. more than one oxygen function; salts thereof, nesoi
2922.29.29	Photographic chemicals of amino-naphthols and -phenols, their ethers/esters, except those cont. more than one oxygen function; salts, nesoi
2922.29.61	Amino-naphthols and other amino-phenols and their derivatives of products described in add'l U.S. note 3 to section VI
2922.29.81	Amino-naphthols and other amino-phenols; their ethers, esters & salts (not containing more than one oxygen function) thereof nesoi
2922.39.05	1-Amino-2,4-dibromoanthraquinone; and 2-Amino-5-chlorobenzophenone
2922.39.14	2-Aminoanthraquinone
2922.39.17	1-Aminoanthraquinone
2922.39.25	Aromatic amino-aldehydes, -ketones and -quinones, other than those with more than one oxygen function; salts; desc in add US note 3 sec VI
2922.39.45	Aromatic amino-aldehydes, -ketones and -quinones, other than those with more than one oxygen function; salts thereof; nesoi

HTS Subheading	Product Description
2922.39.50	Nonaromatic amino-aldehydes, -ketones and -quinones, other than those with more than one kind of oxygen function, salts thereof; nesoi
2922.42.10	Monosodium glutamate
2922.42.50	Glutamic acid and its salts, other than monosodium glutamate
2922.43.10	Anthranilic acid and its salts, described in additional US note 3 to section VI
2922.43.50	Anthranilic acid and its salts, nesoi
2922.49.05	(R)-alpha-Aminobenzeneacetic acid; and 2-amino-3-chlorobenzoic acid, methyl ester
2922.49.10	m-Aminobenzoic acid, technical; and other specified aromatic amino-acids and their esters, except those with more than one oxygen function
2922.49.26	Aromatic amino-acids drugs and their esters, not containing more than one kind of oxygen function, nesoi
2922.49.30	Aromatic amino-acids and their esters, excl. those with more than one oxygen function; salts; described in add. U.S. note 3 to sect VI
2922.49.37	Aromatic amino-acids and their esters, not contng more than 1 kind of oxygen function (excluding goods in add U.S. note 3 to sec VI), nesoi
2922.49.43	Glycine (aminoacetic acid)
2922.49.49	Nonaromatic amino-acids, other than those containing more than one kind of oxygen function, other than glycine
2922.49.60	3-Aminocrotonic acid, methyl ester; and (R)-alpha-amino-1,4-cyclohexadiene-1-acetic acid
2922.49.80	Non-aromatic esters of amino-acids, other than those containing more than one kind of oxygen function; salts thereof
2923.10.00	Choline and its salts
2923.20.10	Purified egg phospholipids, pharmaceutical grade meeting requirements of the U.S. FDA for use in intravenous fat emulsion
2923.20.20	Lecithins and other phosphoaminolipids, nesoi
2923.30.00	Tetraethylammonium perfluorooctane sulfonate
2923.40.00	Didecylmethylammonium perfluorooctane sulfonate
2923.90.01	Quaternary ammonium salts and hydroxides, whether or not chemically defined, nesoi
2924.12.00	Fluoroacetamide (ISO), monocrotophos (ISO) and phosphamidon (ISO)
2924.19.11	Acyclic amides (including acyclic carbamates)
2924.19.80	Acyclic amide derivatives; salts thereof; nesoi
2924.21.04	3-(p-Chlorophenyl)-1,1-dimethylurea (Monuron)
2924.21.08	1,1-Diethyl-3-(alpha,alpha,alpah-trifluoro-m-tolyl)urea (Fluometuron)
2924.21.12	1-(2-Methylcyclohexyl)-3-phenylurea
2924.21.16	Aromatic ureines and their derivatives pesticides, nesoi
2924.21.20	Aromatic ureines and their derivatives; salts thereof; described in additional U.S. note 3 to section VI
2924.21.45	Aromatic ureines and their derivatives; salts thereof, nesoi
2924.21.50	Nonaromatic ureines and their derivatives; and salts thereof
2924.23.10	2-Acetamidobenzoic acid
2924.23.70	2-Acetamidobenzoic acid salts described in additional U.S. note 3 to section VI
2924.23.75	2-Acetamidobenzoic acid salts, nesoi
2924.25.00	Alachlor (ISO)
2924.29.01	p-Acetanisidide; p-acetoacetatoluidide; 4'-amino-N-methylacetanilide; 2,5-dimethoxyacetanilide; and N-(7-hydroxy-1-naphthyl)acetamide
2924.29.10	Acetanilide; N-acetylsulfanilyl chloride; aspartame; and 2-methoxy-5-acetamino-N,N-bis(2-acetoxyethyl)aniline

HTS Subheading	Product Description
2924.29.20	2-Acetamido-3-chloroanthraquinone; o-acetoacetaidide; o-acetoacetotoluidide; 2,4-acetoacetoxylidide; and 1-amino-5-benzamidoanthraquinone
2924.29.28	N-[[(4-Chlorophenyl)amino]carbonyl]difluorobenzamide; and 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)benzamide (pronamide)
2924.29.31	4-Acetamido-2-aminophenol; p-acetaminobenzaldehyde; acetoacetbenzylamide; p-acetoacetophenetidide; N-acetyl-2,6-xylidine; & other specified
2924.29.33	3-Hydroxy-2-naphthanilide; 3-hydroxy-2-naphtho-o-toluidide; 3-hydroxy-2-naphtho-o-anisidine; 3-hydroxy-2-naphtho-o-phenetidide; & other
2924.29.43	3-Ethoxycarbonylaminophenyl-N-phenylcarbamate (desmedipham); and Isopropyl-N-(3-chlorophenyl)carbamate (CIPC)
2924.29.47	Other cyclic amides used as pesticides
2924.29.65	5-Bromoacetyl-2-salicylamide
2924.29.71	Aromatic cyclic amides and their derivatives of products described in additional U.S. note 3 to section VI, nesoi
2924.29.77	Aromatic cyclic amides (incl cyclic carbamates) and their derivatives and salts thereof, nesoi
2924.29.80	2,2-Dimethylcyclopropylcarboxamide
2924.29.95	Other nonaromatic cyclic amides and their derivatives; salts thereof; nesoi
2925.11.00	Saccharin and its salts
2925.19.30	Bis(o-tolyl)carbodiimide; and 2,2,6,6-tetraisopropyldiphenylcarbodiimide
2925.19.42	Other aromatic imides and their derivatives; salts thereof; nesoi
2925.19.70	N-Chlorosuccinimide; and N,N-ethylenebis(5,6-dibromo-2,3-norbornanedicarbooximide
2925.19.91	Other non-aromatic imides and their derivatives
2925.21.00	Chlordimeform (ISO)
2925.29.10	N'-(4-Chloro-o-tolyl)-N,N-dimethylformamidine; bunamidine hydrochloride; and pentamidine
2925.29.18	N,N'-diphenylguanidine; 3-dimethylaminomethyleneiminophenol hydrochloride; 1,3-di-o-tolyguandidine; and one other specified chemical
2925.29.20	Aromatic drugs of imines and their derivatives, nesoi
2925.29.60	Aromatic imines and their derivatives; salts thereof (excluding drugs); nesoi
2925.29.90	Non-aromatic imines and their derivatives; salts thereof
2926.10.00	Acrylonitrile
2926.20.00	1-Cyanoguanidine (Dicyandiamide)
2926.30.10	Fenproporex (INN) and its salts
2926.30.20	4-Cyano-2-dimethylamino-4,4-diphenylbutane
2926.90.01	2-Cyano-4-nitroaniline
2926.90.05	2-Amino-4-chlorobenzonitrile (5-chloro-2-cyanoaniline); 2-amino-5-chlorobenzonitrile; 4-amino-2-chlorobenzonitrile; and others specified
2926.90.11	2,6-Diclorobenzonitrile
2926.90.14	p-Chlorobenzonitrile and verapamil hydrochloride
2926.90.16	Specifically named derivative of dimethylcyclopropanecarboxylic acid
2926.90.17	o-Chlorobenzonitrile
2926.90.25	Aromatic herbicides of nitrile-function compounds, nesoi
2926.90.30	Other aromatic nitrile-function pesticides
2926.90.43	Aromatic nitrile-function compounds, nesoi, described in additional U.S. note 3 to section VI
2926.90.48	Aromatic nitrile-function compounds other than those products in additional U.S. note 3 to section VI, nesoi

HTS Subheading	Product Description
2926.90.50	Nonaromatic nitrile-function compounds, nesoi
2927.00.03	4-Aminoazobenzenedisulfonic acid, monosodium salt
2927.00.06	p-Aminoazobenzenedisulfonic acid; and diazoaminobenzene (1,3-diphenyltriazine)
2927.00.15	1,1'-Azobisformamide
2927.00.18	1-Naphthalenesulfonic acid, 6-diazo-5,6-dihydro-5-oxo, ester with phenyl compound; and three other specified chemicals
2927.00.25	Diazo-, azo- or azoxy-compounds used as photographic chemicals
2927.00.30	Fast color bases and fast color salts, of diazo-, azo- or azoxy-compounds
2927.00.40	Diazo-, azo- or azoxy-compounds, nesoi, described in additional U.S. note 3 to section VI
2927.00.50	Other diazo-, azo- or azoxy-compounds, nesoi
2928.00.15	Phenylhydrazine
2928.00.25	Aromatic organic derivatives of hydrazine or of hydroxylamine
2928.00.50	Nonaromatic organic derivatives of hydrazine or of hydroxylamine, nesoi
2929.10.10	Toluenediisocyanates (unmixed)
2929.10.15	Mixtures of 2,4- and 2,6-toluenediisocyanates
2929.10.20	Bitolylene diisocyanate (TODI); o-Isocyanic acid, o-tolyl ester; and Xylene diisocyanate
2929.10.27	N-Butylisocyanate; cyclohexyl isocyanate; 1-isocyanato-3-(trifluoromethyl)benzene; 1,5-naphthalene diisocyanate; and octadecyl isocyanate
2929.10.35	1,6-Hexamethylene diisocyanate
2929.10.55	Isocyanates of products described in additioonal U.S. note 3 to sect VI
2929.90.05	2,2-Bis(4-cyanatophenyl)-1,1,1,3,3,3,-hexafluoropropane; 2,2-bis(4-cyanatophenyl)propane; 1,1-ethylidenebis(phenyl-4-cyanate); and 2 others
2929.90.15	Other aromatic compounds with other nitrogen function of products described in additional U.S. note 3 to section VI
2929.90.20	Aromatic compounds with other nitrogen function, nesoi
2929.90.50	Nonaromatic compounds with other nitrogen functions, except isocyanates
2930.20.10	Aromatic pesticides of thiocarbamates and dithiocarbamates
2930.20.90	Other non-aromatic thiocarbamates and dithiocarbamates
2930.30.60	Thiuram mono-, di- or tetrasulfides, other than tetramethylthiuram monosulfide
2930.40.00	Methionine
2930.60.00	2-(N,N-Diethylamino)ethanethiol
2930.90.10	Aromatic pesticides of organo-sulfur compounds, nesoi
2930.90.26	3-(4-Aminobenzamido)phenyl-beta-hydroxyethylsulfone; 2-[(4-aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester; diphenylthiourea; & others
2930.90.29	Other aromatic organo-sulfur compounds (excluding pesticides)
2930.90.30	Thiocyanates, thiurams and isothiocyanates
2930.90.42	O,O-Dimethyl-S-methylcarbamoylmethyl phosphorodithioate; and malathion
2930.90.43	Other non-aromatic organo-sulfur compounds used as pesticides
2930.90.46	dl(underscored)-Hydroxy analog of dl(underscored)-methionine
2930.90.49	Nonaromatic organo-sulfur acids, nesoi
2931.10.00	Tetramethyl lead & tetraethyl lead
2931.20.00	Tributyltin compounds
2931.31.00	Dimethyl methylphosphonate

HTS Subheading	Product Description
2931.32.00	Dimethyl propylphosphonate
2931.34.00	Sodium 3-(trihydroxysilyl)propyl methylphosphonate
2931.35.00	2,4,6-Tripropyl-1,3,5,2,4,6-trioxatriphosphinane-2,4,6-trioxide
2931.36.00	(5-Ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl methylphosphonate
2931.37.00	Bis[(5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl] methylphosphonate
2931.38.00	Salt of methylphosphonic acid and (aminoiminiomethyl)urea (1:1)
2931.90.22	Drugs of aromatic organo-inorganic (except organo-sulfur) compounds
2931.90.30	Aromatic organo-inorganic compounds, nesoi, described in additional U.S. note 3 to section VI
2931.90.60	Other aromatic organo-inorganic compounds (excluding products described in additional U.S. note 3 to section VI)
2931.90.70	N,N'-Bis(trimethylsilyl)urea;2-Phosphonobutane-1,2,4-tricarboxylic acid and its salts; and one other specified chemical
2932.11.00	Tetrahydrofuran
2932.12.00	2-Furaldehyde (Furfuraldehyde)
2932.13.00	Furfuryl alcohol and tetrahydrofurfuryl alcohol
2932.19.10	Aromatic heterocyclic compounds with oxygen hetero-atom(s) only, containing an unfused furan ring, nesoi
2932.19.51	Nonaromatic compounds containing an unfused furan ring (whether or not hydrogenated) in the ring
2932.92.00	1-(1,3-Benzodioxol-5-yl)propan-2-one
2932.93.00	Piperonal (heliotropin)
2932.94.00	Safrole
2932.95.00	Tetrahydrocannabinols (all isomers)
2932.99.08	2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranylmethanesulfonate
2932.99.20	Aromatic pesticides of heterocyclic compounds with oxygen hetero-atom(s) only, nesoi
2932.99.32	Benzofuran (Coumarone); and Dibenzofuran (Diphenylene oxide)
2932.99.35	2-Hydroxy-3-dibenzofurancarboxylic acid
2932.99.39	Benzointetrahydropyranyl ester; and Xanthen-9-one
2932.99.70	Aromatic heterocyclic compounds with oxygen hetero-atom(s) only, nesoi
2933.19.08	3-(5-Amino-3-methyl-1H-pyrazol-1-yl)benzenesulfonic acid; amino-J-pyrazolone; and another 12 specified chemicals
2933.19.15	1,2-Dimethyl-3,5-diphenyl-1H-pyrazolium methyl sulfate (difenzoquat methyl sulfate)
2933.19.18	2-Chloro-5-sulfophenylmethylpyrazolone; phenylcarbethyoxypyrazolone; and 3 other specified chemicals
2933.19.23	Aromatic or modified aromatic pesticides containing an unfused pyrazole ring (whether or not hydrogenated) in the structure
2933.19.30	Aromatic or modified aromatic photographic chemicals containing an unfused pyrazole ring (whether or n/hydrogenated) in the structure, nesoi
2933.19.35	Aromatic or modified aromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only containing an unfused pyrazole ring
2933.19.37	Aromatic or mod. aromatic compound desc in add US note 3 to section VI contain an unfused pyrazole ring (w/wo hydrogenated) in the structure
2933.19.43	Aromatic or modified aromatic compounds (excluding products in add US note 3 to sec VI) containing an unfused pyrazole ring in the structure
2933.19.45	Nonaromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only containing an unfused pyrazole ring
2933.19.70	3-Methyl-5-pyrazolone

HTS Subheading	Product Description
2933.19.90	Other compound (excluding aromatic, modified aromatic & drugs) containing unfused pyrazole ring (whether or n/hydrogenated) in the structure
2933.21.00	Hydantoin and its derivatives
2933.29.05	1-[1-((4-Chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl]-1H-imidazole (triflumizole); and ethylene thiourea
2933.29.10	2-Phenylimidazole
2933.29.20	Aromatic or modified aromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only cont. an unfused imidazole ring
2933.29.35	Aromatic or mod. aromatic goods in add US note 3 to sect VI containing an unfused imidazole ring (whether or n/hydrogenated) in structure
2933.29.43	Aromatic or mod aromatic goods contng unfused imidazole ring (whether or n/hydrogenated) in the structure (exc prod in add US note 3 sec VI)
2933.29.45	Nonaromatic drugs of heterocyclic compounds with nitrogen hetero-atom(s) only, containing an unfused imidazole ring, nesoi
2933.29.60	Imidazole
2933.29.90	Other compounds (excluding drugs, aromatic and modified aromatic compounds) containing an unfused imidazole ring (whether or n/hydrogenated)
2933.31.00	Pyridine and its salts
2933.32.10	Piperidine
2933.32.50	Piperidine salts
2933.61.00	Melamine
2933.69.20	2,4-Diamino-6-phenyl-1,3,5-triazine
2933.69.50	Hexamethylenetetramine
2933.71.00	6-Hexanelactam (epsilon-Caprolactam)
2933.79.04	2,4-Dihydro-3,6-diphenylpyrrolo-(3,4-C)pyrrole-1,4-dione
2933.79.08	Aromatic or modified aromatic lactams with nitrogen hetero-atoms only described in additional U.S. note 3 to section VI
2933.79.15	Aromatic or modified aromatic lactams, nesoi
2933.79.20	N-Methyl-2-pyrrolidone; and 2-pyrrolidone
2933.79.30	N-Vinyl-2-pyrrolidone, monomer
2933.79.40	12-Aminododecanoic acid lactam
2933.79.85	Aromatic or modified aromatic lactams with nitrogen hetero-atoms only, nesoi
2933.92.00	Azinphos-methyl
2934.10.10	Aromatic or modified aromatic heterocyclic compounds cont. an unfused thiazole ring, described in add. U.S. note 3 to section VI
2934.10.20	Aromatic or modified aromatic heterocyclic compounds, nesoi, containing an unfused thiazole ring
2934.10.90	Other compounds (excluding aromatic or modified aromatic) containing an unfused thiazole ring (whether or not hydrogenated) in the structure
2934.20.10	2,2'-Dithiobisbenzothiazole
2934.20.15	2-Mercaptobenzothiazole; and N-(Oxydiethylene)benzothiazole-2-sulfenamide
2934.20.20	2-Mercaptobenzothiazole, sodium salt (2-Benzothiazolethiol, sodium salt)
2934.20.25	2-Amino-5,6-dichlorobenzothiazole; 2-amino-6-nitrobenzothiazole; and 2 other specified chemicals
2934.20.30	2-Amino-6-methoxybenzothiazole and other specified heterocyclic compounds, cont. a benzothiazole ring-system, not further fused
2934.20.35	Pesticides containing a benzothiazole ring-system, not further fused

HTS Subheading	Product Description
2934.20.40	Heterocyclic compounds containing a benzothiazole ring-system, not further fused, described in add. U.S. note 3 to section VI
2939.80.00	Other alkaloids, natural or reproduced by synthesis and their salts, ethers, esters & other derivatives, nesoi
2940.00.60	Other sugars, nesoi excluding d-arabinose
2942.00.03	[2,2'-Thiobis(4-(1,1,3,3-tetramethyl-n-butyl)phenolato)(2,1)]-O,O',S-s(1-butanamine), nickel II
2942.00.05	Aromatic or modified aromatic drugs of other organic compounds, nesoi
2942.00.10	Aromatic or modified aromatic organic compounds, nesoi, described in additional U.S. note 3 to section VI
2942.00.35	Other aromatic or modified aromatic organic compounds (excluding products described in additional U.S. note 3 to section VI)
2942.00.50	Nonaromatic organic compounds, nesoi
3101.00.00	Animal or vegetable fertilizers; fertilizers produced by the mixing or chemical treatment of animal or vegetable products
3102.10.00	Urea, whether or not in aqueous solution
3102.21.00	Ammonium sulfate
3102.29.00	Double salts and mixtures of ammonium sulfate and ammonium nitrate
3102.30.00	Ammonium nitrate, whether or not in aqueous solution
3102.40.00	Mixtures of ammonium nitrate with calcium carbonate or other inorganic nonfertilizing substances
3102.50.00	Sodium nitrate
3102.60.00	Double salts and mixtures of calcium nitrate and ammonium nitrate
3102.80.00	Mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution
3102.90.01	Mineral or chemical fertilizers, nitrogenous, nesoi, including mixtures not specified elsewhere in heading 3102
3103.11.00	Superphosphates containing by weight 35% or more of diphosphorous pentaoxide (P2O5)
3103.19.00	Superphosphates nesoi
3103.90.01	Mineral or chemical fertilizers, phosphatic
3104.20.00	Potassium chloride
3104.30.00	Potassium sulfate
3104.90.01	Mineral or chemical fertilizers, potassic, nesoi
3105.10.00	Fertilizers of chapter 31 in tablets or similar forms or in packages of a gross weight not exceeding 10 kg
3105.20.00	Mineral or chemical fertilizers nesoi, containing the three fertilizing elements nitrogen, phosphorus and potassium
3105.30.00	Diammonium hydrogenorthophosphate (Diammonium phosphate)
3105.40.00	Ammonium dihydrogenorthophosphate (Monoammonium phosphate), mixtures thereof with diammonium hydrogenorthophosphate (Diammonium phosphate)
3105.51.00	Mineral or chemical fertilizers nesoi, containing nitrates and phosphates
3105.59.00	Mineral or chemical fertilizers nesoi, containing the two fertilizing elements nitrogen and phosphorus
3105.60.00	Mineral or chemical fertilizers nesoi, containing the two fertilizing elements phosphorous and potassium
3105.90.00	Mineral or chemical fertilizers cont. two or three of the fertilizing elements nitrogen, phosphorus and potassium fertilizers, nesoi
3201.10.00	Quebracho tanning extract
3201.20.00	Wattle tanning extract
3201.90.10	Tannic acid, containing by weight 50 percent or more of tannic acid
3201.90.25	Tanning extracts of canaigre,chestnut curupay,divi-divi,eucalyptus,gambier,hemlock,larch,mangrove,myrobalan,oak,sumac,tara,urunday,valonia

HTS Subheading	Product Description
3201.90.50	Tanning extracts of vegetable origin nesoi; tannins and their salts, ethers, esters and other derivatives
3202.10.10	Aromatic or modified aromatic synthetic organic tanning substances
3202.10.50	Synthetic organic tanning substances, nonaromatic
3202.90.10	Tanning substances, tanning preparations and enzymatic preparations for pre-tanning consisting wholly of inorganic substances
3202.90.50	Tanning substances, tanning preparations and enzymatic preparations for pre-tanning, nesoi
3203.00.10	Coloring matter of annato, archil, cochineal, cudbear, litmus and marigold meal
3203.00.30	Mixtures of 3,4-dihydroxyphenyl-2,4,6,-trihydroxypphenylmethanone and 2-(2,4-dihydroxyphenyl)-3,5,7-trihydroxy-4H-1-benzopyran-4-one
3203.00.80	Coloring matter of vegetable or animal origin, nesoi
3204.11.10	Disperse blue 19 and other specified dispersed dyes and preparations based thereon
3204.11.18	N-[2-[2,6-Dicyano-4-methylphenylazo]-5-(diethylamino)phenyl]methanesulfonamide; and 1 other specified disperse dye
3204.11.35	Disperse dyes described in add'l U.S. note 3 to section VI
3204.11.50	Disperse dyes and preparations based thereon, nesoi
3204.12.05	Acid black 210 powder and presscake
3204.12.13	Acid violet 19
3204.12.17	Acid dyes, whether or not premetallized, and preparations based thereon, acid black 31, and other specified acid or mordant dyes
3204.12.20	Acid black 61 and other specified acid and mordant dyes and preparations based thereon
3204.12.30	Mordant black 75, blue 1, brown 79, red 81, 84 and preparations based thereon
3204.12.45	Acid dyes, whether or not premetallized, and preparations based thereon, described in add'l U.S. note 3 to section VI
3204.12.50	Synthetic acid and mordant dyes and preparations based thereon, nesoi
3204.13.10	Basic black 7 and other specified basic dyes and preparations based thereon
3204.13.20	Basic orange 22, basic red 13 dyes, and preparations based thereon
3204.13.25	Basic blue 3; basic red 14; and basic yellow 1, 11, 13; and preparations based thereon
3204.13.45	3,7-Bis(dimethylamino)phenazathionium chloride (methylene blue); and basic blue 147
3204.13.60	Basic dyes and preparations based thereon, described in add'l U.S note 3 to section VIvi
3204.13.80	Basic dyes and preparations based thereon, nesoi
3204.14.10	Direct black 62 and other specified basic dyes and preparations based thereon
3204.14.20	Direct black 51 and other specified basic dyes and preparations based thereon
3204.14.25	Direct blue 86; direct red 83; direct yellow 28 dyes; and preparations based thereon
3204.14.30	Direct dyes nesoi, and preparations based thereon, described in additional U.S. note 3 to section VI
3204.14.50	Direct dyes and preparations based thereon, nesoi
3204.15.20	Vat brown 3; vat orange 2, 7; and vat violet 9, 13 dyes and preparations based thereon
3204.15.25	Vat red 1
3204.15.30	Solubilized vat blue 5 and specified solubilized vat dyes and preparations based thereon
3204.15.35	Solubilized vat orange 3, vat blue 2, vat red 44; and vat yellow 4, 20 and preparations based thereon
3204.15.40	Vat dyes (incl. those usable as pigments) and preparations based thereon, described in add. U.S. note 3 to sec. VI
3204.16.10	Reactive black 1; blue 1, 2, 4; orange 1; red 1, 2, 3, 5, 6; and yellow 1; and preparations based thereon
3204.16.20	Specified reactive dye mixtures and preparations based thereon

HTS Subheading	Product Description
3204.16.30	Reactive dyes and preparations based thereon nesoi, described in additional U.S. note 3 to section VI
3204.16.50	Synthetic reactive dyes and preparations based thereon, nesoi
3204.17.04	Pigments and preparations based thereon, pigment black 1, and other specified pigments, nesoi
3204.17.08	Pigment red 178; pigment yellow 101, 138
3204.17.20	Copper phthalocyanine ([Phthalocyanato(2-)]copper) not ready for use as a pigment
3204.17.40	Pigments and preparations based thereon, isoindoline red pigment; pigment red 242, 245; pigment yellow 155, 183, nesoi
3204.17.60	Pigments and preparations based thereon, products described in add'l U.S. note 3 to section VI, nesoi
3204.17.90	Other pigments and preparations based thereon, nesoi
3204.19.06	Solvent yellow 43, 44, 85, 172
3204.19.11	Solvent black 2 and other specified solvent dyes and preparations based thereon
3204.19.20	Solvent dyes and preparations based thereon, products described in add'l U.S. note 3 to section VI
3204.19.25	Solvent dyes and preparations based thereon nesoi
3204.19.30	Sulfur black, "Colour Index Nos. 53185, 53190 and 53195" and preparations based thereon
3204.19.35	Beta-carotene and other carotenoid coloring matter
3204.19.50	Synthetic organic coloring matter and preparations based thereon nesoi, including mixtures of items from subheading 320411 to 320419
3204.20.10	Fluorescent brightening agent 32
3204.20.80	Synthetic organic products of a kind used as fluorescent brightening agents, nesoi
3204.90.00	Synthetic organic coloring matter or preparations based thereon, nesoi; synthetic organic products used as luminophores
3205.00.05	Carmine food coloring solutions, cont cochineal carmine lake and paprika oleoresins, not including any synthetic organic coloring matter
3205.00.15	Carmine color lakes and preparations as specified in note 3 to this chapter, nesoi
3205.00.40	Color lakes and preparations based thereon, described in additional U.S. note 3 to section VI
3205.00.50	Color lakes and preparations based thereon, nesoi
3206.11.00	Pigments & preparations based on titanium dioxide containing 80 percent or more by weight off titanium dioxide calculated on the dry weight
3206.19.00	Pigments and preparations based on titanium dioxide, nesoi
3206.20.00	Pigments and preparations based on chromium compounds
3206.41.00	Ultramarine and preparations based thereon
3206.42.00	Lithopone and other pigments and preparations based on zinc sulfide
3206.49.10	Concentrated dispersions of pigments in plastics materials
3206.49.20	Coloring preparations based on iron oxides, as specified in note 3 to this chapter 32
3206.49.30	Coloring preparations based on zinc oxides, as specified in note 3 to this chapter 32
3206.49.40	Coloring preparations based on carbon black, as specified in note 3 to this chapter 32
3206.49.55	Pigments and preparations based on hexacyanoferrates (ferrocyanides and ferricyanides)
3206.49.60	Coloring matter and preparations, nesoi, as specified in note 3 to this chapter 32
3206.50.00	Inorganic products of a kind used as luminophores
3207.10.00	Prepared pigments, opacifiers, colors, and similar preparations, of a kind used in the ceramic, enamelling or glass industry
3207.20.00	Vitrifiable enamels and glazes, engobes (slips), and similar preparations, of a kind used in the ceramic, enamelling or glass industry
3207.30.00	Liquid lustres and similar preparations, of a kind used in the ceramic, enamelling or glass industry

HTS Subheading	Product Description
3207.40.10	Glass frit and other glass, ground or pulverized
3207.40.50	Glass frit and other glass, in the form of granules or flakes
3208.10.00	Paints and varnishes (including enamels and lacquers) based on polyesters in a nonaqueous medium
3208.20.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in a nonaqueous medium
3208.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in a nonaqueous medium
3209.10.00	Paints and varnishes (including enamels and lacquers) based on acrylic or vinyl polymers in an aqueous medium
3209.90.00	Paints and varnishes based on synthetic polymers or chemically modified natural polymers nesoi, in an aqueous medium
3210.00.00	Other paints and varnishes (including enamels, lacquers and distempers) nesoi; prepared water pigments of a kind used for finishing leather
3211.00.00	Prepared driers for paints and varnishes
3212.10.00	Stamping foils
3212.90.00	Pigments dispersed in nonaqueous media, in liquid or paste form, used in making paints; dyes & coloring matter packaged for retail sale
3213.10.00	Artists', students' or signboard painters' colors, in tablets, tubes, jars, bottles, pans or in similar packings, in sets
3213.90.00	Artists', students' or signboard painters' colors, in tablets, tubes, jars, bottles, pans or in similar packings, not in sets
3214.10.00	Glaziers' putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings
3214.90.10	Nonrefractory surfacing preparations for facades, indoor walls, floors, ceilings or the like, based on rubber
3214.90.50	Nonrefractory surfacing preparations for facades, indoor walls, floors, ceilings or the like, not based on rubber
3215.11.10	Printing ink, black, solid, in engineered shapes for apparatus in 8443.31,32,39
3215.11.30	Printing ink, black, solid, other
3215.11.90	Printing ink, black, not solid, other
3215.19.10	Printing ink, not black, solid, in engineered shapes for apparatus in 8443.31,32,39
3215.19.30	Printing ink, not black, solid, other
3215.19.90	Printing ink, not black, not solid
3215.90.10	Drawing ink
3215.90.50	Inks, other than printing or drawing inks
3301.13.00	Essential oils of lemon
3302.90.10	Mixtures of or with a basis of odoriferous substances, used in other than the food or drink industries, zero to 10% alcohol by weight
3302.90.20	Mixtures of or with a basis of odoriferous substances, used in other than the food or drink industries, over 10 percent alcohol by weight
3303.00.10	Floral or flower waters, not containing alcohol
3303.00.20	Perfumes and toilet waters, other than floral or flower waters, not containing alcohol
3303.00.30	Perfumes and toilet waters, containing alcohol
3304.10.00	Lip make-up preparations
3304.20.00	Eye make-up preparations
3304.30.00	Manicure or pedicure preparations
3304.91.00	Beauty or make-up powders, whether or not compressed
3304.99.10	Petroleum jelly put up for retail sale

HTS Subheading	Product Description
3304.99.50	Beauty or make-up preparations & preparations for the care of the skin, excl. medicaments but incl. sunscreen or sun tan preparations, nesoi
3305.10.00	Shampoos
3305.20.00	Preparations for permanent waving or straightening the hair
3305.30.00	Hair lacquers
3305.90.00	Preparations for use on the hair, nesoi
3306.90.00	Preparations for oral or dental hygiene, including denture fixative pastes and powders, excluding dentifrices
3307.10.10	Pre-shave, shaving or after-shave preparations, not containing alcohol
3307.10.20	Pre-shave, shaving or after-shave preparations, containing alcohol
3307.20.00	Personal deodorants and antiperspirants
3307.30.10	Bath salts, whether or not perfumed
3307.30.50	Bath preparations, other than bath salts
3307.41.00	"Agarbatti" and other odoriferous preparations which operate by burning, to perfume or deodorize rooms or used during religious rites
3307.49.00	Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites, nesoi
3307.90.00	Depilatories and other perfumery, cosmetic or toilet preparations. nesoi
3401.11.10	Castile soap in the form of bars, cakes or molded pieces or shapes
3401.11.50	Soap, nesoi; organic surface-active products used as soap, in bars, cakes, pieces, soap-impregnated paper, wadding, felt, for toilet use
3401.20.00	Soap, not in the form of bars, cakes, molded pieces or shapes
3401.30.10	Organic surface-active products for wash skin, in liquid or cream, contain any aromatic/mod aromatic surface-active agent, put up for retail
3401.30.50	Organic surface-active products and preparations for washing the skin, in liquid or cream form, put up for retail sale, nesoi
3402.11.20	Linear alkylbenzene sulfonates
3402.11.40	Anionic, aromatic or modified aromatic organic surface-active agents, whether or not put up for retail sale, nesoi
3402.11.50	Nonaromatic anionic organic surface-active agents (other than soap)
3402.12.10	Aromatic or modified aromatic cationic organic surface-active agents (other than soap)
3402.12.50	Nonaromatic cationic organic surface-active agents (other than soap)
3402.13.10	Aromatic or modified aromatic nonionic organic surface-active agents (other than soap)
3402.13.20	Nonaromatic nonionic organic surface-active agents (other than soap) of fatty substances of animal or vegetable origin
3402.13.50	Nonaromatic nonionic organic surface-active agents (other than soap), other than of fatty substances of animal or vegetable origin
3402.19.10	Aromatic or modified aromatic organic surface-active agents (other than soap) other than anionic, cationic or nonionic
3402.19.50	Nonaromatic organic surface-active agents (other than soap) nesoi
3402.20.11	Surface-active/washing/cleaning preparations containing any aromatic or mod aromatic surface-active agent, put up for retail, not head 3401
3402.20.51	Surface-active, washing, and cleaning preparations nesoi, put up for retail sale, not of heading 3401
3402.90.10	Synthetic detergents put up for retail sale
3402.90.30	Surface-active, washing, and cleaning preparations cont. any aromatic or modified aromatic surface-active agent, put up for retail sale
3402.90.50	Surface-active, washing, and cleaning preparations nesoi, put up for retail sale

HTS Subheading	Product Description
3403.11.20	Preparations for the treatment of textile materials, containing 50 but not over 70 percent or more by weight of petroleum oils
3403.11.40	Preparations for the treatment of textile materials, containing less than 50 percent by weight of petroleum oils
3403.11.50	Preparations for the treatment of leather, furskins, other materials nesoi, containing less than 70% petroleum or bituminous mineral oils
3403.91.10	Preparations for the treatment of textile materials, nesoi
3403.91.50	Preparations nesoi, for the treatment of leather, furskins or other materials nesoi
3404.20.00	Artificial waxes and prepared waxes of polyethylene glycol
3404.90.10	Artificial waxes and prepared waxes containing bleached beeswax
3404.90.51	Artificial waxes and prepared waxes
3405.10.00	Polishes, creams and similar preparations for footwear or leather
3405.20.00	Polishes, creams and similar preparations for the maintenance of wooden furniture, floors or other woodwork
3405.30.00	Polishes and similar preparations for coachwork, other than metal polishes
3405.40.00	Scouring pastes and powders and other scouring preparations
3405.90.00	Polishes, creams and similar preparations for glass or metal
3502.11.00	Egg albumin, dried
3502.90.00	Albumins, albuminates and other albumin derivatives, nesoi
3506.10.10	Animal glue, including casein glue but not including fish glue, not exceeding a net weight of 1 kg, put up for retail sale
3506.10.50	Products suitable for use as glues or adhesives, nesoi, not exceeding 1 kg, put up for retail sale
3506.91.10	Adhesive preparations based on rubber or plastics (including artificial resins), optically clear, for flat panel & touchscreen displays
3506.91.50	Other adhesive preparations based on rubber or plastics (including artificial resins)
3506.99.00	Prepared glues and other prepared adhesives, excluding adhesives based on rubber or plastics, nesoi
3507.10.00	Rennet and concentrates thereof
3507.90.20	Penicillin G amidase
3507.90.70	Enzymes and prepared enzymes, nesoi
3606.10.00	Liquid or liquefied-gas fuels in containers used for filling cigarette or similar lighters of a capacity not exceeding 300 cubic cm
3701.10.00	Photographic plates and film in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles, for X-ray use
3701.20.00	Instant print film in the flat, sensitized, unexposed, whether or not in packs
3701.30.00	Photographic plates and film nesoi, with any side 255 mm, in the flat, sensitized, unexposed, not of paper, paperboard, or textiles
3701.91.00	Photographic plates, film, for color photography, nesoi, in the flat, sensitized, unexposed, not of paper, paperboard, textiles
3701.99.30	Photographic dry plates, nesoi, sensitized, unexposed, of any material other than paper, paperboard or textiles
3701.99.60	Photographic plates and film, nesoi, in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles
3702.10.00	Photographic film in rolls, sensitized, unexposed, for X-ray use; of any material other than paper, paperboard or textiles
3702.31.01	Film in rolls, for color photography, without sprocket holes, of a width not exceeding 105 mm, sensitized, unexposed
3702.32.01	Film in rolls, with silver halide emulsion, without sprocket holes, of a width not exceeding 105 mm, sensitized, unexposed

HTS Subheading	Product Description
3702.39.01	Film in rolls without sprocket holes, width not exceeding 105 mm, other than color photography or silver halide emulsion film
3702.41.01	Film in rolls, without sprocket holes, of a width exceeding 610 mm and of a length exceeding 200 m, for color photography
3702.42.01	Film in rolls, without sprocket holes, of a width exceeding 610 mm and of a length exceeding 200 m, other than for color photography
3702.43.01	Film in rolls, without sprocket holes, of a width exceeding 610 mm and of a length not exceeding 200 m
3702.44.01	Film in rolls, without sprocket holes, of a width exceeding 105 mm but not exceeding 610 mm
3702.52.01	Film for color photography, in rolls, of a width not exceeding 16 mm
3702.53.00	Film for color photography, in rolls, exceeding 16 but not 35 mm in width and of a length not exceeding 30 m, for slides
3702.54.00	Film for color photography, in rolls, exceeding 16 but not 35 mm in width, of a length not exceeding 30 m, other than for slides
3702.55.00	Film for color photography, in rolls, exceeding 16 but not 35 mm in width and of a length exceeding 30 m
3702.56.00	Film for color photography, in rolls, of a width exceeding 35 mm
3702.96.00	Photographic film nesoi, in rolls, of a width not exceeding 35 mm and of a length not exceeding 30 m
3702.97.00	Photographic film nesoi, in rolls, of a width not exceeding 35 mm and of a length exceeding 30 m
3702.98.00	Photographic film nesoi, in rolls, of a width exceeding 35 mm
3703.10.30	Silver halide photographic papers, sensitized, unexposed, in rolls of a width exceeding 610 mm
3703.10.60	Photographic paper (other than silver halide), paperboard and textiles, sensitized, unexposed, in rolls of a width exceeding 610 mm
3703.20.30	Silver halide papers, other than in rolls of a width exceeding 610 mm, for color photography, sensitized, unexposed
3703.20.60	Photographic paper (not silver halide), paperbd & textiles for color photos, other than in rolls of a width > 610 mm, sensitized, unexposed
3703.90.30	Silver halide photographic papers, sensitized, unexposed, not for color photography, other than in rolls of a width exceeding 610 mm
3703.90.60	Photographic paper (not silver halide), paperbd, tex., not for color photo, other than in rolls of a width > 610 mm, sensitized, unexposed
3704.00.00	Photographic plates, film, paper, paperboard and textiles, exposed but not developed
3705.00.00	Photographic plates and film, exposed and developed, other than cinematographic film
3706.10.30	Sound recordings on motion-picture film of a width of 35 mm or more, suitable for use with motion-picture exhibits
3706.10.60	Motion-picture film of a width of 35 mm or more, exposed and developed, whether or not incorporating sound track, nesoi
3706.90.00	Motion-picture film, exposed and developed, less than 35 mm wide
3707.10.00	Sensitizing emulsions, for photographic uses, nesoi
3707.90.31	Acid violet 19 for photographic uses
3707.90.32	Chemical preparations for photographic uses, nesoi
3707.90.60	Unmixed products for photographic uses, put up in measured portions or put up for retail sale in a form ready for use
3801.10.10	Artificial graphite plates, rods, powder and other forms, for manufacture into brushes for electric generators, motors or appliances
3801.10.50	Artificial graphite, nesoi
3801.20.00	Colloidal or semi-colloidal graphite
3801.30.00	Carbonaceous pastes for electrodes and similar pastes for furnace linings

HTS Subheading	Product Description
3801.90.00	Preparations based on graphite or other carbon in the form of pastes, blocks, plates or other semimanufactures, nesoi
3802.10.00	Activated carbon
3802.90.10	Bone black
3802.90.20	Activated clays and activated earths
3802.90.50	Activated natural mineral products, nesoi; animal black, including spent animal black
3803.00.00	Tall oil, whether or not refined
3804.00.10	Lignin sulfonic acid and its salts
3804.00.50	Residual lyes from the manufacture of wood pulp, nesoi, excluding tall oil
3805.10.00	Gum, wood or sulfate turpentine oils
3805.90.10	Pine oil containing alpha-terpineol as the main constituent
3805.90.50	Terpenic oils, nesoi, produced by treatment of coniferous woods; crude dipentene; sulfite turpentine and other crude para-cymene
3806.10.00	Rosin and resin acids
3806.20.00	Salts of rosin or of resin acids
3806.30.00	Ester gums
3806.90.00	Resin acids, derivatives of resin acids and rosin, rosin spirit and rosin oils, run gums, nesoi
3807.00.00	Wood tar and its oils; wood creosote; wood naphtha; vegetable pitch; preparations based on rosin, resin acids or vegetable pitch
3808.59.40	Disinfectants specified in note 1 to chapter 38
3808.61.10	Pesticides containing any aromatic or modified aromatic, not exceeding 300g, specified in note 2 to chapter 38
3808.62.10	Pesticides containing any aromatic or modified aromatic, >300g but <7.5kg, specified in note 2 to chapter 38
3808.62.50	Pesticides, nesoi , >300g but <7.5kg, specified in note 2 to chapter 38
3808.69.10	Pesticides containing any aromatic or modified aromatic, >7.5kg, specified in note 2 to chapter 38
3808.69.50	Pesticides, nesoi , >7.5kg, specified in note 2 to chapter 38
3808.91.10	Fly ribbons (ribbon fly catchers), put up in packings for retail sale
3808.91.15	Mixtures of N-[[(chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide and inert substances
3808.91.25	Insecticides containing any aromatic or modified aromatic insecticide, nesoi
3808.91.30	Insecticides, nesoi, containing an inorganic substance, put up for retail sale
3808.91.50	Insecticides, nesoi, for retail sale or as preparations or articles
3808.92.05	Mixtures of dinocap and application adjuvants
3808.92.15	Fungicides containing any aromatic or modified aromatic fungicide, nesoi
3808.92.24	Maneb; zinab; mancozeb; and metiram
3808.92.28	Fungicides containing any fungicide which is a thioamide, thiocarbamate, dithio carbamate, thiuram or isothiocyanate, nesoi
3808.92.30	Fungicides, nesoi, containing an inorganic substance, put up for retail sale
3808.92.50	Fungicides nesoi, put up in forms or packing for retail sale or as preparations or articles
3808.93.05	Herbicides, antisprouting products and plant-growth regulators, aromatic or modified aromatic, for retail sale
3808.93.15	Herbicides containing any aromatic or modified aromatic herbicide, antisprouting agent or plant-growth regulator, nesoi
3808.93.20	Herbicides, antisprouting products and plant-growth regulators, nesoi, containing an inorganic substance, for retail sale
3808.93.50	Herbicides, antisprouting products and plant-growth regulators nesoi, put up for retail sale

HTS Subheading	Product Description
3808.94.10	Disinfectants, containing any aromatic or modified aromatic disinfectant
3808.94.50	Disinfectants not subject to subheading note 1 of chapter 38, nesoi
3808.99.04	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) and application adjuvants
3808.99.08	Rodenticides containing any aromatic or modified aromatic pesticide, nesoi
3808.99.30	Formulated biocides based on 2-methyl-4-isothiazolin-3-one, or 2-n-octyl-4-isothiazolin-3-one, or on certain other chemicals; metaldehyde
3808.99.70	Rodenticides containing an inorganic substance
3808.99.95	Rodenticides, nesoi
3809.91.00	Finishing agents, dye carriers and like products, nesoi, used in the textile or like industries
3809.92.10	Finishing agents, dye carriers and other preparations used in paper or like industries, 5% or more by wt. aromatic (mod.) substance(s)
3809.92.50	Finishing agents, dye carriers and other preparations used in paper or like industries, < 5% by weight of aromatic (mod.) substance(s)
3809.93.10	Finishing agents, dye carriers and other preparations used in leather and like industries, > 5% by weight aromatic (mod.) substance(s)
3809.93.50	Finishing agents, dye carriers and other preparations used in leather and like industries, < 5% by weight aromatic (mod.) substance(s)
3810.10.00	Pickling preparations for metal surfaces; soldering, brazing or welding powders and pastes consisting of metal and other materials
3810.90.10	Preparations used for soldering or cores or coatings for welding electrodes or rods, 5% or more by weight aromatic (or mod.) substance(s)
3810.90.20	Preparations used for soldering or as cores or coatings for welding electrodes or rods, consisting wholly of inorganic substances
3810.90.50	Preparations used for soldering or as cores or coatings for welding electrodes or rods, nesoi
3811.11.10	Antiknock preparations based on tetraethyl lead or on a mixture of tetraethyl lead and tetramethyl lead
3811.11.50	Antiknock preparations based on lead compounds, nesoi
3811.19.00	Antiknock preparations based on other than lead compounds
3811.90.00	Prepared additives for mineral oils (incl. gasoline) or other liquids used for the same purposes as mineral oils, nesoi
3812.10.10	Prepared rubber accelerators containing any aromatic or modified aromatic rubber accelerator nesoi
3812.10.50	Prepared rubber accelerators not containing any aromatic or modified aromatic rubber accelerator nesoi
3812.20.10	Compound plasticizers for rubber or plastics containing any aromatic or modified aromatic plasticizer nesoi
3812.20.50	Compound plasticizers for rubber or plastics not containing any aromatic or modified aromatic plasticizer nesoi
3812.31.00	Mixtures of oligomers of 2,2,4-trimethyl-1,2-dihydroquinoline (TMQ)
3812.39.20	Mixtures of N,N'-diaryl-p-phenylenediamines
3812.39.30	Master batches of poly[nitrilomethanetetraartlnitr
3812.39.60	Compound plasticizers for rubber/plastics cont any aromatic or modified aromatic antioxidant or other stabilizer, nesoi
3812.39.70	Bis(1,2,2,6,6-pentamethyl-4-piperidinyl) sebacate
3812.39.90	Antioxiding prep & oth compound stabilizers for rubber or plastics, nesoi
3813.00.10	Preparations and charges for fire extinguishers; charged fire-extinguishing grenades; consisting wholly of inorganic substances
3813.00.50	Preparations and charges for fire extinguishers; charged fire-extinguishing grenades; nesoi
3814.00.10	Organic composite solvents and thinners containing 5 to 25 percent, by weight of one or more aromatic substances

HTS Subheading	Product Description
3814.00.20	Organic composite solvents and thinners containing more than 25 percent by weight of one or more aromatic substances
3814.00.50	Organic composite solvents and thinners, nesoi; prepared paint or varnish removers; nesoi
3815.11.00	Supported catalysts with nickel or nickel compounds as the active substance
3815.12.00	Supported catalysts with precious metal or precious metal compounds as the active substance
3815.19.00	Supported catalysts other than with nickel or precious metal or their compounds as the active substance
3815.90.10	Reaction initiators, reaction accelerators and catalytic preparations, nesoi, consisting wholly of bismuth, of tungsten or of vanadium
3815.90.20	Reaction initiators, reaction accelerators and catalytic preparations, nesoi, consisting wholly of mercury or of molybdenum
3815.90.30	Reaction initiators, reaction accelerators and catalytic preparations, nesoi, consisting wholly of inorganic substances nesoi
3815.90.50	Reaction initiators, reaction accelerators and catalytic preparations, nesoi
3816.00.00	Refractory cements, mortars, concretes and similar compositions, other than products of heading 3801
3817.00.10	Mixed linear alkylbenzenes, other than those of heading 2707 or 2902
3817.00.15	Mixed alkylbenzenes, other than linear or those of heading 2707 or 2902
3817.00.20	Mixed alkylnaphthalenes, other than those of heading 2707 or 2902
3818.00.00	Chemical elements doped for use in electronics, in the form of discs, wafers etc., chemical compounds doped for electronic use
3819.00.00	Hydraulic brake fluids and transmission fluids cont. less than 70% by weight of petroleum oils, or bituminous mineral oils
3824.10.00	Prepared binders for foundry molds or cores
3824.30.00	Nonagglomerated metal carbides mixed together or with metallic binders
3824.40.10	Prepared additives for cements, mortars or concretes containing 5% or more by weight of aromatic or modified aromatic substances
3824.40.20	Prepared additives for cements, mortars or concretes consisting wholly of inorganic substances
3824.40.50	Prepared additives for cements, mortars or concretes, nesoi
3824.50.00	Non-refractory mortars and concretes
3824.71.01	Mixtures containing chlorofluorocarbons
3824.72.00	Containing bromochlorodiflourormethane, bromotrifluoromethane or dibromotetrafluroroethane
3824.73.00	Mixtures containing hydrobromofluorocarbons
3824.74.00	Mixtures containing hydrochlorofluorocarbons
3824.75.00	Mixtures of halogenated hydrocarbons containing carbon tetrachloride
3824.76.00	Containing 1,1,1,-trichloroethane
3824.77.00	Containing bromomethane or bomochloromethane
3824.78.00	Containing PFCs or HFCs but not CFCs or HCFCs
3824.79.10	Mixtures containing halogenated derivatives of methane, ethane, or propane, nesoi, chlorinated but not otherwise halogenated
3824.79.90	Mixtures containing halogenated derivatives of methane, ethane, or propane, nesoi, other than chlorinated but not halogenated
3824.81.00	Chemical mixtures containing oxirane (ethylene oxide)
3824.82.10	Containing PCBs, PCTs or PBBs: mixtures of halogenated hydrocarbons, chlorinated but not otherwise halogenated, nesoi
3824.82.90	Containing PCBs, PCTs or PBBs: mixtures of halogenated hydrocarbons other than chlorinated only, nesoi
3824.83.00	Containing tris (2,3-dibromopropyl phosphate)

HTS Subheading	Product Description
3824.84.00	Other mixtures cont aldrin, camphechlor(toxaphene), chlordane, chlordecone, DDT(clofenatone), 1,1,1-TRICHLORO-2,2-BIS(P-CHLOROPHENYL)ETHANE), ETC.
3824.85.00	Mixtures containing 1,2,3,4,5,6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO,INN)
3824.86.00	Mixtures containing pentachlorobenzene (ISO) or hexachlorobenzene (ISO)
3824.87.00	Mixtures containing perfluorooctane sulfonic acid, its salts, perfluorooctane sulfonamides, or perfluorooctane sulfonyl fluoride
3824.88.00	Mixtures containing tetra-, penta-, hexa-, hepta-, or octabromodiphenyl ethers
3824.91.00	Mixtures consisting mainly of methylphosphonate etc.
3824.99.11	Cultured crystals, weighing not less than 2.5g each, in the form of ingots
3824.99.19	Cultured crystals, weighing not less than 2.5g each except in the form of ingots
3824.99.21	Mixtures consisting wholly of substances found naturally in coal tar, whether obtained from coal tar or other source
3824.99.25	Mixtures of triphenyl sulfonium chloride, diphenyl (4-phenylthio)phenyl sulfonium chloride & (thiodi-4,1-phenylene)bis(diphenyl sulfonium) dichloride
3824.99.26	Benzene,2,4-Diisocyanate-1,3,5-tris-(1-methylethyl)
3824.99.28	Mixtures containing 5% or more by weight of one or more aromatic or modified aromatic substance, nesoi
3824.99.31	Mixtures of bismuth
3824.99.32	Mixtures of hydrosulfite compounds, of sulfoxylate compounds, or of both
3824.99.33	Mixtures of mercury
3824.99.34	Mixtures of molybdenum
3824.99.35	Mixtures of tungsten
3824.99.39	Mixtures of two or more inorganic compounds, nesoi
3824.99.41	Mixtures of fatty substances of animal or vegetable origin and mixtures thereof
3824.99.48	Mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil or natural gas
3824.99.50	Mixtures chlorinated but not otherwise halogenated
3824.99.55	Mixtures of halogenated hydrocarbons, nesoi
3824.99.70	Mixtures of dibromoneopentyl gylcol;polydibromophenylene oxide;tetrabromobisphenol-A-carbonate oligomers;electroplating chemical and electroless
3824.99.75	Mixtures of naphthenic acids, their water-insoluble salts and their esthers
3824.99.92	Chemical products and preparations and residual products of the chemical or allied industries, nesoi
3825.41.00	Halogenated waste organic solvents
3825.49.00	Waste organic solvents, other than halogenated
3825.50.00	Wastes of metal-pickling liquors, hydraulic fluids, brake fluids and anti-freeze fluids
3825.61.00	Other wastes from the chemical or allied industries mainly containing organic constituents
3825.69.00	Other wastes from the chemical or allied industries, other than those mainly containing organic constituents
3825.90.00	Residual products of the chemical or allied industries, nesoi; other wastes, nesoi, specified in note 6 to chapter 38
3826.00.10	Biodiesel not containing petroleum or bituminous oil
3826.00.30	Biodiesel containing <70% petroleum or bituminous oil
3901.40.00	Ethylene-alpha-olefin copolymers, having a specific gravity of less than 0.94
3905.99.30	Polyvinyl carbazole (including adjuvants)
3909.31.00	Poly(methylene phenyl isocyanate) (crude MDI, polymeric MDI)

HTS Subheading	Product Description
3909.39.00	Amino-resins, nesoi
3912.11.00	Cellulose acetates, nesoi, in primary forms, nonplasticized
3912.31.00	Carboxymethylcellulose and its salts
3913.90.20	Polysaccharides and their derivatives, nesoi, in primary forms
3915.10.00	Waste, parings and scraps, of polymers of ethylene
3915.20.00	Waste, parings and scrap, of polymers of styrene
3915.30.00	Waste, parings and scrap, of polymers of vinyl chloride
3915.90.00	Waste, parings and scrap, of plastics, nesoi
3916.90.20	Monofilament racket strings of plastics of which any cross-sectional dimension exceeds 1 mm
3917.10.10	Artificial guts (sausage casings) of cellulosic plastics materials
3917.10.60	Artificial guts (sausage casings) of collagen
3917.10.90	Artificial guts (sausage casings) of hardened protein, nesoi
3917.33.00	Flexible plastic tubes, pipes and hoses, nesoi, with fittings, not reinforced or otherwise combined with other materials
3917.39.00	Flexible plastic tubes, pipes and hoses, nesoi
3918.10.10	Vinyl tile floor coverings
3918.10.20	Vinyl flooring, excluding vinyl tile
3918.10.31	Wall or ceiling coverings, with a backing of manmade fibers, greater than 70% by weight of PVC
3918.10.32	Wall or ceiling coverings, with a backing of manmade fibers, less than or equal to 70% by weight of PVC
3918.10.40	Wall or ceiling coverings of polymers of vinyl chloride with a backing of textile fibers other than of manmade fibers
3918.10.50	Wall or ceiling coverings of polymers of vinyl chloride, without a backing of textile fibers
3918.90.10	Floor coverings of plastics, other than of polymers of vinyl chloride, nesoi
3918.90.20	Wall or ceiling coverings, with a backing of manmade fibers, of plastics other than polymers of vinyl chloride
3918.90.30	Wall or ceiling coverings of plastics other than of polymers of vinyl chloride with a backing of textile fibers other than of manmade fiber
3918.90.50	Wall or ceiling coverings of plastics other than vinyl chloride, without a backing of textile fibers
3922.90.00	Bidets, lavatory pans, flushing cisterns and similar sanitary ware nesoi, of plastics
3923.10.20	Boxes and similar articles for the conveyance or packing of semiconductor wafers, masks or reticules of subheadings 3923.10 or 8485.90
3923.10.90	Other boxes, cases, crates and similar articles for the conveyance or packing of goods, of plastics
3923.21.00	Sacks and bags (including cones) for the conveyance or packing of goods, of polymers of ethylene
3923.29.00	Sacks and bags (including cones) for the conveyance or packing of goods, of plastics other than polymers of ethylene
3923.30.00	Carboys, bottles, flasks and similar articles for the conveyance or packing of goods, of plastics
3923.40.00	Spools, cops, bobbins and similar supports, of plastics
3923.50.00	Stoppers, lids, caps and other closures, of plastics
3923.90.00	Articles nesoi, for the conveyance or packing of goods, of plastics
3925.10.00	Reservoirs, tanks, vats and similar containers, of a capacity exceeding 300 liters, of plastics
3925.90.00	Builders' ware of plastics, nesoi
3926.20.20	Baseball and softball gloves and mitts, of plastics
3926.20.30	Gloves specially designed for use in sports, nesoi, of plastics

HTS Subheading	Product Description
3926.20.60	Plastic rainwear, incl jackets, coats, ponchos, parkas & slickers, w/ outer shell PVC and w/wo attached hoods, val not over $10 per unit
3926.20.90	Articles of apparel & clothing accessories, of plastic, nesoi
3926.90.30	Parts for yachts or pleasure boats of heading 8903 and watercraft not used with motors or sails, of plastics
3926.90.45	Gaskets, washers and other seals, of plastics
3926.90.55	V-belts of plastics, containing textile fibers
3926.90.56	Belting and belts (except V-belts) for machinery, of plastics, containing predominately vegetable fibers
3926.90.57	Belting and belts (except V-belts) for machinery, of plastics, containing predominately man-made fibers
3926.90.59	Belting and belts (except V-belts) for machinery, of plastics, containing textile fibers nesoi
3926.90.60	Belting and belts (except V-belts) for machinery, of plastics, not containing textile fibers
3926.90.83	Empty cartridges and cassettes for typewriter and machine ribbons, of plastics
3926.90.87	Flexible document binders with tabs, rolled or flat, of plastics
3926.90.94	Cards, not punched, suit. for jacquard cards; jacquard cards & jacquard heads for power-driven weaving mach, etc;& trans sheet plast 30%lead
3926.90.96	Casing for bicycle derailleur cable;and casing for cable or inner wire for caliper and cantilever bake,whether or not cut length; of plastic
4001.10.00	Natural rubber latex, whether or not prevulcanized
4001.21.00	Natural rubber smoked sheets
4001.22.00	Technically specified natural rubber (TSNR), in primary forms
4001.29.00	Natural rubber in primary forms other than latex, smoked sheets or technically specified natural rubber (TSNR)
4001.30.00	Balata, gutta-percha, guayule, chicle and similar natural rubber gums, in primary forms
4002.11.00	Styrene-butadiene rubber (SBR) or carboxylated styrene-butadiene rubber (XSBR), latex, in primary forms or in plates, sheets or strip
4002.19.00	Styrene-butadiene rubber (SBR), carboxylated styrene-butadiene rubber (XSBR), except latex, in primary forms or in plates, sheets or strip
4002.20.00	Butadiene rubber (BR), in primary forms or in plates, sheets or strip
4002.31.00	Isobutene-isoprene (butyl) rubber (IIR), in primary forms or in plates, sheets or strip
4002.39.00	Halo-isobutene-isoprene rubber (CIIR or BIIR), in primary forms or in plates, sheets or strip
4002.41.00	Chloroprene (chlorobutadiene) rubber (CR), latex, in primary forms or in plates, sheets or strip
4002.49.00	Chloroprene (chlorobutadiene) rubber (CR), other than latex, in primary forms or in plates, sheets or strip
4002.51.00	Acrylonitrile-butadiene rubber (NBR), latex, in primary forms or in plates, sheets or strip
4002.59.00	Acrylonitrile-butadiene rubber (NBR), other than latex, in primary forms or in plates, sheets or strip
4002.60.00	Isoprene rubber (IR), in primary forms or in plates, sheets or strip
4002.70.00	Ethylene-propylene-nonconjugated diene rubber (EPDM), in primary forms or in plates, sheets or strip
4002.80.00	Mixtures of natural rubber gums with synthetic rubber, in primary forms or in plates, sheets or strip
4002.91.00	Synthetic rubber and factice derived from oils, in latex form, in primary forms or in plates, sheets or strip, nesoi
4002.99.00	Synthetic rubber and factice derived from oils, in primary forms or in plates, sheets or strip, nesoi
4003.00.00	Reclaimed rubber in primary forms or in plates, sheets or strip
4004.00.00	Waste, parings and scrap of rubber (other than hard rubber) and powders and granules obtained therefrom
4005.10.00	Rubber, unvulcanized, compounded with carbon black or silica, in primary forms or in plates, sheets or strip
4005.20.00	Solutions and dispersions of rubber, unvulcanized, compounded with other than carbon black or silica
4005.91.00	Compounded rubber, unvulcanized, in plates, sheets and strip

HTS Subheading	Product Description
4005.99.00	Compounded rubber, unvulcanized, in primary forms, nesoi
4006.90.10	Rods, tubes, profile shapes, discs, rings, and similar articles, of natural, unvulcanized rubber
4006.90.50	Rods, tubes, profile shapes, discs, rings, and similar articles, of synthetic unvulcanized rubber
4007.00.00	Vulcanized rubber thread and cord
4008.11.10	Plates, sheets and strip of vulcanized natural cellular rubber, other than hard rubber
4008.11.50	Plates, sheets and strip of vulcanized synthetic cellular rubber, other than hard rubber
4008.19.20	Rods and profile shapes of vulcanized natural cellular rubber, other than hard rubber
4008.19.40	Vulcanized natural cellular rubber, other than hard rubber, other than rods and profile shapes,nesi
4008.19.60	Rods and profile shapes of vulcanized, synthetic cellular rubber, other than hard rubber
4008.19.80	Vulcanized, synthetic cellular rubber, other than hard rubber, other than rods and profile shapes
4008.21.00	Plates, sheets and strip of vulcanized, noncellular rubber, other than hard rubber
4008.29.20	Rods and profile shapes of vulcanized, noncellular rubber, other than hard rubber
4008.29.40	Vulcanized, noncellular rubber, other than hard rubber, other than rods and profile shapes, nesoi
4009.11.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, not reinforced or combined w/other materials, without fittings
4009.21.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with metal, without fittings
4009.22.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with metal, with fittings
4009.31.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with textile materials, without fittings
4009.32.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined only with textile materials, with fittings
4009.41.00	Tubes, pipes and hoses of vulcanized rubber other than hard rubber, reinforced or combined with other materials nesoi, without fittings
4010.12.10	Conveyor belts or belting of vulcanized rubber reinforced only with textile materials, in which vegetable fibers predominate ov other fibers
4010.12.50	Conveyor belts/belting of vulcanized rubber reinforced w/textile material, mostly man-made fiber, width exceeds 20 cm
4010.12.55	Conveyor belts/belting of vulcanized rubber reinforced only w/textile material, mostly man-made fiber, width not over 20 cm
4010.12.90	Conveyor belts or belting of vulcanized rubber reinforced only with textile materials, nesoi
4010.19.10	Conveyor belts or belting of vulcanized rubber, nesoi, combined with textile materials in which vegetable fibers predominate ov other fibers
4010.19.50	Conveyor belts/belting of vulcanized rubber, nesoi, combined w/textile components in which man-made fibers predominate, width exceed 20 cm
4010.19.55	Conveyor belts/belting of vulcanized rubber, nesoi, combined w/textile components in which man-made fibers predominate, width under 20 cm
4010.19.80	Conveyor belts/belting of vulcanized rubber, nesoi, combined with textile materials nesoi
4010.19.91	Conveyor belts/belting of vulcanized rubber, nesoi
4010.31.30	Transmission V-belts of vulcanized rubber, V-ribbed, circumference exceed 60 cm but not exceed 180 cm, combined with textile materials
4010.31.60	Transmission V-belt of vulcanized rubber, V-ribbed, circumference exceed 60 cm but not exceed 180 cm, other than combined w/textile material
4010.32.30	Transmission V-belts of vulcanized rubber, not V-ribbed, circumference exceed 60 cm but not exceed 180 cm, combined with textile materials

HTS Subheading	Product Description
4010.32.60	Transmission V-belt of vulcanized rubber, not V-ribbed, circumference exceed 60 cm not exceed 180 cm, other than combined w/textile material
4010.33.30	Transmission V-belts of vulcanized rubber, V-ribbed, circumference exceed 180 cm but not exceed 240 cm, combined with textile materials
4010.33.60	Transmission V-belt of vulcanized rubber, V-ribbed, circumference exceed 180 cm not exceed 240 cm, other than combined w/textile material
4010.34.30	Transmission V-belts of vulcanized rubber, not V-ribbed, circumference exceed 180 cm but not exceed 240 cm, combined with textile materials
4010.34.60	Transmission V-belt of vulcanized rubber, not V-ribbed, circumference exceed 180 cm not exceed 240 cm,other than combined w/textile material
4010.35.30	Endless synchronous transmission belt of vulcan. rubber, circum. 60-150 cm, combined w/textile mat. w/vegetable fiber more than other fibers
4010.35.41	Endless synchronous transmission belt of vulcan. rubber, circum. 60-150 cm, combine w/textile mat.;manmade fiber predominant; width ov 20 cm
4010.35.45	Endless synchronous transmission belt of vulcan. rubber, circum. 60-150 cm, combine w/text. mat.;manmade fiber predominant; width n/o 20 cm
4010.35.50	Endless synchronous transmission belt of vulcanized rubber, circumference 60 to 150 cm, combined with textile materials nesoi
4010.35.90	Endless synchronous transmission belt of vulcanized rubber, circumference 60 to 150 cm, other than combined with textile materials
4010.36.30	Endless synchronous transmission belt of vulcan. rubber, circum. 150-198 cm, combined w/textile with vegetable fiber predom over other fiber
4010.36.41	Endless synchronous transmission belt of vulcan. rubber, circum. 150-198cm, combined w/manmade fiber exceeding other fibers, width ov 20 cm
4010.36.45	Endless synchronous transmission belt of vulcan. rubber, circum. 150-198cm, combined w/manmade fiber exceeding other fiber, width n/o 20 cm
4010.36.50	Endless synchronous transmission belts of vulcanized rubber, circumference 150 to 198 cm, combined with textile materials nesoi
4010.36.90	Endless synchronous transmission belts of vulcanized rubber, circumference 150 to 198 cm, other than combined with textile materials
4010.39.10	Transmission V-belts and V-belting of vulcanized rubber, nesoi, combined with textile materials
4010.39.20	Transmission V-belts and V-belting of vulcanized rubber, nesoi, other than combined with textile materials
4010.39.30	Transmission belts or belting of vulcanized rubber, nesoi, combined with textile materials in which vegetable fiber predominate other fibers
4010.39.41	Transmission belts or belting of vulcanized rubber, nesoi, combined w. textile materials with man-made fibers predominant, width over 20 cm
4010.39.45	Transmission belts or belting of vulcanized rubber, nesoi, combined w. textile materials with man-made fibers predominant, width n/o 20 cm
4010.39.50	Transmission belts or belting of vulcanized rubber, nesoi, combined with textile materials nesoi
4010.39.90	Transmission belts or belting of vulcanized rubber, nesoi, other than combined with textile materials
4011.10.10	New pneumatic radial tires, of rubber, of a kind used on motor cars (including station wagons and racing cars)
4011.10.50	New pneumatic tires excluding radials, of rubber, of a kind used on motor cars (including station wagons and racing cars)
4011.20.10	New pneumatic radial tires, of rubber, of a kind used on buses or trucks
4011.20.50	New pneumatic tires excluding radials, of rubber, of a kind used on buses or trucks
4011.40.00	New pneumatic tires, of rubber, of a kind used on motorcycles
4011.50.00	New pneumatic tires, of rubber, of a kind used on bicycles
4011.70.00	New pneumatic tires of a kind used on agricultural or forestry vehicles and machines

HTS Subheading	Product Description
4011.80.10	New pneumatic tires of a kind used on construction, mining or industrial handling vehicles and machines having a herring-bone or similar tread
4011.80.20	New pneumatic tires of a kind used on construction, mining or industrial handling vehicles and machines having a radial tread
4011.80.80	New pneumatic tires of a kind used on construction, mining or industrial handling vehicles and machines, other
4011.90.10	New pneumatic tires, of a kind NESOI, have a herring-bone or similar tread
4011.90.20	New pneumatic tires, of a kind NESOI, have a radial tread
4011.90.80	New pneumatic tires, NESOI
4012.11.40	Retreaded radial pnuematic tires, of rubber, of a kind used on motor cars (including station wagons and racing cars)
4012.11.80	Retreaded pnuematic tires (nonradials), of rubber, of a kind used on motor cars (including station wagons and racing cars)
4012.12.40	Retreaded pnuematic radial tires, of rubber, of a kind used on buses or trucks
4012.12.80	Retreaded pnuematic tires (nonradials), of rubber, of a kind used on buses or trucks
4012.19.20	Retreaded pneumatic tires, of rubber, designed for certain agricultural or horticultural machinery
4012.19.40	Retreaded pnuematic radial tires, of rubber, not elsewhere specified or included
4012.20.10	Used pneumatic tires of rubber, for aircraft
4012.20.15	Used pneumatic tires of rubber, designed for certain agricultural or horticultural machinery,for on-highway trasnport of passengers or goods
4012.20.45	Used pneumatic tires of rubber, designed for certain agricultural or horticultural machinery, nesoi
4012.20.60	Used pneumatic tires, of rubber, for vehicles for on-highway transport of passengers or goods nesoi, or vehicles of heading 8705
4012.20.80	Used pneumatic tires, of rubber for machinery, nesoi
4012.90.10	Solid or cushion tires of rubber
4012.90.30	Bicycle rim strips of natural rubber
4012.90.45	Interchangeable tire treads and tire flaps, of natural rubber, nesoi
4012.90.70	Bicycle rim strips of rubber other than of natural rubber
4012.90.90	Interchangeable tire treads and tire flaps, of rubber other than natural rubber, except bicycle rim strips, nesoi
4013.10.00	Inner tubes of rubber, of a kind used on motor cars (including station wagons and racing cars), buses or trucks
4013.20.00	Inner tubes of rubber, of a kind used on bicycles
4013.90.10	Inner tubes of rubber designed for tires used on certain agricultural or horticultural machinery
4013.90.50	Inner tubes of rubber for vehicles nesoi
4015.19.10	Seamless gloves of vulcanized rubber other than hard rubber, other than surgical or medical gloves
4015.19.50	Nonseamless gloves of vulcanized rubber other than hard rubber, other than surgical or medical gloves
4015.90.00	Articles of apparel and clothing accessories, excluding gloves, of vulcanized rubber other than hard rubber
4016.10.00	Articles of vulcanized cellular rubber other than hard rubber
4016.91.00	Floor covering and mats, of noncellular vulcanized rubber other than hard rubber
4016.93.10	Gaskets, washers and other seals, of noncellular vulcanized rubber other than hard rubber , for use in automotive goods in C87
4016.93.50	Gaskets, washers and other seals, of noncellular vulcanized rubber other than hard rubber, not for use in automotive goods in C87
4016.94.00	Boat or dock fenders, whether or not inflatable, of noncellular vulcanized rubber other than hard rubber
4016.99.03	Containers of noncellular vulcanized rubber, other than hard rubber, of a kind for packing, transport or marketing of merchandise

HTS Subheading	Product Description
4016.99.30	Articles made of noncellular vulcanized natural rubber, used as vibration control goods in vehicles of 8701 through 8705
4016.99.35	Articles made of noncellular vulcanized natural rubber, not used as vibration control goods in vehicles of 8701 through 8705 nesoi
4016.99.55	Articles nesoi, of noncellular vulcanized synthetic rubber other than hard rubber, used as vibration control goods in veh 8701/8705
4016.99.60	Articles of noncellular vulcanized synthetic rubber other than hard rubber
4017.00.00	Hard rubber (for example, ebonite) in all forms, including waste and scrap; articles of hard rubber
4104.11.10	Tanned whole bovine skin and hide upper/lining leather, w/o hair on, unit surface area n/o 2.6 sq m, in the wet state
4104.11.20	Tanned whole bovine skin and hide leather (not upper/lining), w/o hair on, unit surface area n/o 2.6 sq m, in the wet state
4104.11.30	Full grain unsplit or grain split buffalo hide or skin, w/o hair on, tanned but not further prepared, surface ov 2.6 m2, in the wet state
4104.11.40	Full grain unsplit/grain split bovine nesoi and equine upper & sole hides/skins, w/o hair, tanned but not further prepared, in the wet state
4104.11.50	Full grain unsplit/grain split bovine (except buffalo) nesoi and equine hides/skins, w/o hair, tanned not further prepared, in the wet state
4104.19.10	Whole bovine skin upper or lining leather, w/o hair on, unit surface n/o 2.6 sq m, tanned but not further prepared, in the wet state
4104.19.20	Whole bovine skin leather (not upper or lining), w/o hair on, surface n/o 2.6 sq m, tanned but not further prepared, in the wet state
4104.19.30	Buffalo hides and skins nesoi, w/o hair on, unit surface area ov 2.6 m2, tanned but not further prepared, in the wet state
4104.19.40	Upper and sole bovine (except buffalo) and equine hides and skins, nesoi, w/o hair, tanned but not further prepared, in the wet state
4104.19.50	Bovine (except buffalo) and equine hides and skins (not upper/sole) nesoi, w/o hair, tanned but not further prepared, in the wet state
4104.41.10	Crust whole bovine hide and skin upper or lining leather, w/o hair on, unit surface n/o 2.6 sq m, tanned but not further prepared
4104.41.20	Crust whole bovine hide and skin leather (not upper or lining), w/o hair on, surface n/o 2.6 sq m, tanned but not further prepared
4104.41.30	Crust full grain unsplit or grain split buffalo hides and skins, surface area over 2.6 m2, without hair on, tanned but not further prepared
4104.41.40	Crust full grain unsplit/grain split bovine (ex. buffalo) nesoi/equine hides/skins upper/sole leather, w/o hair, tanned not further prepared
4104.41.50	Crust full grain unsplit/grain split bovine (except buffalo) nesoi and equine hides and skins, nesoi, w/o hair, tanned not further prepared
4104.49.10	Crust whole bovine hide and skin upper or lining leather, w/o hair on, unit surface n/o 2.6 sq m, tanned but not further prepared, nesoi
4104.49.20	Crust whole bovine hide and skin (not upper or lining leather), w/o hair on, surface n/o 2.6 sq m, tanned but not further prepared, nesoi
4104.49.30	Crust buffalo hides and skins nesoi, without hair on, surface area over 2.6 m2, tanned but not further prepared
4104.49.40	Crust upper and sole equine and bovine (except buffalo) nesoi hides and skins, nesoi, w/o hair, tanned but not further prepared
4104.49.50	Crust bovine (except buffalo) nesoi and equine hides and skins, nesoi, w/o hair, tanned but not further prepared
4105.10.10	Sheep or lamb skins, without wool on, tanned but not further prepared, wet blue
4105.10.90	Sheep or lamb skins, without wool on, tanned but not further prepared, in the wet state other than wet blue

HTS Subheading	Product Description
4105.30.00	Sheep or lamb skins, without wool on, tanned but not further prepared, in the dry state (crust)
4106.21.10	Hides and skins of goats or kids, without hair on, tanned but not further prepared, wet blue
4106.21.90	Hides and skins of goats or kids, without hair on, tanned but not further prepared, in the wet state other than wet blue
4106.22.00	Hides and skins of goats or kids, without hair on, tanned but not further prepared, in the dry state (crust)
4106.31.10	Hides and skins of swine, without hair on, tanned but not further prepared, wet blue
4106.31.90	Hides and skins of swine, without hair on, tanned but not further prepared, in the wet state other than wet blue
4106.32.00	Hides and skins of swine, without hair on, tanned but not further prepared, in the dry state (crust)
4106.40.00	Tanned or cust hides and skins of reptiles, whether or not split, but not further prepared
4106.91.00	Hides and skins of animals nesoi, without hair on, tanned but not further prepared, in the wet state (including wet-blue)
4106.92.00	Hides and skins of animals nesoi, without hair on, tanned but not further prepared, in the dry state (crust)
4107.11.10	Full grain unsplit whole bovine upper or lining leather, w/o hair on, surface n/o 2.6 m2, prepared after tanning or crusting, not head 4114
4107.11.20	Full grain unsplit whole bovine leather (not upper/lining), w/o hair on, not fancy, n/o 2.6 m2,prepared after tanning or crust,not head 4114
4107.11.30	Full grain unsplit whole bovine leather (not upper/lining), w/o hair on, fancy, n/o 2.6 m2, prepared after tanning or crusting,not head 4114
4107.11.40	Full grain unsplit whole buffalo leather, without hair on, surface over 2.6 sq m, prepared after tanning or crusting, not heading 4114
4107.11.50	Full grain unsplit upholstery leather of bovines (not buffalo) nesoi and equines, w/o hair on, prepared after tanning or crusting, not 4114
4107.11.60	Full grain unsplit upper & sole leather of bovines (not buffalo) nesoi or equine, w/o hair on, prepared after tanning or crusting, not 4114
4107.11.70	Full grain unsplit whole bovine (not buffalo) nesoi and equine leather nesoi, w/o hair, prepared after tanning/crusting, not fancy, not 4114
4107.11.80	Full grain unsplit whole bovine (not buffalo) nesoi and equine leather nesoi, w/o hair, prepared after tanning or crusting, fancy, not 4114
4107.12.10	Grain split whole bovine skin upper or lining leather, w/o hair on, unit surface n/o 2.6 sq m, prepared after tanning or crusting, not 4114
4107.12.20	Grain split whole bovine skin leather (not upper or lining), w/o hair, not fancy, n/o 2.6 sq m, prepared after tanning or crusting, not 4114
4107.12.30	Grain split whole bovine skin leather (not upper or lining), w/o hair on, fancy, n/o 2.6 sq m, prepared after tanning or crusting, not 4114
4107.12.40	Grain split whole buffalo leather, without hair on, unit surface area over 2.6 sq m, prepared after tanning or crusting, not of heading 4114
4107.12.50	Grain split whole upholstery leather of bovines (not buffalo) nesoi and equines, w/o hair on, prepared after tanning or crusting, not 4114
4107.12.60	Grain split whole upper & sole leather of bovines (not buffalo) nesoi or equines, w/o hair on, prepared after tanning or crusting, not 4114
4107.12.70	Grain split whole bovine (not buffalo) nesoi and equine nesoi leathers, w/o hair on, prepared after tanning or crusting, not fancy, not 4114
4107.12.80	Grain split whole bovine (not buffalo) nesoi and equine nesoi leathers, without hair on, prepared after tanning or crusting, fancy, not 4114
4107.19.10	Whole bovine skin upper or lining leather nesoi, w/o hair on, unit surface n/o 2.6 m2, prepared after tanning or crusting, not of head 4114
4107.19.20	Whole bovine skin leather (not upper or lining) nesoi, w/o hair on, not fancy, n/or 2.6 sq m, prepared after tanning or crusting, not 4114

HTS Subheading	Product Description
4107.19.30	Whole bovine skin leather (not upper or lining) nesoi, w/o hair on, fancy, surface n/o 2.6 m2, prepared after tanning or crusting, not 4114
4107.19.40	Whole buffalo skin leather (not full grain unsplits/grain splits), w/o hair on, over 2.6 sq m, prepared after tanning or crusting, not 4114
4107.19.50	Whole upholstery leather of bovines (not buffalo) nesoi and equines nesoi, without hair on, prepared after tanning or crusting, not 4114
4107.19.60	Whole upper & sole leather of bovines (not buffalo) nesoi or equines nesoi, without hair on, prepared after tanning or crusting, not 4114
4107.19.70	Whole bovine (not buffalo) and equine leather, nesoi, without hair on, not fancy, prepared after tanning or crusting, not of heading 4114
4107.19.80	Whole bovine (not buffalo) and equine leather, nesoi, without hair on, fancy, prepared after tanning or crusting, not of heading 4114
4107.91.40	Full grain unsplit buffalo leather (not whole), w/o hair on, prepared after tanning or crusting (including parchment-dressed), not head 4114
4107.91.50	Full grain unsplit upholstery leather of bovines (not buffalo) & equines, not whole, w/o hair, prepared after tanning or crusting, not 4114
4107.91.60	Full grain unsplit upper & sole leather of bovines (not buffalo) or equines, not whole, w/o hair, prep. after tanning or crusting, not 4114
4107.91.70	Full grain unsplit bovine (not buffalo) & equine leather, not whole, w/o hair on, nesoi, not fancy, prep. after tanning/crusting, not 4114
4107.91.80	Full grain unsplit bovine (not buffalo) & equine leather, not whole, w/o hair on, nesoi, fancy, prepared after tanning or crusting, not 4114
4107.92.40	Grain splits buffalo leather (not whole), without hair on, prepared after tanning or crusting, other than of heading 4114
4107.92.50	Grain splits upholstery leather of bovines (not buffalo) and equines, not whole, w/o hair on, prepared after tanning or crusting, not 4114
4107.92.60	Grain splits upper & sole leather of bovines (not buffalo) or equines, not whole, w/o hair on, prepared after tanning or crusting, not 4114
4107.92.70	Grain splits bovine (not buffalo) and equine leather, not whole, w/o hair on, nesoi, not fancy, prepared after tanning or crusting, not 4114
4107.92.80	Grain splits bovine (not buffalo) and equine leather, not whole, without hair on, nesoi, fancy, prepared after tanning or crusting, not 4114
4107.99.40	Buffalo leather other than full grains unsplit & grain splits, not whole, w/o hair on, prepared after tanning or crusting, not heading 4114
4107.99.50	Upholstery leather of bovines (not buffalo) or equines, not whole, nesoi, without hair on, prepared after tanning or crusting, not 4114
4107.99.60	Upper & sole leather of bovines (not buffalo) or equines, not whole, nesoi, w/o hair on, prepare after tanning or crusting, not 4114
4107.99.70	Bovine (not buffalo) and equine leather, not whole, nesoi, without hair on, not fancy, prepared after tanning or crusting, not heading 4114
4107.99.80	Bovine (not buffalo) and equine leather, not whole, nesoi, without hair on, fancy, prepared after tanning or crusting, not of heading 4114
4112.00.30	Sheep or lamb skin leather, without wool on, not fancy, prepared after tanning or crusting, other than of heading 4114
4112.00.60	Sheep or lamb skin leather, without wool on, fancy, further prepared after tanning or crusting, other than of heading 4114
4113.10.30	Goat or kidskin leather, without hair on, not fancy, further prepared after tanning or crusting, other than of heading 4114
4113.10.60	Goat or kidskin leather, without hair on, fancy, further prepared after tanning or crusting, other than of heading 4114

HTS Subheading	Product Description
4113.20.00	Leather of swine, without hair on, further prepared after tanning or crusting, other than leather of heading 4114
4113.30.30	Reptile leather, not fancy, further prepared after tanning or crusting, other than leather of heading 4114
4113.30.60	Reptile leather, fancy, further prepared after tanning or crusting, other than leather of heading 4114
4113.90.30	Leather of animals nesoi, without hair on, not fancy, further prepared after tanning or crusting, other than leather of heading 4114
4113.90.60	Leather of animals nesoi, without hair on, fancy, further prepared after tanning or crusting, other than leather of heading 4114
4114.10.00	Chamois (including combination chamois) leather
4114.20.30	Patent leather
4114.20.40	Patent laminated leather or metallized leather, of calf or kip
4114.20.70	Patent laminated leather or metallized leather, other than calf or kip
4115.10.00	Composition leather with a basis of leather or leather fiber, in slabs, sheets or strip, whether or not in rolls
4201.00.30	Dog leashes, collars, muzzles, harnesses and similar dog equipment, of any material
4201.00.60	Saddlery and harnesses for animals nesi, (incl. traces, leads, knee pads, muzzles, saddle cloths and bags and the like), of any material
4202.11.00	Trunks, suitcases, vanity & all other cases, occupational luggage & like containers, surface of leather, composition or patent leather
4202.12.21	Trunks, suitcases, vanity and attache cases and similar containers, with outer surface of plastics
4202.12.29	Occupational luggage and similar containers, with outer surface of plastics
4202.12.40	Trunks, suitcases, vanity & attache cases, occupational luggage & like containers, surfaces of cotton, not of pile or tufted construction
4202.12.60	Trunks, suitcases, vanity & attache cases, occupational luggage & like containers, w outer surface of veg. fibers, excl. cotton
4202.12.81	Trunks, suitcases, vanity & attache cases, occupational luggage and similar containers, with outer surface of MMF materials
4202.12.89	Trunks, suitcases, vanity & attache cases, occupational luggage and similar containers, with outer surface of textile materials nesi
4202.19.00	Trunks, suitcases, vanity cases, attache cases, occupational luggage & like containers surface of vulcanized fiber or paperboard nesi
4202.21.30	Handbags, with or without shoulder strap or without handle, with outer surface of reptile leather
4202.21.60	Handbags, with or without shoulder strap or without handle, with outer surface of leather, composition or patent leather, nesi, n/o $20 ea.
4202.21.90	Handbags, with or without shoulder strap or without handle, with outer surface of leather, composition or patent leather, nesi, over $20 ea.
4202.22.15	Handbags, with or without shoulder straps or without handle, with outer surface of sheeting of plastics
4202.22.35	Handbags with or without shoulder strap or without handle, with outer surface of textile materials, wholly or in part of braid, of abaca
4202.22.40	Handbags with or without shoulder strap or without handle, with outer surface of textile materials, wholly or in part of braid, nesi
4202.22.45	Handbags with or without shoulder strap or without handle, with outer surface of cotton, not of pile or tufted construction or braid
4202.22.60	Handbags with or w/o shoulder strap or w/o handle, outer surface of veg. fibers, exc. cotton, not of pile or tufted construction or braid
4202.22.70	Handbags with or w/o shoulder strap or w/o handle, with outer surface containing 85% or more of silk, not braided
4202.22.81	Handbags with or without shoulder strap or without handle, with outer surface of MMF materials
4202.22.89	Handbags with or without shoulder strap or without handle, with outer surface of textile materials nesi

HTS Subheading	Product Description
4202.29.10	Handbags w. or w/o shld. strap or w/o handle of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), paper cov., of plas.
4202.29.20	Handbags w. or w/o shld. strap or w/o handle of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), paper cov., of wood
4202.29.50	Handbags w. or w/o shld. strap or w/o handle of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), pap.cov.,of mat. nesi
4202.29.90	Handbags with or without shoulder straps or without handle, with outer surface of vulcanized fiber or of paperboard, not covered with paper
4202.31.30	Articles of a kind normally carried in the pocket or handbag, with outer surface of reptile leather
4202.31.60	Articles of a kind normally carried in the pocket or handbag, with outer surface of leather, composition or patent leather, nesi
4202.32.10	Articles of a kind normally carried in the pocket or handbag, with outer surface of reinforced or laminated plastics
4202.32.20	Articles of a kind normally carried in the pocket or handbag, with outer surface of plastic sheeting, nesi
4202.32.40	Articles of a kind normally carried in the pocket or handbag, with outer surface of cotton, not of pile or tufted construction
4202.32.80	Articles of a kind normally carried in the pocket or handbag,with outer surface of vegetable fibers,not of pile or tufted construction, nesi
4202.32.85	Articles of a kind normally carried in the pocket or handbag, with outer surface 85% or more silk or silk waste
4202.32.91	Articles of a kind normally carried in the pocket or handbag, with outer surface of cotton
4202.32.93	Articles of a kind normally carried in the pocket or handbag, with outer surface of MMF
4202.32.99	Articles of a kind normally carried in the pocket or handbag, with outer surface of other textile materials
4202.39.10	Articles of kind usually carried in pocket or handbag (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), pap. cov., of plas.
4202.39.20	Articles of kind usually carried in pocket or handbag (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), pap. cov., of wood
4202.39.50	Articles of kind usu. carried in pocket or handbag (o/t lea., shtng. of plas., tex. mat., vul. fib. or paperbd.), pap. cov., of mat. nesi
4202.39.90	Articles of a kind normally carried in the pocket or handbag, with outer surface of vulcanized fiber or of paperboard
4202.91.10	Golf bags, with outer surface of leather or composition leather
4202.91.90	Cases, bags and containers nesi, other than golf bags, with outer surface of leather, of composition leather
4202.92.04	Insulated beverage bag w/outer surface textiles, interior only flexible plastic container storing/dispensing beverage thru flexible tubing
4202.92.08	Insulated food or beverage bags with outer surface of textile materials, nesoi
4202.92.10	Insulated food or beverage bags with outer surface of sheeting of plastic
4202.92.15	Travel, sports and similar bags with outer surface of cotton, not of pile or tufted construction
4202.92.20	Travel, sports and similar bags with outer surface of vegetable fibers, excl. cotton, not of pile construction
4202.92.31	Travel, sports and similar bags with outer surface of MMF textile materials
4202.92.33	Travel, sports and similar bags with outer surface of textile materials of paper yarn, silk or cotton
4202.92.39	Travel, sports and similar bags with outer surface of textile materials other than MMF, paper yarn, silk, cotton
4202.92.45	Travel, sports and similar bags with outer surface of plastic sheeting
4202.92.50	Musical instrument cases, with outer surface of plastic sheeting or of textile materials
4202.92.60	Bags, cases and similar containers, nesi, with outer surface of cotton
4202.92.91	Bags, cases and similar containers with outer surface of textile materials, of MMF except jewelry boxes
4202.92.93	Bags, cases and similar containers with outer surface of textile materials, not of MMF

HTS Subheading	Product Description
4202.92.94	Cases for CDs, CD players, cassettes, or cassette players
4202.92.97	Bags, cases & similar containers with outer surface of sheeting of plastic materials,not containers for CDs or cassettes, or CD or cassette players
4202.99.10	Cases, bags and sim. containers, nesi, of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib., or paperbd.), pap. cov., of plastic
4202.99.20	Cases & sim. cont., nesi, of mat. (o/t lea., shtng. of plas., tex. mat., vul. fib. or paperbd.), pap. cov., of wood, not lined with tex.fab.
4202.99.30	Cases, bags & sim. cont., nesi, of mat. (o/t lea., plas. shtng., tex. mat., vul. fib. or paperbd.), pap. cov., of wood, lined with tex. fab.
4202.99.50	Cases, bags & sim. cont., nesi, of mat. (o/t lea., plas. shtng., tex. mat., vul. fib. or paperbd.), pap. cov., except of wood or plastic
4202.99.90	Cases, bags and similar containers, nesi, with outer surface of vulcanized fiber or of paperboard
4203.10.20	Articles of apparel, of reptile leather
4203.10.40	Articles of apparel, of leather or of composition leather, nesi
4203.21.20	Batting gloves, of leather or of composition leather
4203.21.40	Baseball and softball gloves and mitts, excluding batting gloves, of leather or of composition leather
4203.21.55	Cross-country ski gloves, mittens and mitts, of leather or of composition leather
4203.21.60	Ski or snowmobile gloves, mittens and mitts, nesi, of leather or of composition leather
4203.21.70	Ice hockey gloves, of leather or of composition leather
4203.21.80	Gloves, mittens and mitts specially designed for use in sports, nesi, of leather or of composition leather
4203.29.05	Gloves, wholly of horsehide or cowhide leather not specially designed for use in sports, with fourchettes or sidewalls
4203.29.08	Gloves, wholly of horsehide or cowhide (except calfskin) leather, not specially designed for use in sports, nesi
4203.29.15	Gloves not wholly of horsehide or cowhide leather not specially designed for use in sports, with fourchettes or sidewalls
4203.29.18	Gloves not wholly of horsehide or cowhide leather not specially designed for use in sports, nesi
4203.29.20	Gloves, mittens and mitts of leather or composition leather, nesi, not seamed
4203.29.30	Men's gloves, mittens and mitts of leather or composition leather, nesi, seamed
4203.29.40	Gloves, mittens and mitts of leather or composition leather, nesi, not lined, for persons other than men
4203.29.50	Gloves, mittens and mitts of leather or composition leather, nesi, lined, for persons other than men
4203.30.00	Belts and bandoliers with or without buckles, of leather or of composition leather
4203.40.30	Clothing accessories nesi, of reptile leather
4203.40.60	Clothing accessories of leather or of composition leather, nesi
4205.00.05	Belting leather cut or wholly or partly manufactured into forms or shapes suit. for conversion into belting for machinery or appliances
4205.00.10	Articles of leather or composition leather used in machinery or mechanical appliances or for other technical uses, except belting leathers
4205.00.20	Shoelaces of leather or of composition leather
4205.00.40	Straps and strops of leather or of composition leather
4205.00.60	Articles of reptile leather, nesi
4205.00.80	Articles of leather or of composition leather, nesi, excluding reptile leather
4302.11.00	Tanned or dressed whole furskins of mink, with or without head, tail or paws, not assembled
4302.19.13	Tanned/dressed whole skins of Astrakhan, Broadtail, Caracul, Persian, Indian, Mongolian, Chinese & Tibetan lamb, not assembled

HTS Subheading	Product Description
4302.19.15	Tanned or dressed whole furskins of silver, black or platinum fox (including mutations), with or without head, tail or paws, not assembled
4302.19.30	Tanned or dressed whole furskins of beaver, chinchilla, ermine, lynx, raccoon, sable, other specified animals, not dyed, not assembled
4302.19.45	Tanned or dressed whole furskins of beaver, chinchilla, ermine, lynx, raccoon, sable, wolf, other specified animals, dyed, not assembled
4302.19.55	Tanned or dressed whole furskins of rabbit or hare, with or without head, tail or paws, not assembled
4302.19.60	Tanned or dressed whole furskins, nesi, with or without head, tail or paws, not assembled, not dyed
4302.19.75	Tanned or dressed whole furskins, nesi, with or without head, tail or paws, not assembled, dyed
4302.20.30	Heads, tails, paws, other pieces or cuttings of dressed or tanned furskins, of beaver, ermine, wolf, other specified animals, nt assembled
4302.20.60	Heads, tails, paws and other pieces or cuttings of dressed or tanned furskins, nesi, not assembled, not dyed
4302.20.90	Heads, tails, paws and other pieces or cuttings of dressed or tanned furskins, nesi, not assembled, dyed
4302.30.00	Whole furskins and pieces or cuttings thereof, tanned and dressed, assembled
4303.10.00	Articles of apparel and clothing accessories, of furskins
4303.90.00	Articles of furskin, nesi
4304.00.00	Artificial fur and articles thereof
4401.11.00	Coniferous fuel wood, in logs, in billets, in twigs, in faggots or similar forms
4401.12.00	Nonconiferous fuel wood, in logs, in billets, in twigs, in faggots or similar forms
4401.21.00	Coniferous wood in chips or particles
4401.22.00	Nonconiferous wood in chips or particles
4401.31.00	Sawdust and wood waste and scrap, pellets
4401.39.20	Artificial fire logs, composed of wax and sawdust, with or without added materials
4401.39.41	Sawdust and wood waste and scrap, agglomerated, excluding wood pellets and artificial fire logs
4401.40.00	Sawdust and wood waste and scrap, not agglomerated
4402.10.00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated, of bamboo
4402.90.00	Wood charcoal (including shell or nut charcoal), whether or not agglomerated, other than of bamboo
4403.11.00	Coniferous wood in the rough whether or not stripped of bark or sapwood, or roughly squared, treated with preservatives
4403.12.00	Nonconiferous wood in the rough whether or not stripped of bark or sapwood, or roughly squared, treated with preservatives
4403.21.00	Pine wood in the rough/roughly squared, greater than or equal to 15 cm, not treated with preservatives
4403.22.00	Pine wood in the rough/roughly squared, less than 15 cm, not treated with preservatives
4403.23.00	Fir and spruce wood in the rough/roughly squared, greater than or equal to 15 cm, not treated with preservatives
4403.24.00	Fir and spruce wood in the rough/roughly squared, less than 15 cm, not treated with preservatives
4403.25.00	Other coniferous wood, except pine, fir and spruce, in the rough/roughly squared, greater than or equal to 15 cm, not treated with preservatives
4403.26.00	Other coniferous wood, except pine, fir and spruce, in the rough/roughly squared, less than 15 cm, not treated with preservatives
4403.41.00	Wood in the rough/roughly squared,of Dark Red Meranti,Light Red Meranti and Meranti Bakau,not treated with paint/stain/cresote/other preserv
4403.49.01	Wood in the rough/roughly squared, of other tropical wood, not treated with paint/stain/creosote/other preserv

HTS Subheading	Product Description
4403.91.00	Oak wood in the rough, whether or not stripped of bark or sapwood, or roughly squared, not treated with preservatives
4403.93.00	Beech wood in the rough/roughly squared, greater than or equal to 15 cm, not treated with preservatives
4403.94.00	Beech wood in the rough/roughly squared, less than 15 cm, not treated with preservatives
4403.95.00	Birch wood in the rough/roughly squared, greater than or equal to 15 cm, not treated with preservatives
4403.96.00	Birch wood in the rough/roughly squared, less than 15 cm, not treated with preservatives
4403.97.00	Poplar and aspen wood in the rough/roughly squared, not treated with preservatives
4403.98.00	Eucalyptus wood in the rough/roughly squared, not treated with preservatives
4403.99.01	Wood in the rough/roughly squared, not treated with preservatives, nesoi
4404.10.00	Coniferous wood, roughly shaped into poles, pickets, stakes, sticks and other forms, to be finished into specific articles or products
4404.20.00	Nonconiferous wood, roughly shaped into poles, pickets, stakes, sticks and other forms, to be finished into specific articles or products
4405.00.00	Wood wool (excelsior); wood flour
4406.11.00	Railway or tramway sleepers (cross-ties) of coniferous wood, not impregnated
4406.12.00	Railway or tramway sleepers (cross-ties) of nonconiferous wood, not impregnated
4406.91.00	Railway or tramway sleepers (cross-ties) of coniferous wood, impregnated
4406.92.00	Railway or tramway sleepers (cross-ties) of nonconiferous wood, impregnated
4407.11.00	Pine wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.12.00	Fir and spruce wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.19.05	Mixtures of spruce, pine and fir ("S-P-F") wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick, not treated with preservatives
4407.19.06	Mixtures of hemlock and fir ("hem-fir") wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick, not treated with preservatives
4407.19.10	Other coniferous wood, nesoi, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick, whether or not treated with preservatives
4407.21.00	Dark Red Meranti, Light Red Meranti and other specified tropical woods, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.22.00	Okoume, Obeche, Sapelli and other specified tropical woods, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.25.00	Dark Red Meranti, Light Red Meranti and Meranti Bakau wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.26.00	White Lauan, White Meranti, White Seraya, Yellow Meranta and Alan wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.27.00	Sapelli wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.28.00	Iroko wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.29.01	Tropical wood specified in chapter 44 subheading note 1, nesoi, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.91.00	Oak wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.92.00	Beech wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.93.00	Maple wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.94.00	Cherry wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.95.00	Ash wood sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.96.00	Birch wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4407.97.00	Poplar and aspen wood, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick

HTS Subheading	Product Description
4407.99.02	Nonconiferous wood, nesoi, sawn or chipped lengthwise, sliced or peeled, over 6 mm thick
4408.10.01	Coniferous veneer sheets and sheets for plywood & coniferous wood sawn/sliced/peeled not over 6 mm thick
4408.31.01	Dark Red Meranti, Light Red Meranti and Meranti Bakau veneer sheets and sheets for plywood and other wood sawn/sliced/peeled, n/o 6 mm thick
4408.39.02	Other tropical wood veneer sheets and sheets for plywood, and wood sawn/sliced/peeled n/o 6 mm thick
4408.90.01	Nontropical nonconiferous veneer sheets and sheets for plywood and other wood sawn/sliced/peeled, not over 6 mm thick
4409.10.05	Coniferous wood continuously shaped along any of its ends, whether or not also continuously shaped along any its edges or faces
4409.10.10	Coniferous wood siding continuously shaped along any of its edges or faces but not on its ends
4409.10.20	Coniferous wood flooring continuously shaped along any of its edges or faces but not on its ends
4409.10.40	Standard wood moldings of pine (Pinus spp.) continuously shaped along any of its edges or faces but not on its ends
4409.10.45	Standard coniferous wood moldings, other than of pine, continuously shaped along any of its edges or faces but not on its ends
4409.10.50	Coniferous wood moldings, other than standard type, continuously shaped along any of its edges or faces but not on its ends
4409.10.60	Coniferous wood dowel rods, plain, continuously shaped along any of its edges or faces but not on its ends
4409.10.65	Coniferous wood dowel rod, sanded/grooved/otherwise advanced in condition, continuously shaped along any of edges or faces but not its ends
4409.10.90	Coniferous wood, other than siding, flooring, moldings or dowel rod, continuously shaped along any of its edges or faces but not on its ends
4409.21.05	Nonconiferous wood (bamboo) continuously shaped along any of its ends, wether or not also continuously shaped along any its edges or faces
4409.21.90	Bamboo, other than continuously shaped along any of its ends
4409.22.05	Nonconiferous tropical wood continuously shaped along any ends, whether or not also continuously shaped along any edges or faces
4409.22.10	Nonconiferous tropical wood siding, whether or not continuously shaped along its edges or faces but not its ends
4409.22.25	Nonconiferous tropical wood flooring, whether or not continuously shaped along its edges or faces but not its ends
4409.22.40	Nonconiferous tropical wood standard moldings, whether or not continuously shaped along its edges or faces but not its ends
4409.22.50	Other nonconiferous tropical wood moldings, whether or not continuously shaped along its edges or faces but not its ends
4409.22.60	Plain nonconiferous tropical wood dowel rods, whether or not continuously shaped along its edges or faces but not its ends
4409.22.65	Nonconif. tropical wood dowel rods, sanded/grooved/otherwise advanced in condition, whether or not continuous. along edges or faces but not ends
4409.22.90	Other nonconiferous tropical wood, whether or not continuously shaped along its edges or faces but not its ends
4409.29.06	Other nonconiferous wood, continuously shaped along any ends, whether or not also continuously shaped along any edges or faces
4409.29.11	Other nonconiferous wood siding, whether or not continuously shaped along its edges or faces but not its ends
4409.29.26	Other nonconiferous wood flooring, whether or not continuously shaped along its edges or faces but not its ends
4409.29.41	Other nonconiferous standard wood moldings, whether or not continuously shaped along its edges or faces but not its ends

HTS Subheading	Product Description
4409.29.51	Other nonconiferous wood moldings, whether or not continuously shaped along its edges or faces but not its ends
4409.29.61	Plain other nonconif. wood dowel rods, whether or not continuously shaped along edges or faces but not ends
4409.29.66	Other nonconif. wood dowel rods, sanded/grooved/otherwise advanced in condition, whether or not continuously shaped along edges or faces but not ends
4409.29.91	Other nonconiferous wood, whether or not continuously shaped along its edges or faces but not its ends
4410.11.00	Waferboard, including oriented strand board, of wood
4410.12.00	Oriented strand board and waferboard, of wood, unworked or not further worked than sanded
4410.19.00	Particle board and similar board of wood, other than waferboard
4410.90.00	Particle board and similar board of ligneous materials other than wood
4411.12.10	MDF , <= 5mm thick, not mechanically worked or surface covered
4411.12.20	MDF, <= 5mm thick, for construction, laminated
4411.12.30	MDF , <= 5mm thick, for construction, not laminated, nesoi
4411.12.60	Fiberboard of a density over 0.5 g/cm3 but not over 0.8 g/cm3, not mechanically worked surface covered (Except for oil treatment)
4411.12.90	MDF, <= 5mm thick, not for construction, nesoi
4411.13.10	MDF, >5mm but <= 9 mm thick, not mechanically worked or surface covered
4411.13.20	MDF, >5mm but <= 9 mm thick,, for construction, laminated
4411.13.30	MDF , >5mm but <= 9 mm thick, for construction, not laminated, nesoi
4411.13.60	Fiberboard of a density over 0.5 g/cm3 but not over 0.8 g/cm3, not mechanically worked surface covered(except for oil treatment)
4411.13.90	MDF, >5mm but <= 9 mm thick, not for construction, nesoi
4411.14.10	Fiberboard of a thickness exceeding 9 mm, not mechanically worked or surface covered
4411.14.20	Fiberboard of a thickness exceeding 9 mm, edgeworked continuously, laminated, for construction uses
4411.14.30	Fiberboard of a thickness exceeding 9 mm , tongued, grooved or rabbetted continuously, for construction uses, nesoi
4411.14.60	Fiberboard of a thickness exceeding 9 mm, not mechanically worked surface covered (except for oil treatment)
4411.14.90	Fiberboard nesoi,of a thickness exceeding 9 mm
4411.92.10	Fiberboard of a density exceeding 0.8 g/cm3, not mechanically worked or surface covered
4411.92.20	Fiberboard, of a density exceeding 0.8 g/cm3, mechanically worked, not surface covered (except for oil treatment)
4411.92.30	Fiberboard, of a density exceeding 0.8 g/cm3, mechanically edged-worked, for construction uses
4411.92.40	Fiberboard nesoi, density exceeding 0.8 g/cm3
4411.93.10	Fiberboard, not MDF, of a density >0.5 but <=0.8 g/cm3, not mechanically worked or surface covered
4411.93.20	Fiberboard, not MDF, of a density >0.5 but <=0.8 g/cm3, edgeworked continuously, laminated, for construction uses
4411.93.30	Fiberboard, not MDF, of a density >0.5 but <=0.8 g/cm3, tongued, grooved or rabbetted continuously, for construction, nesoi
4411.93.60	Fiberboard of a density over 0.5 g/cm3 but not over 0.8 g/cm3, not mechanically worked surface covered (Except for oil)
4411.93.90	Fiberboard, not MDF, of a density >0.5 but <=0.8 g/cm3, nesoi
4411.94.00	Fiberboard of a density exceeding 0.35 g/cm3 but not exceeding 0.5 g/cm3, not mechanically worked or surface covered
4412.10.05	Plywood, veneered panels and similar laminated wood, of bamboo
4412.10.90	Veneered panels and similar laminated wood, of bamboo, other than plywood

HTS Subheading	Product Description
4412.31.06	Plywood sheets n/o 6mm thick, tropical wood outer ply, birch face ply, not surface covered beyond clear/transparent
4412.31.26	Plywood sheets n/o 6mm thick, tropical wood outer ply, Spanish cedar or walnut face ply, not surface covered beyond clear/transparent
4412.31.41	Plywood sheets n/o 6mm thick, with specified tropical wood outer ply, with face ply nesoi, not surface covered beyond clear/transparent
4412.31.52	Plywood sheets n/o 6mm thick, tropical wood nesoi at least one outer ply, with face ply nesoi, not surface covered beyond clear/transparent
4412.31.61	Plywood sheets n/o 6mm thick, with certain specified tropical wood outer ply, surface covered beyond clear or transparent
4412.31.92	Plywood sheets n/o 6mm thick, tropical wood nesoi at least one outer ply, surface covered beyond clear or transparent
4412.33.06	Plywood sheets n/o 6mm thick, birch face ply, not surface covered beyond clear/transparent
4412.33.26	Plywood sheets n/o 6mm thick, walnut face ply, not surface covered beyond clear/transparent
4412.33.32	Plywood sheets n/o 6mm thick, outerply of specified nonconiferous wood excluding walnut and birch, not surface covered beyond clear/transparent
4412.33.57	Plywood sheets n/o 6mm thick, outerply of specified nonconiferous wood including birch and walnut, surface covered beyond clear/transparent
4412.34.26	Plywood sheets n/o 6mm thick, outerply of nonconiferous wood not in 4412.33, spanish cedar face ply, not surface covered beyond clear/transparent
4412.34.32	Plywood sheets n/o 6mm thick, outerply of nonconiferous wood not in 4412.33, face ply nesoi, not surface covered beyond clear/transparent
4412.34.57	Plywood sheets n/o 6mm thick, outerply of nonconiferous wood not in 4412.33, face ply nesoi, surface covered beyond clear/transparent
4412.39.10	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of coniferous wood, face ply of Parana pine, not or clear surface covered
4412.39.30	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of coniferous wood, European red pine face ply, not or clear surface covered
4412.39.40	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of coniferous wood, with face ply nesoi, not or clear surface covered
4412.39.50	Plywood of wood sheets, n/o 6 mm thick each, with outer plies of coniferous wood, nesoi, surface covered, nesoi
4412.94.10	Plywood nesoi, at least one nonconiferous outer ply, not surface-covered beyond clear/transparent, face ply of birch
4412.94.31	Blockboard etc.: plywood nesoi, at least one nonconifer outer ply, not surface-covered beyond clear/transparent, not w/face ply of birch
4412.94.41	Blockboard etc: plywood nesoi, at least one nonconiferous outer ply, surface covered other than clear or transparent
4412.94.51	Blockboard etc: veneered panels and similar laminated wood w/ at least one nonconiferous outer ply, nesoi
4412.94.60	Blockboard etc: plywood nesoi,other outer plies,not surf.-cov. Beyond clear/transp., face ply Parana pine
4412.94.70	Blockboard etc: plywood nesoi, other outer plies,not surf.-cov. Beyond clear/transp.,face ply Europe red pine
4412.94.80	Blockboard etc: plywood nesoi,other outer plies,not surface-covered beyond clear/transparent, face ply nesoi
4412.94.90	Blockboard etc: plywood nesoi, other outer plies, surface covered other than clear or transparent
4412.94.95	Blockboard etc: veneered panels and similar laminated wood nesoi, other outer plies
4412.99.06	Plywood nesoi,veneered panel & similar laminated wood w/nonconiferous outer ply, at least one layer of particle board
4412.99.10	Not blockboard: plywood at least 1 outer ply of nonconif wood, nesi, with a face ply of birch, not surface covered or clear/transparent

HTS Subheading	Product Description
4412.99.31	Not blockboard: plywood nesoi, at least 1 nonconiferous outer ply, not surface-covered beyond clear/transparent, not w/face ply of birch
4412.99.41	Not blockboard: plywood nesoi, at least 1 nonconiferous outer ply, surface covered other than clear or transparent
4412.99.51	Not blockboard: veneered panels and similar laminated wood w/ at least 1 nonconiferous outer ply, nesoi
4412.99.57	Not blockboard: plywood/veneered panel/sim. Laminated wood nesoi, at least 1 nonconiferous outer ply,at least 1 layer of particle board
4412.99.60	Not blockboard:plywood nesoi,at least 1 nonconiferous outer ply, no particle board,not surf.-cov. Beyond clear/transp., face ply Parana pine
4412.99.70	Not blockboard: plywood nesoi, at least 1 non conif outer ply,no particle board,not surf.-cov. Beyond clear/transp.,face ply Europe red pine
4412.99.80	Not blockboard:plywood nesoi, at least 1 non conif outer ply, no particle board,not surface-covered beyond clear/transparent, face ply nesoi
4412.99.90	Not blockboard: plywood, veneer panels and similar laminated wood, at least 1 nonconiferous outer ply, nesoi
4412.99.95	Not blockboard: veneered panels and similar laminated wood, nesoi, at least 1 nonconiferous outer ply, no particle board, nesoi
4413.00.00	Densified wood, in blocks, plates, strips or profile shapes
4415.10.30	Packing boxes and cases of wood with solid sides, lids and bottoms
4415.10.60	Wooden containers designed for use in the harvesting of fruits and vegetables
4415.10.90	Wood cases, boxes, crates, drums and similar packings nesi; cable-drums of wood
4415.20.40	Wooden pallets, box-pallets and other load boards designed for use in the harvesting of fruits and vegetables
4415.20.80	Wooden pallets, box-pallets and other load boards, other than designed for use in the harvesting of fruits and vegetables
4416.00.30	Wooden casks, barrels and hogsheads
4416.00.60	Wooden staves and hoops; tight barrelheads of softwood
4416.00.90	Wooden vats, tubs and other coopers' products and parts thereof
4417.00.60	Wooden brush backs
4417.00.80	Wooden tools, tool bodies, tool handles, broom or brush bodies and handles nesi; wooden boot or shoe lasts and trees
4418.10.00	Wooden windows, French-windows and their frames
4418.20.40	French doors of wood
4418.20.80	Doors of wood, other than French doors
4418.40.00	Wooden formwork (shuttering) for concrete constructional work
4418.50.00	Wooden shingles and shakes
4418.60.00	Builders' joinery and carpentry of wood, Posts and Beams
4418.73.10	Assembled flooring panels of bamboo, for mosaic floors, solid
4418.73.20	Assembled flooring panels of bamboo, for mosaic floors other than solid, having a face ply more than 6mm in thickness
4418.73.30	Assembled flooring panels of bamboo, for mosaic floors other than solid, having a face ply less than or equal to 6 mm in thickness
4418.73.40	Assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply more than 6mm in thickness
4418.73.60	Assembled flooring panels of bamboo, other than mosaic, multilayer, having a face ply <=equal to 6mm in thickness, of unidirectional bamboo
4418.73.70	Assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply <= 6mm in thickness, not of unidirectional bamboo

HTS Subheading	Product Description
4418.73.90	Assembled flooring panels of bamboo, other than for mosaic or multilayer, nesoi
4418.74.10	Assembled wood flooring panels, other than of bamboo, for mosaic floors, solid
4418.74.20	Assembled wood flooring panels, other than of bamboo, for mosaic floors other than solid, having a face ply more than 6 mm in thickness
4418.74.90	Assembled wood flooring panels, other than of bamboo, for mosaic floors other than solid, having a face ply less than or equal to 6 mm in thickness
4418.75.40	Assembled wood flooring panels, other than of bamboo, other than for mosaic, multilayer, having a face ply more than 6 mm in thickness
4418.75.70	Assembled wood flooring panels, other than of bamboo, other than for mosaic, multilayer, having a face ply less than or equal to 6 mm in thickness
4418.79.01	Assembled wood flooring panels, other than of bamboo, other than for mosaic or multilayer
4418.91.10	Builders' joinery and carpentry of wood, of bamboo, drilled or notched lumber studs
4418.91.90	Builders' joinery and carpentry of wood, of bamboo, other than drilled or notched lumber studs
4418.99.10	Builders' joinery and carpentry of wood, of wood other than of bamboo, drilled or notched lumber studs
4418.99.90	Builders' joinery and carpentry of wood, of wood other than of bamboo, other than drilled or notched lumber studs
4420.90.45	Wooden jewelry boxes, silverware chests, microscope, tool or utensil cases, similar boxes, cases and chests, not lined with textile fabrics
4420.90.65	Wooden jewelry boxes, silverware chests, microscope, tool or utensil cases, similar boxes, cases and chests, lined with textile fabrics
4420.90.80	Wood marquetry and inlaid wood; wooden articles of furniture, nesi
4421.91.10	Plain wood dowel pins of bamboo
4421.91.20	Wood dowel pins of bamboo, sanded, grooved or otherwise advanced in condition
4421.91.70	Pickets, palings, posts and rails of bamboo, sawn; assembled fence sections of bamboo
4421.91.93	Theatrical, ballet and operatic scenery and properties, including sets, of bamboo
4421.91.94	Edge-glued lumber of bamboo
4421.91.97	Other articles, nesoi, of bamboo, incl pencil slats, burial caskets, gates for confining children or pets
4421.99.10	Plain coniferous wood dowel pins
4421.99.15	Plain wood dowel pins, other than of coniferous wood or of bamboo
4421.99.20	Wood dowel pins of wood other than of bamboo, the foregoing sanded, grooved or otherwise advanced in condition
4421.99.70	Pickets, palings, posts and rails, sawn, of wood other than of bamboo; assembled fence sections of wood other than of bamboo
4421.99.93	Theatrical, ballet and operatic scenery and properties, including sets, of wood other than of bamboo
4421.99.94	Edge-glued lumber of wood other than of bamboo
4421.99.97	Other articles, nesoi, of wood other than of bamboo, incl pencil slats, burial caskets, gates for confining children or pets,
4501.10.00	Natural cork, raw or simply prepared
4501.90.20	Waste cork
4501.90.40	Crushed, granulated or ground cork
4502.00.00	Natural cork, debacked or roughly squared or in rectangular blocks, plates, sheets or strip (incl. sharp-edged blanks for corks or stoppers)
4503.10.20	Corks and stoppers of natural cork, tapered and of a thickness (or length) greater than the maximum diameter, n/o 19 mm maximum diameter
4503.10.30	Corks and stoppers wholly of natural cork,tapered & of a thickness (or length) greater than the maximum diam.,over 19 mm maximum diam.

HTS Subheading	Product Description
4503.10.40	Corks and stoppers of natural cork, tapered & of a thickness (or length) greater than the maximum diam.,over 19 mm maximum diam., nesi
4503.10.60	Corks and stoppers of natural cork, of a thickness (or length) not greater than the maximum diameter
4503.90.20	Disks, wafers and washers of natural cork
4503.90.40	Natural cork wallcoverings, backed with paper or otherwise reinforced
4503.90.60	Articles of natural cork, other than corks and stoppers
4504.10.10	Vulcanized sheets and slabs wholly of agglomerated ground or pulverized cork and rubber
4504.10.20	Insulation of compressed agglomerated cork, coated or not coated
4504.10.30	Floor coverings of agglomerated cork
4504.10.40	Agglomerated cork wallcoverings, backed with paper or otherwise reinforced
4504.10.45	Agglomerated cork stoppers, not tapered, wholly of cork, of a thickness (or length) greater than the maximum diameter
4504.10.47	Corks, stoppers, disks, wafers and washers of agglomerated cork, nesi
4504.10.50	Blocks, plates, sheets and strip; tiles of any shape; solid cylinder; all the foregoing of cork; all the foregoing, nesi
4504.90.00	Agglomerated cork and articles of cork, nesoi
4601.21.40	Woven or partly assembled materials of bamboo, for mats, matting and screens
4601.21.80	Bamboo floor coverings
4601.21.90	Mats, matting and screens of bamboo, nesoi
4601.22.40	Woven or partly assembled materials of rattan for mats, matting and screens
4601.22.80	Rattan floor coverings
4601.22.90	Mats, matting and screens of rattan, nesoi
4601.29.40	Woven or partly assembled materials of willow for mats, matting and screens
4601.29.60	Woven or partly assembled vegetable materials other than bamboo, rattan or willow, for mats, matting and screens
4601.29.80	Willow floor coverings
4601.29.90	Mats, matting and screens of willow, nesoi
4601.92.05	Plaits of bamboo and similar products of such plaiting materials, whether or not assembled into strips
4601.92.20	Products of bamboo other than plaits and similar products such as plaiting materials.
4601.93.01	Rattan webbing for mats, matting and screens
4601.93.05	Plaits of rattan and similar products of such plaiting materials, whether or not assembled into strips
4601.93.20	Products of rattan other than plaits and similar products such as plaiting materials.
4601.94.05	Plaits of vegetable materials and similar products of such plaiting materials, whether or not assembled into strips
4601.94.20	Products nesoi, of plaiting materials, bound together in parallel strands or woven, in sheet form, of willow or wood
4601.94.40	Products nesoi, of plaiting vegetable materials nesoi, bound together in parallel strands or woven, in sheet form
4601.99.05	Plaits and similar products of plaiting materials (not vegetable), whether or not assembled into strips
4601.99.90	Products nesoi of plaiting materials (not vegetable), bound together in parallel strands or woven, in sheet form, nesoi
4602.11.05	Fishing baskets or creels made from bamboo
4602.11.07	Baskets and bags of bamboo wickerwork
4602.11.09	Baskets and bags of bamboo other than wickerwork

HTS Subheading	Product Description
4602.11.21	Luggage, handbags and flat goods, whether or not lined, of bamboo
4602.11.35	Articles of wickerwork, neosi, of bamboo
4602.11.45	Basketwork and other articles, neosi, of one or more of bamboo
4602.12.05	Fishing baskets or creels made from rattan
4602.12.14	Baskets and bags of rattan wickerwork
4602.12.16	Baskets and bags of rattan other than wickerwork
4602.12.23	Articles of a kind normally carried in the pocket or in the handbag, of rattan
4602.12.25	Luggage, handbags and flat goods, whether or not lined, of rattan,nesoi
4602.12.35	Articles of wickerwork, neosi, of rattan
4602.12.45	Basketwork and other articles, neosi, of rattan
4602.19.05	Fishing baskets or creels made from vegetable materials
4602.19.12	Baskets and bags, nesi, whether or not lined, of willow
4602.19.14	Baskets and bags of palm leaf wickerwork
4602.19.16	Baskets and bags of palm leaf other than wickerwork
4602.19.17	Baskets and bags of vegetable material wickerwork, neosi
4602.19.18	Baskets and bags of vegetable material, neosi
4602.19.22	Luggage, handbags and flat goods, whether or not lined, of willow
4602.19.23	Articles of a kind normally carried in the pocket or in the handbag,of palm leaf
4602.19.25	Luggage, handbags and flat goods, whether or not lined, of palm leaf, nesoi
4602.19.29	Luggage, handbags and flat goods, whether or not lined, made from plaiting materials nesoi
4602.19.35	Articles of wickerwork, neosi, of willow or wood
4602.19.45	Basketwork and other articles, neosi, of willow or wood
4602.19.60	Articles of wickerwork, neosi, of vegetable materials, nesoi
4602.19.80	Basketwork and other articles, neosi, of vegetables materials, nesoi
4602.90.00	Basketwork, wickerwork and other articles made directly from plaiting materials or from articles of heading 4601, nesi; loofah articles
4701.00.00	Mechanical woodpulp
4702.00.00	Chemical woodpulp, dissolving grades
4703.11.00	Chemical woodpulp, soda or sulfate, other than dissolving grades, of unbleached coniferous wood
4703.19.00	Chemical woodpulp, soda or sulfate, other than dissolving grades, of unbleached nonconiferous wood
4703.21.00	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood
4703.29.00	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached nonconiferous wood
4704.11.00	Chemical woodpulp, sulfite, other than dissolving grades, of unbleached coniferous wood
4704.19.00	Chemical woodpulp, sulfite, other than dissolving grades, of unbleached nonconiferous wood
4704.21.00	Chemical woodpulp, sulfite, other than dissolving grades, of semibleached or bleached coniferous wood
4704.29.00	Chemical woodpulp, sulfite, other than dissolving grades, of semibleached or bleached nonconiferous wood
4705.00.00	Semichemical woodpulp
4706.10.00	Cotton linters pulp
4706.20.00	Pulps of fibers derived from recovered (waste and scrap) paper or paperboard
4706.30.00	Pulps of fibrous cellulosic material, of bamboo

HTS Subheading	Product Description
4706.91.00	Pulps of fibrous cellulosic material, other than cotton linters pulp, mechanical
4706.92.01	Pulps of fibrous cellulosic material, other than cotton linters pulp, chemical
4706.93.01	Pulps of fibrous cellulosic material, other than cotton linters pulp, semichemical
4707.10.00	Waste and scrap of unbleached kraft paper or paperboard or of corrugated paper or paperboard
4707.20.00	Waste and scrap of other paper or paperboard, made mainly of bleached chemical pulp, not colored in the mass
4707.30.00	Waste and scrap of paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals, and similar printed matter)
4707.90.00	Waste and scrap of paper or paperboard nesi, including unsorted waste and scrap
4801.00.01	Newsprint, in rolls or sheets
4802.10.00	Handmade paper and paperboard
4802.20.10	Paper & paperboard use for photo-sensitive/heat-sensitive/electro-sensitive paper/paperboard, in strip/rolls ov 15 cm wide or certain sheets
4802.20.20	Uncoated basic paper for photo-sensitive/heat-sensitve/eletro-sensitive paper/paperboard to be sensitized for photography, roll/sheets nesoi
4802.20.40	Uncoated paper and paperboard of a kind used for photo-sensitive/heat-sensitve/eletro-sensitive paper/paperboard, in rolls or sheets nesoi
4802.40.00	Wallpaper base (hanging paper), in rolls or sheets
4802.54.10	Writing paper, weigh < 40 g/m2, cont. n/o 10% total fiber content by a mechanical/chemi- process, in strip/roll ov 15 cm wide/certain sheets
4802.54.20	India & bible paper, weigh < 40 g/m2, n/o 10% total fiber content by a mechanical/chemi- process, in strip/roll ov 15 cm wide/certain sheets
4802.54.31	Carbonizing base paper weighing n/ov 15 g/m2, in strip/roll over 15 cm wide or rectangular sheets w/side ov 36 cm and other ov 15 cm unfold
4802.54.50	Other basic paper to be sensitized use in photography, wt < 40g/m2, n/o 10% total fiber by mechanical/chem- process, in rolls/sheets nesoi
4802.54.61	Carbonizing base paper of a kind used for writing, printing or other graphic purposes, in rolls or sheets nesoi
4802.55.10	Writing/cover paper, wt 40 g/m2-150 g/m2, n/o 10% total fiber by mechanical/chemi- process, in rolls exceeding 15 cm in width
4802.55.20	Drawing paper, wt 40 g/m2 -150 g/m2, n/o 10% total fiber content by mechanical/chemi- process, in rolls exceeding 15 cm in width
4802.55.30	India/bible paper, wt 40 g/m2-150 g/m2, n/o 10% total fiber content by mechanical/chemi- process, in rolls exceeding 15 cm in width
4802.55.40	Paper & paperboard, nesoi, 40 g/m2-150 g/m2, n/o 10% total fiber by mechanical/chemi- process, in rolls exceeding 15 cm in width
4802.55.60	Other basic paper be sensitized for use photography, 40g/m2-150g/m2, n/o 10% total fiber by mechanical/chemi-process, rolls n/o 15 cm wide
4802.55.70	Other paper/paperboard for writing/printing/other graphic purpose,40g/m2-150g/m2,n/o 10% fiber mechanical/chemi-process,roll n/o 15 cm wide
4802.56.10	Writing & cover paper, wt 40 g/m2-150 g/m2, n/o 10% by weight total fiber content by mechanical/chemi- process, in certain size sheets
4802.56.20	Drawing paper, wt 40 g/m2-150 g/m2, contain n/o 10% weight total fiber content obtained by mechanical/chemi-process, in certain size sheets
4802.56.30	India & bible paper, wt 40 g/m2-150 g/m2, n/o 10% by wt. total fiber content obtained by mechanical/chemi- process, in certain size sheets
4802.56.40	Paper & paperboard nesoi, 40 g/m2-150 g/m2, n/o 10% by wt. total fiber content obtained by mechanical/chemi-process, in certain size sheets
4802.56.60	Other basic paper be sensitized use in photography, wt. 40g/m2-150g/m2, n/o 10% total fiber by mechanical/chemi-process, other sized sheets

HTS Subheading	Product Description
4802.56.70	Paper/paperboard for writing/printing/other graphic purpose,wt 40g/m2-150g/m2, n/o 10% fiber by mechanical/chemi-process,other sized sheets
4802.57.10	Writing/cover paper, wt 40 g/m2-150 g/m2, cont. n/o 10% by weight total fiber content obtained by mechanical/chemi-process, in sheets nesoi
4802.57.20	Drawing paper, wt 40 g/m2 to 150 g/m2, cont. n/o 10% by weight total fiber content obtained by mechanical/chemi-process, in sheets nesoi
4802.57.30	India & bible paper, wt 40 g/m2 to 150 g/m2, cont. n/o 10% by wt. total fiber content obtained by mechanical/chemi-process, in sheets nesoi
4802.57.40	Paper & paperboard nesoi, 40 g/m2-150 g/m2, cont. n/o 10% by wt. total fiber content obtained by mechanical/chemi-process, in sheets nesoi
4802.58.10	Writing/cover paper, >150 g/m2, n/o 10% by wt total fiber content by mechanical process/chemi-, in strip/roll ov 15 cm wide or certain sheet
4802.58.20	Paper & paperboard nesoi, >150 g/m2, n/o 10% total fiber content by mechanical/chemi- process, in strip/roll ov 15 cm wide or certain sheets
4802.58.50	Basic paper be sensitized for photography, wt >150 g/m2, n/o 10% total fiber content by mechanical process/chemi-, in rolls/sheets nesoi
4802.58.60	Paper/paperboard for writing/printing/other graphic purpose,>150 g/m2, n/o 10% fiber content by mechanical process/chemi-,rolls/sheets nesoi
4802.61.10	Writing & cover paper, over 10% by wt total fiber content consists of fiber obtained by mechanical/chemi- process, in rolls over 15 cm wide
4802.61.20	Drawing paper, over 10% by weight total fiber content consists of fiber obtained by mechanical/chemi- process, in rolls over 15 cm wide
4802.61.31	Paper and paperboard for graphic purpose nesoi, ov 10% total fiber content obtained by mechanical/chemi- process, in rolls over 15 cm wide
4802.61.50	Basic paper to be sensitized for photography, ov 10% total fiber content obtained by mechanical/chemi- process, in rolls n/o 15 cm wide
4802.61.60	Paper/paperboard for writing/printing/other graphic purposes nesoi, ov 10% total fiber by mechanical/chemi- process, in rolls n/o 15 cm wide
4802.62.10	Writing & cover paper, over 10% by wt total fiber content consists of fiber obtained by mechanical/chemi- process, in certain size sheets
4802.62.20	Drawing paper, which ov 10% by weight total fiber content consists of fiber obtained by mechanical/chemi- process, in certain size sheets
4802.62.30	Paper and paperboard for graphic purposes nesoi, ov 10% by wt total fiber obtained by mechanical/chemi- process, in certain size sheets
4802.62.50	Basic paper to be sensitized for use in photography, ov 10% by wt total fiber obtained by mechanical/chemi- process, other sized sheets
4802.62.61	Paper/paperboard for graphic purposes nesoi, ov 10% by wt total fiber obtained by mechanical/chemi- process, other sized sheets
4802.69.10	Writing & cover paper, of which over 10% by weight total fiber content consists of fiber obtained by mechanical process, sheets nesoi
4802.69.20	Drawing paper, of which over 10% by weight total fiber content consists of fiber obtained by mechanical process, in sheets nesoi
4802.69.30	Paper and paperboard for graphic purposes nesoi, ov 10% by wt total fiber obtained by mechanical/chemi- process, in sheets nesoi
4803.00.20	Cellulose wadding in rolls over 36 cm wide or sheets with at least one side over 36 cm
4803.00.40	Toilet, facial tissue, towel or napkin stock and paper for household/sanitary purposes, in rolls or sheets of specific measure
4804.11.00	Uncoated, unbleached kraftliner, in rolls or sheets
4804.19.00	Uncoated kraftliner, other than unbleached, in rolls or sheets
4804.21.00	Uncoated, unbleached sack kraft paper, in rolls or sheets

HTS Subheading	Product Description
4804.29.00	Uncoated sack kraft paper, other than unbleached, in rolls or sheets
4804.31.10	Uncoated, unbleached kraft condenser paper, in rolls or sheets, weighing more than 15 g/m 2 but not over 30 g/m 2
4804.31.20	Uncoated, unbleached kraft condenser paper, in rolls or sheets, weighing less than 15 g/m 2 or more than 30 g/m 2 to 150 g/m 2
4804.31.40	Uncoated, unbleached kraft wrapping paper in rolls or sheets, weighing 150 g/m2 or less
4804.31.60	Uncoated, unbleached kraft paper nesi, in rolls or sheets, weighing 150 g/m2 or less
4804.39.20	Uncoated kraft condenser paper, other than unbleached, in rolls or sheets, weighing 150 g/m2 or less
4804.39.40	Uncoated kraft wrapping paper, other than unbleached, in rolls or sheets, weighing 150 g/m2 or less
4804.39.60	Uncoated kraft paper and paperboard, other than unbleached, in rolls or sheets, weighing 150 g/m2 or less, nesi
4804.41.20	Uncoated, unbleached kraft wrapping paper in rolls or sheets, weighing more than 150 but less than 225 g/m2
4804.41.40	Uncoated, unbleached kraft paper and paperboard, nesi, in rolls or sheets, weighing more than 150 but less than 225 g/m2
4804.42.00	Uncoated, bleached kraft paper and paperboard,over 150 but n/o 225 g/m2,over 95% content of wood fibers by chemical process,rolls or sheets
4804.49.00	Uncoated kraft paper and paperboard, nesi, in rolls or sheets, weighing more than 150 but less than 225 g/m2, nesi
4804.51.00	Uncoated, unbleached kraft paper and paperboard, in rolls or sheets, weighing 225 g/m2 or more
4804.52.00	Uncoated, bleached kraft paper & paperboard, over 225 g/m2, over 95% content of wood fibers obtained by chemical process, rolls or sheets
4804.59.00	Uncoated kraft paper and paperboard in rolls or sheets, weighing 225 g/m2 or more, nesi
4805.11.00	Uncoated semichemical fluting paper, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.12.10	Uncoated straw fluting paper, weighing 150 g/m2 or less, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.12.20	Uncoated straw fluting pape, weighing over 150 g/m2, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.19.10	Uncoated fluting paper nesoi, weighing 150 g/m2 or less, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.19.20	Uncoated fluting paper nesoi, weighing over 150 g/m2, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.24.50	Uncoated testliner (recycled liner board), weighing n/o 15 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.24.70	Uncoated testliner, weighing over 15 g/m2 but not over 30 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.24.90	Uncoated testliner, weighing over 30 g/m2 but not over 150 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.25.00	Uncoated testliner, weighing more than 150 g/m2, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.30.00	Uncoated sulfite wrapping paper in rolls or sheets
4805.40.00	Uncoated filter paper and paperboard in rolls or sheets
4805.50.00	Uncoated felt paper and paperboard in rolls or sheets
4805.91.10	Uncoated multi-ply paper & paperboard, bibulous & wrapping paper, weigh 150 g/m2 or less, in rolls/sheets, not further worked than in note 3
4805.91.20	Uncoated condenser paper, weighing 150 g/m2 or less, in rolls or sheets, not further worked than as specified in note 3 to chapter 48

HTS Subheading	Product Description
4805.91.50	Uncoated paper and paperboard nesoi, weighing not over 15 g/m2, in rolls or sheets, not further worked than as in note 3 to chapter 48
4805.91.70	Uncoated paper and paperboard nesoi, weigh over 15 g/m2 but n/o 30 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.91.90	Uncoated paper and paperboard nesoi, weigh ov 30 g/m2 but n/o 150 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.92.20	Uncoated pressboard, weighing more than 150 g/m2 but less than 225 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.92.40	Uncoated paper & paperboard nesoi, weighing > 150 g/m2 but < 225 g/m2, in rolls or sheets, not further worked than in note 3 to chapter 48
4805.93.20	Uncoated pressboard weighing 225 g/m2 or more, in rolls or sheets, not further worked than as specified in note 3 to chapter 48
4805.93.40	Uncoated paper and paperboard nesoi, weighing 225 g/m2 or more, in rolls or sheets, not further worked than as in note 3 to chapter 48
4806.10.00	Vegetable parchment in rolls or sheets
4806.20.00	Greaseproof papers in rolls or sheets
4806.30.00	Tracing papers in rolls or sheets
4806.40.00	Glassine and other glazed transparent or translucent papers, in rolls or sheets
4807.00.10	Composite paper and paperboard, laminated internally with bitumen, tar or asphalt, not surface-coated or impregnated, in rolls or sheets
4807.00.91	Composite straw paper and paperboard, not surface-coated or impregnated, in rolls or sheets
4807.00.92	Composite cloth-lined or reinforced paper, not surface-coated or impregnated, in rolls or sheets
4807.00.94	Composite paper and paperboard nesoi, not surface-coated or impregnated, in rolls or sheets
4808.10.00	Corrugated paper and paperboard, whether or not perforated, in rolls or sheets
4808.40.00	Kraft paper, creped or crinkled, whether or not embossed or perforated
4808.90.20	Paper and paperboard, creped or crinkled, in rolls or sheets, nesi
4808.90.40	Paper and paperboard, embossed, in rolls or sheets, nesi
4808.90.60	Paper and paperboard, in rolls or sheets, nesi
4809.20.20	Self-copy writing paper in rolls over 36 cm wide or rectangular sheets over 36 cm on side(s)
4809.20.40	Self-copy paper in rolls over 36 cm wide or rectangular sheets over 36 cm on side(s), other than writing paper
4809.90.20	Stereotype-matrix board and mat in rolls over 36 cm wide or in rectangular sheets over 36 cm on side(s)
4809.90.40	Simplex decalcomania paper in rolls over 36 cm wide or in rectangular sheets over 36 cm on side(s)
4809.90.60	Duplex decalcomania paper in rolls over 36 cm wide or in rectangular sheets over 36 cm on side(s)
4809.90.71	Carbon paper, self-copy paper and other copying or transfer paper, Impregnated, coated or both, but otherwise not treated
4809.90.80	Copying or transfer papers, nesi, in rolls over 36 cm wide or rectangular sheets over 36 cm on side(s)
4810.13.11	Basic paper be sensitized for photography, coated w/inorganic, n/o 150 g/m2, n/o 10% fiber by mechanical/chemi-process, rolls ov 15 cm wide
4810.13.13	India or bible paper, coated w/inorganic, n/o 150 g/m2, n/o 10% fiber content obtained by a mechanical/chemi- process, rolls ov 15 cm wide
4810.13.19	Paper/paperboard for graphic use nesoi, coated w/inorganic, n/o 150g/m2, n/o 10% fiber by mechanical/chemi- process, rolls ov 15 cm wide
4810.13.20	Paper and paperboard for graphic use, coated w/inorganic, ov 150g/m2, n/o 10% fiber by mechanical/chemi- process, in rolls over 15 cm wide
4810.13.50	Printed/embossed/perforated paper & paperboard graphic use, coated w/inorganic, n/o 10% fiber by mech/chemi-process, rolls n/o 15 cm wide

HTS Subheading	Product Description
4810.13.60	Basic paper be sensitized for photography, coated w/kaolin/inorganic, n/o 10% fiber by mechanical/chemi- process, rolls n/o 15 cm wide
4810.13.70	Paper & paperboard for graphic purposes nesoi, coated w/kaolin/inorganic, n/o 10% fiber by mechanical/chemi- process, rolls n/o 15 cm wide
4810.14.11	Basic paper be sensitized for photography, coated w/inorganic, n/o 150g/m2, n/o 10% fiber by mechanical/chemi-process, certain size sheets
4810.14.13	India or bible paper, coated w/inorganic, n/o 150 g/m2, of n/o 10% fiber content obtained by mechanical/chemi- process, certain size sheets
4810.14.19	Paper and paperboard for graphic use nesoi, coated w/inorganic, n/o 150g/m2, n/o 10% fiber by mechanical/chemi-process, certain size sheets
4810.14.20	Paper and paperboard for graphic use, coated w/inorganic, ov 150g/m2, n/o 10% fiber obtained mechanical/chemi-process, certain size sheets
4810.14.50	Printed/embossed/perforated paper & paperboard, coated w/inorganic, n/o 10% fiber obtained mechanical/chemi-process, other sized sheets
4810.14.60	Basic paper be sensitized use in photography, coated w/inorganic, n/o 10% fiber obtained mechanical/chemi- process, other sized sheets
4810.14.70	Paper & paperboard for graphic purposes nesoi, coated w/inorganic, n/o 10% fiber obtained mechanical/chemi- process, other sized sheets
4810.19.11	Basic paper be sensitized use in photography, coated w/inorganic, n/o 150g/m2, n/o 10% fiber by mechanical/chemi-process, sheets nesoi
4810.19.13	India or bible paper, coated w/inorganic, n/o 150 g/m2, of n/o 10% fiber content obtained by a mechanical/chemi-process, sheets nesoi
4810.19.19	Paper & paperboard for graphic use nesoi, coated w/inorganic, n/o 150g/m2, n/o 10% fiber obtained by mechanical/chemi- process, sheets nesoi
4810.19.20	Paper and paperboard for graphic use, coated w/inorganic, ov 150g/m2, n/o 10% fiber obtained by a mechanical/chemi-process, sheets nesoi
4810.22.10	Light-weight coated paper for graphic use, > 10% fiber content obtained by mechanical/chemi- process, strip/roll ov 15 cm wide/sized sheets
4810.22.50	Light-wt coated printed/embossed/perforated paper/paperboard for graphic, > 10% fiber obtained mechanical/chemi-process, roll/sheet nesoi
4810.22.60	Light-weight coated basic paper be sensitized use in photography, > 10% fiber obtained mechanical/chemi- process, rolls/sheets nesoi
4810.22.70	Light-wt coated paper & paperboard used for graphic purposes, > 10% fiber obtained by a mechanical/chemi- process, roll/sheet nesoi
4810.29.10	Paper/paperboard for graphic, coated w/inorganic, > 10% fiber obtained by mechanical/chemi- process, strip/roll ov 15 cm wide & sized sheets
4810.29.50	Printed/embossed/perforated paper/paperboard for graphic, coated w/inorganic, > 10% fiber by mechanical/chemi-process, rolls/sheets nesoi
4810.29.60	Basic paper to be sensitized for use in photography, coated w/inorganic, > 10% fiber by mechanical/chemi- process, rolls/sheets nesoi
4810.29.70	Paper/paperboard used for graphic purposes, coated w/inorganic, > 10% fiber by mechanical/chemi- process, rolls/sheets nesoi
4810.31.10	Nongraphic bleached coated kraft paper/paperboard, >95% wood fiber by chemical process, 150g/m2 or <, strip/roll ov 15 cm wide/certain sheet
4810.31.30	Bleached coated kraft paper cards, not punched, for punchcard machine, >95% wood fiber by chemical process, 150g/m2 or <, rolls/sheets nesoi
4810.31.65	Nongraphic bleached coated kraft paper/paperboard nesoi, of > 95% wood fiber by chemical process, 150 g/m2 or less, in rolls or sheets nesoi
4810.32.10	Nongraphic bleached coated kraft paper/paperboard, > 95% wood fiber by chemical process, >150g/m2, strip/roll ov 15 cm wide/certain sheets

HTS Subheading	Product Description
4810.32.30	Bleached coated kraft paper card, not punched, for punchcard machine, >95% wood fiber by chemical process, > 150g/m2, in strips/sheets nesoi
4810.32.65	Nongraphic bleached coated kraft paper/paperboard nesoi, of > 95% wood fiber obtained chemical process, > 150 g/m2, in rolls or sheets nesoi
4810.39.12	Nongraphic nonbleach uniformly kraft paper/paperboard,coated w/inorganic,wheth impreg but not treated,strip/roll ov 15cm wide/certain sheet
4810.39.14	Nongraphic nonbleached uniformly kraft paper and paperboard nesoi, coated w/kaolin/inorganic substances, strip/roll ov 15 cm/certain sheets
4810.39.30	Nonbleached uniformly kraft paper cards, not punched, for punchcard machines, coated w/inorganic substances, strips/sheets nesoi
4810.39.65	Nongraphic nonbleached uniformly kraft paper or paperboard nesoi, coated with kaolin or other inorganic substances, in rolls or sheets nesoi
4810.92.12	Multi-ply paper & paperboard nesoi, coat w/kaolin/other inorganic substances, wt > 150g/m2, strips/rolls ov 15 cm wide or certain sheets
4810.92.14	Multi-ply paper/paperboard nesoi, coat w/kaolin/other inorganic substances, wt 150g/m2 or less, strips/rolls ov 15 cm wide or certain sheets
4810.92.30	Mult-ply paper/paperboard cards, not punched, for punchcard machines, coated w/kaolin/other inorganic substances, in strips/sheets nesoi
4810.92.65	Multi-ply paper or paperboard nesoi, coated with kaolin or other inorganic substances, in rolls n/o 15 cm wide and rectangular sheets nesoi
4810.99.10	Paper & paperboard nesoi, coated with kaolin or other inorganic substances, in strips/rolls ov 15 cm wide or certain size rectangular sheets
4810.99.30	Paper & paperboard cards nesoi, not punched, for punchcard machines, coated w/kaolin/inorganic substances, in strips or sheets nesoi
4810.99.65	Paper and paperboard nesoi, coated with kaolin or other inorganic substances, in rolls n/o 15 cm wide and rectangular sheets nesoi
4811.10.11	Tarred, bituminized or asphalted paper & paperboard, in strip/roll ov 15cm wide or rectangular sheet w/side ov 36cm & other ov 15cm unfolded
4811.10.21	Tarred, bituminized or asphalted paper and paperboard, in strips or rolls not over 15 cm wide or in rectangular sheets nesoi
4811.41.10	Self-adhesive paper & paperboard, in strips/rolls ov 15cm wide or rectangular sheets w/1 side ov 36cm & other side ov 15cm in unfolded
4811.41.21	Self-adhesive paper and paperboard, in strips or rolls not over 15 cm wide
4811.41.30	Self-adhesive paper and paperboard, in rectangular sheets nesoi
4811.49.10	Gummed or adhesive paper and paperboard (other than self-adhesive), in strips or rolls over 15 cm wide or certain sized rectangular sheets
4811.49.21	Gummed or adhesive paper and paperboard (other than self-adhesive), in strips or rolls not over 15 cm wide
4811.49.30	Gummed or adhesive paper and paperboard (other than self-adhesive), in rectangular sheets nesoi
4811.51.20	Bleached paper and paperboard, coated/impregnated/covered w/plastics, wt >150g/m2, 0.3mm or more thick, in certain size strips/rolls/sheets
4811.51.40	Bleached paper and paperboard, coated/impregnated/covered w/plastics, wt > 150 g/m2, < 0.3 mm thick, in certain size strips/rolls/sheets
4811.51.60	Bleached paper and paperboard, coated/impregnated/covered w/plastics, wt > 150 g/m2, in rolls n/o 15 cm wide or rectangular sheets nesoi
4811.59.20	Bleached nesoi/nonbleached printing paper, coated, impregnated or covered with plastics, in strips/rolls ov 15cm wide or certain size sheets
4811.59.40	Bleached nesoi/nonbleached paper and paperboard nesoi, coated/impregnated/covered with plastics, in certain size strip/rolls/sheets
4811.59.60	Bleached nesoi/nonbleached paper & paperboard, coated/impregnated/covered with plastics, in rolls n/o 15 cm wide or rectangular sheets nesoi

HTS Subheading	Product Description
4811.60.40	Paper and paperboard, coated/impregnated/covered with wax/paraffin/stearin/oil/glycerol, in strips/rolls ov 15cm wide or certain size sheets
4811.60.60	Paper and paperboard, coated/impregnated/covered with wax/paraffin/stearin/oil/glycerol, in rolls n/o 15cm wide or rectangular sheets nesoi
4811.90.10	Handmade paper of cellulose fibers, in strip or roll ov 15 cm wide or rectangular sheets w/1 side ov 36 cm and other ov 15 cm in unfolded
4811.90.20	Paper/paperboard/cell wadding/webs of cell fibers, all/partly covered w/flock/gelatin/metal/metal solutions, in certain strip/rolls/sheets
4811.90.30	Paper, paperboard, cellulose wadding and webs of cellulose fibers, impregnated with latex, in certain size strips/rolls/sheets
4811.90.40	Paper, paperboard, cellulose wadding and webs of cellulose fibers, nesoi, weighing not over 15 g/m2, in certain size strips, rolls or sheets
4811.90.60	Paper, paperboard, cellulose wadding and web of cellulose fibers, nesoi, wt ov 15g/m2 n/o 30g/m2, in certain size strips, rolls or sheets
4811.90.80	Paper, paperboard, cellulose wadding and webs of cellulose fibers, nesoi, weighing over 30 g/m2, in certain size strips, rolls or sheets
4811.90.90	Paper, paperboard, cellulose wadding and webs of cellulose fibers, nesoi, in rolls n/o 15 cm wide or rectangular sheets nesoi
4812.00.00	Filter blocks, slabs and plates of paper pulp
4813.10.00	Cigarette paper in the form of booklets or tubes
4813.20.00	Cigarette paper in rolls of a width not exceeding 5 cm
4813.90.00	Cigarette paper, whether or not cut to size, nesi
4816.20.00	Self-copy paper, nesi
4816.90.01	Carbon or similar copying papers, nesoi
4817.10.00	Envelopes of paper or paperboard
4817.20.20	Sheets of writing paper with border gummed or perforated, prepared for use as combination sheets and envelopes
4817.20.40	Other letter cards, plain postcards and correspondence cards, nesi
4817.30.00	Boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery
4818.10.00	Toilet paper
4818.20.00	Handkerchiefs, cleansing or facial tissues and towels of paper pulp, paper, cellulose wadding or webs of cellulose fiber
4818.30.00	Tablecloths and table napkins of paper pulp, paper, cellulose wadding or webs of cellulose fiber
4818.50.00	Articles of apparel and clothing accessories of paper pulp, paper, cellulose wadding or webs of cellulose fibers
4819.10.00	Cartons, boxes and cases of corrugated paper or paperboard
4819.20.00	Folding cartons, boxes and cases of noncorrugated paper or paperboard
4819.30.00	Sacks and bags, having a base of a width of 40 cm or more, of paper, paperboard, cellulose wadding or webs of cellulose fibers
4819.40.00	Sacks and bags, nesi, including cones, of paper, paperboard, cellulose wadding or webs of cellulose fibers
4819.50.20	Sanitary food and beverage containers of paper, paperboard, cellulose wadding or webs of cellulose fibers, nesi
4819.50.30	Record sleeves of paper, paperboard, cellulose wadding or webs of cellulose fibers
4819.50.40	Packing containers, nesi, of paper, paperboard, cellulose wadding or webs of cellulose fibers
4819.60.00	Box files, letter trays, storage & like articles, used in offices & shops, of paper,paperboard,cellulose wadding/webs of cellulose fibers

HTS Subheading	Product Description
4820.10.20	Diaries, notebooks and address books, bound; letter and memorandum pads and similar articles, of paper or paperboard
4820.10.40	Registers, account, order and receipt books, and similar articles, of paper or paperboard, nesi
4820.20.00	Exercise books of paper or paperboard
4820.30.00	Binders (other than book covers), folders and file covers of paper or paperboard
4820.40.00	Manifold business forms and interleaved carbon sets of paper or paperboard
4820.50.00	Albums for samples or for collections, of paper or paperboard
4820.90.00	Blotting pads and other articles of stationery nesi, and book covers, of paper or paperboard
4821.10.20	Paper and paperboard labels, printed in whole or part by a lithographic process
4821.10.40	Paper and paperboard labels, printed by other than a lithographic process
4821.90.20	Pressure-sensitive paper and paperboard labels, not printed
4821.90.40	Paper and paperboard labels, not printed, nesi
4822.10.00	Bobbins, spools, cops and similar supports of paper pulp, paper or paperboard of a kind used for winding textile yarn
4822.90.00	Bobbins, spools, cops and similar supports of paper pulp, paper or paperboard, nesi
4823.20.10	Paint filters and strainers of paper or paperboard
4823.20.90	Filter paper and paperboard, nesi
4823.40.00	Rolls, sheets and dials of paper or paperboard printed for self-recording apparatus
4823.61.00	Trays, dishes, plates, cups and the like, of paper or paperboard: of bamboo
4823.69.00	Trays, dishes, plates, cups and the like, of paper or paperboard
4823.70.00	Molded or pressed articles of paper pulp
4823.90.10	Articles of paper pulp, nesi
4823.90.20	Articles of papier-mache, nesi
4823.90.31	Cards of paper or paperboard, nesoi, not punched, for punchcard machines, whether or not in strips
4823.90.40	Frames or mounts for photographic slides of paper or paperboard
4823.90.50	Hand fans of paper or paperboard
4823.90.60	Gaskets, washers and other seals of coated paper or paperboard
4823.90.67	Coated paper or paperboard, nesoi
4823.90.70	Articles of cellulose wadding, nesi
4823.90.80	Gaskets, washers and other seals of paper, paperboard and webs of cellulose fibers, nesi
4823.90.86	Articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibers, nesoi
5001.00.00	Silkworm cocoons suitable for reeling
5002.00.00	Raw silk (not thrown)
5003.00.10	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock) not carded or combed
5003.00.90	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock) carded or combed
5004.00.00	Silk yarns (other than yarn spun from silk waste) not put up for retail sale
5005.00.00	Yarn spun from silk waste, not put up for retail sale
5006.00.10	Spun yarn, containing 85% or more by weight of silk, put up for retail sale; silkworm gut
5006.00.90	Spun silk yarn, containing less than 85% by weight of silk, put up for retail sale
5007.10.30	Woven fabrics of noil silk, containing 85 percent or more by weight of silk or silk waste
5007.10.60	Woven fabrics of noil silk, containing less than 85 percent by weight of silk or silk waste
5007.20.00	Woven fabrics containing 85 percent or more by weight of silk or of silk waste, other than noil silk

HTS Subheading	Product Description
5007.90.30	Woven silk fabrics, containing 85 percent or more by weight of silk or silk waste, nesoi
5007.90.60	Other silk woven fabrics, containing less than 85 percent by weight of silk or silk waste, nesoi
5101.11.10	Unimproved wool and other wool not finer than 46s, greasy, shorn, not carded or combed, for special uses
5101.11.20	Unimproved wool and other wool not finer than 40s, greasy, shorn, not carded or combed, not for special uses
5101.11.40	Wool, excluding unimproved, finer than 40s but not 44s, greasy, shorn, not carded or combed, not for special uses
5101.11.50	Wool, excluding unimproved, finer than 44s but not 46s, greasy, shorn, not carded or combed, not for special uses
5101.11.60	Wool, excluding unimproved, finer than 46s, greasy, shorn, not carded or combed
5101.19.10	Unimproved wool and other wool not finer than 46s, greasy, not shorn, not carded or combed, for special uses
5101.19.20	Unimproved wool and other wool not finer than 40s, greasy, not shorn, not carded or combed, not for special uses
5101.19.40	Wool, excl. unimproved, finer than 40s, but not 44s, greasy, not shorn, not carded or combed, not for special uses
5101.19.50	Wool, excluding unimproved, finer than 44s but not 46s, greasy, not shorn, not carded or combed, not for special uses
5101.19.60	Wool, excluding unimproved, finer than 46s, greasy, incl. fleece-washed, not shorn, not carded or combed
5101.21.10	Unimproved wool and other wool not finer than 46s, degreased, not further processed, shorn, not carded or combed, for special uses
5101.21.15	Unimproved wool and other wool not finer than 40s, degreased, not further processed, shorn, not carded or combed, not for special uses
5101.21.30	Wool, excl. unimproved, finer than 40s but not 44s, degreased, not further processed, shorn, not carded or combed, not for special uses
5101.21.35	Wool, excl. unimproved, finer than 44s but not 46s, degreased, not further processed, shorn, not carded or combed, not for special uses
5101.21.40	Wool, excl. unimproved, finer than 46s, degreased, not further processed, shorn, not carded or combed, not for special uses
5101.21.65	Unimproved wool and other wool, not finer than 46s, degreased, shorn, not carbonized, not carded or combed
5101.21.70	Unimproved wool and other wool, finer than 46s, degreased, shorn, not carbonized, not carded or combed
5101.29.10	Unimproved wool and other wool not finer than 46s, degreased, not further processed, not shorn, not carded or combed, for special uses
5101.29.15	Unimproved wool and other wool not finer than 40s, degreased, not further processed, not shorn, not carded or combed, not for special uses
5101.29.30	Wool, excl. unimproved, finer than 40s but not 44s, degreased, not further processed, not shorn, not carded or combed, not for special uses
5101.29.35	Wool, excl. unimproved, finer than 44s but not 46s, degreased, not further processed, not shorn, not carded or combed, not for special uses
5101.29.40	Wool, excl. unimproved, finer than 46s, degreased, not further processed, not shorn, not carded or combed, not for special uses
5101.29.65	Unimproved wool and other wool, not finer than 46s, not shorn, not carbonized, degreased and further processed, not carded or combed
5101.29.70	Wool, finer than 46s, not carded or combed, not carbonized, not shorn, degreased and processed to remove grease
5101.30.10	Unimproved wool and other wool, not finer than 40s, carbonized, not further processed, not carded or combed
5101.30.15	Wool, excluding unimproved, finer than 40s but not finer than 44s, carbonized, not further processed, not carded or combed
5101.30.30	Wool, excluding unimproved, finer than 44s but not finer than 46s, carbonized, not further processed, not carded or combed
5101.30.40	Wool, excluding unimproved, finer than 46s, carbonized, not further processed, not carded or combed

HTS Subheading	Product Description
5101.30.65	Unimproved wool and other wool, not finer than 46s, carbonized and further processed, not carded or combed
5101.30.70	Unimproved wool and other wool, finer than 46s, carbonized and further processed, not carded or combed
5102.11.10	Fine hair of Kashmir (cashmere) goats, not processed in any manner beyond the degreased or carbonized condition, not carded or combed
5102.11.90	Fine hair of Kashmir (cashmere) goats, processed beyond the degreased or carbonized condition, not carded or combed
5102.19.20	Fine hair of the camel, not processed in any manner beyond the degreased or carbonized condition, not carded or combed
5102.19.60	Fine animal hair (other than Kashmir or camel), not processed beyond the degreased or carbonized condition, not carded or combed
5102.19.80	Fur, prepared for hatters' use, not carded or combed
5102.19.90	Fine animal hair (other than Kashmir), processed beyond the degreased or carbonized condition, not carded or combed
5102.20.00	Coarse animal hair, not carded or combed
5103.10.00	Noils of wool or of fine animal hair
5103.20.00	Waste, other than noils, of wool or of fine animal hair, including yarn waste but excluding garnetted stock
5103.30.00	Waste of coarse animal hair, including yarn waste but excluding garnetted stock
5104.00.00	Garnetted stock of wool or of fine or coarse animal hair
5105.10.00	Carded wool
5105.21.00	Combed wool in fragments
5105.29.00	Wool tops and other combed wool, except in fragments
5105.31.00	Fine hair of Kashmir (cashmere) goats, carded or combed
5105.39.00	Fine animal hair (other than Kashmir), carded or combed
5105.40.00	Coarse animal hair, carded or combed
5106.10.00	Yarn of carded wool, containing 85 percent or more by weight of wool, not put up for retail sale
5106.20.00	Yarn of carded wool, containing less than 85 percent by weight of wool, not put up for retail sale
5107.10.30	Yarn of combed wool, containing 85% or more by weight of wool, not put up for retail sale, of wool fiber avg diameter 18.5 micron or <
5107.10.60	Yarn of combed wool, containing 85% or more by weight of wool, not put up for retail sale, nesoi
5107.20.30	Yarn of combed wool, containing less than 85 percent by weight of wool, not put up retail sale, of wool fiber avg diameter 18.5 micron or <
5107.20.60	Yarn of combed wool, containing less than 85 percent by weight of wool, not put up retail sale, nesoi
5108.10.30	Yarn of Angora rabbit hair, carded, not put up for retail sale
5108.10.40	Yarn of mohair, carded, not put up for retail sale
5108.10.80	Yarn of fine animal hair other than Angora rabbit hair or mohair, carded, not put up for retail sale
5108.20.30	Yarn of Angora rabbit hair, combed, not put up for retail sale
5108.20.40	Yarn of mohair, combed, not put up for retail sale
5108.20.80	Yarn of fine animal hair other than Angora rabbit hair or mohair, combed, not put up for retail sale
5109.10.20	Yarn of wool, containing 85 percent or more by weight of wool, colored, cut into uniform lengths of not over 8 cm, put up for retail sale
5109.10.40	Yarn of Angora rabbit hair, containing 85 percent or more by weight of the Angora hair, put up for retail sale
5109.10.80	Yarn of wool nesoi, or fine animal hair nesoi, over 85% or > of that wool/hair, for retail sale, of wool fiber avg diamter 18.5 micron or <
5109.10.90	Yarn of wool nesoi, or fine animal hair nesoi, over 85% or > of that wool/hair, put up for retail sale, nesoi

HTS Subheading	Product Description
5109.90.20	Yarn of wool, colored, and cut into uniform lengths of not over 8 cm, containing less than 85% by weight of wool, put up for retail sale
5109.90.40	Yarn of Angora rabbit hair containing less than 85 percent by weight of the Angora hair, put up for retail sale
5109.90.80	Yarn of wool nesoi, or fine animal hair nesoi, < 85% of that wool/hair, for retail sale, of wool fiber avg diameter 18.5 micron or <
5109.90.90	Yarn of wool nesoi, or fine animal hair nesoi, < 85% of that wool/hair, put up for retail sale, nesoi
5110.00.00	Yarn of coarse animal hair or horsehair (including gimped horsehair yarn) whether or not put up for retail sale
5111.11.20	Tapestry and upholstery fabrics of carded wool/fine animal hair, over 85% wool or hair, weighing not over 140 g/m2
5111.11.30	Hand-woven fabrics of carded wool/fine animal hair, 85% or more wool or hair, loom width less than 76 cm, weight not over 300 g/m2
5111.11.70	Woven fabrics, 85% or more by weight of carded wool/fine animal hair, weight not over 300 g/m2, nesoi
5111.19.10	Tapestry and upholstery fabrics, woven, 85% or more by weight of carded wool/fine animal hair, weight over 300 g/m2
5111.19.20	Hand-woven fabrics, with 85 percent or more by weight of carded wool/fine animal hair, loom width of less than 76 cm, weight ov 300 g/m2
5111.19.60	Woven fabrics, with 85 percent or more by weight of carded wool/fine animal hair nesoi, weight over 300 g/m2
5111.20.05	Tapestry & upholstery fabrics of carded wool/fine animal hair, mixed mainly or solely with man-made filaments, weight exceeding 300 g/m2
5111.20.10	Tapestry & upholstery fabrics of carded wool/fine animal hair, mixed mainly or solely with man-made filaments, weight not over 140 g/m2
5111.20.90	Woven fabrics of carded wool/fine animal hair, mixed mainly or solely with man-made filaments, nesoi
5111.30.05	Tapestry & upholstery fabrics of carded wool/fine animal hair, mixed mainly/solely with man-made staple fibers, weight exceeding 300 g/m2
5111.30.10	Tapestry & upholstery fabrics of carded wool/fine animal hair, mixed mainly/solely with man-made staple fibers, weight not over 140 g/m2
5111.30.90	Woven fabrics of carded wool/fine animal hair, mixed mainly or solely with man-made staple fibers, nesoi
5111.90.30	Woven fabrics of carded wool/fine animal hair, containing 30 percent or more by weight of silk or silk waste, valued over $33/kg
5111.90.40	Tapestry and upholstery fabrics of carded wool/fine animal hair, weight over 300 g/m2, containing less than 85% wool or hair, nesoi
5111.90.50	Tapestry and upholstery fabrics of carded wool/fine animal hair, weight not over 140 g/m2, containing less than 85% wool or hair, nesoi
5111.90.90	Woven fabrics of carded wool/fine animal hair, containing less than 85% wool or hair, nesoi
5112.11.10	Tapestry and upholstery fabrics of combed wool/fine animal hair, containing 85% or more wool or hair, weight not over 140 g/m2
5112.11.30	Woven fabrics of combed wool/fine animal hair, over 85% wool or hair, weight not over 200 g/m2, avg wool fiber diameter 18.5 micron or <
5112.11.60	Woven fabrics of combed wool/fine animal hair, over 85% wool or hair, weight not over 200 g/m2, nesoi
5112.19.20	Tapestry and upholstery fabrics of combed wool/fine animal hair, over 85% wool or hair, weight over 300 g/m2
5112.19.60	Woven fabrics of combed wool/fine animal hair, over 85% wool or fine animal hair, ov 200 g/m2, avg wool fiber diameter 18.5 micron or <
5112.19.95	Woven fabrics of combed wool/fine animal hair, over 85% wool or fine animal hair, weight over 200 g/m2, nesoi
5112.20.10	Tapestry and upholstery fabrics of combed wool/fine animal hair, mixed mainly/solely with man-made filaments, weight over 300 g/m2
5112.20.20	Tapestry and upholstery fabrics of combed wool/fine animal hair, mixed mainly/solely with man-made filaments, weight not over 140 g/m2

HTS Subheading	Product Description
5112.20.30	Woven fabrics of combed wool/fine animal hair, mixed mainly or solely with man-made filaments, nesoi
5112.30.10	Tapestry and upholstery fabrics of combed wool/fine animal hair, mixed mainly/solely with man-made staple fibers, weight over 300 g/m2
5112.30.20	Tapestry & upholstery fabrics of combed wool/fine animal hair, mixed mainly/solely with man-made staple fibers, weight not over 140 g/m2
5112.30.30	Woven fabrics of combed wool/fine animal hair, mixed mainly or solely with man-made staple fibers, nesoi
5112.90.30	Woven fabrics of combed wool/fine animal hair, nesoi, containing 30 percent or more by weight of silk or silk waste, valued over $33/kg
5112.90.40	Woven tapestry/upholstery fabrics of combed wool/fine animal hair, con. by wt. under 85% wool/hair & under 30% silk, over 300 g/m2, nesoi
5112.90.50	Woven tapestry/upholstery fabrics of combed wool/fine animal hair, con. by wt. under 85% wool/hair & under 30% silk, n/o 140 g/m2, nesoi
5112.90.90	Woven fabrics of combed wool or combed fine animal hair, nesoi
5113.00.00	Woven fabrics of coarse animal hair or of horsehair
5201.00.05	Cotton, not carded or combed, having a staple length under 19.05 mm (3/4 inch), harsh or rough
5201.00.12	Cotton, n/carded or combed, having a staple length < 28.575 mm (1-1/8 inches), n/harsh or rough, described in gen. note 15
5201.00.14	Cotton, n/carded or combed, having a staple length < 28.575 mm (1-1/8 inches), n/harsh or rough, quota described in ch 52 add'l US note 5
5201.00.18	Cotton, not carded or combed, having a staple length under 28.575 mm (1-1/8 inches), n/harsh or rough, nesoi
5201.00.22	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, described in gen. note 15
5201.00.24	Cotton,n/carded or combed,harsh or rough,staple length 29.36875 mm or more but n/o 34.925 mm,white in color,quota descrd ch 52 add US note 6
5201.00.28	Cotton, not carded or combed, harsh or rough, staple length of 29.36875 mm or more but under 34.925 mm & white in color, nesoi
5201.00.34	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, other, quota described in chapter 52 add'l US note 7
5201.00.38	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, nesoi
5201.00.55	Cotton, not carded or combed, having a staple length of 34.925 mm or more, described in the gen. note 15
5201.00.60	Cotton, not carded or combed, having a staple length of 34.925 mm or more, quota described in chapter 52 add'l US note 8
5201.00.80	Cotton, not carded or combed, having a staple length of 34.925 mm or more, nesoi
5202.10.00	Cotton yarn waste (including thread waste)
5202.91.00	Cotton garnetted stock
5202.99.05	Cotton card strips made from cotton waste having staple length under 30.1625 mm & lap, sliver & roving waste described in gen. nte 15
5202.99.10	Cotton card strips made from cotton waste w/staple length under 30.1625 mm & lap, sliver & roving waste, quota dscrbd in ch 52 add US note 9
5202.99.30	Cotton card strips made from cotton waste having staple length under 30.1625 mm & lap, sliver & roving waste, nesoi
5202.99.50	Cotton waste, other than yarn waste and garnetted stock, nesoi
5203.00.05	Cotton fibers, carded or combed, of cotton fiber processed but not spun, described in gen. note 15
5203.00.10	Cotton fibers, carded or combed, of cotton fiber processed but not spun, quota described in chapter 52 add'l US note 10
5203.00.30	Cotton fibers, carded or combed, of cotton fiber processed, but not spun, nesoi
5203.00.50	Cotton carded or combed, excluding fibers of cotton processed but not spun

HTS Subheading	Product Description
5204.11.00	Cotton sewing thread, containing 85 percent or more by weight of cotton, not put up for retail sale
5204.19.00	Cotton sewing thread, containing less than 85 percent by weight of cotton, not put up for retail sale
5204.20.00	Cotton sewing thread, put up for retail sale
5205.11.10	Single cotton yarn, 85% or more cotton by weight, of uncombed fibers, not over 14 nm, unbleached, not mercerized, not put up for retail sale
5205.11.20	Single cotton yarn, 85% or more cotton by weight, of uncombed fibers, n/o 14 nm, bleached or mercerized
5205.12.10	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 14 but n/o 43 nm, unbleached, not mercerized, not put up for retail sale
5205.12.20	Single cotton yarn, 85% or more cotton by weight, of uncombed fibers, over 14 nm but n/o 43 nm, bleached or mercerized
5205.13.10	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 43 but n/o 52 nm, unbleached, not mercerized, not put up for retail sale
5205.13.20	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 43 nm but n/o 52 mm, bleached or mercerized
5205.14.10	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 52 but n/o 80 nm, unbleached, not mercerized, not put up for retail sale
5205.14.20	Single cotton yarn, 85% or more cotton by weight, of uncombed fibers, over 52 but n/o 80 nm, bleached or mercerized
5205.15.10	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 80 nm, unbleached, not mercerized, not put up for retail sale
5205.15.20	Single cotton yarn, 85% or more cotton, of uncombed fibers, over 80 nm, bleached or mercerized, not put up for retail sale, nesoi
5205.21.00	Single cotton yarn, 85% or more cotton by weight, of combed fibers, not over 14 nm, not put up for retail sale
5205.22.00	Single cotton yarn, 85% or more cotton by weight, of combed fibers, over 14 but n/o 43 nm, not put up for retail sale
5205.23.00	Single cotton yarn, 85% or more cotton by weight, of combed fibers, over 43 but n/o 52 nm, not put up for retail sale
5205.24.00	Single cotton yarn, 85% or more cotton by weight, of combed fibers, over 52 but n/o 80 nm, not put up for retail sale
5205.26.00	Single cotton yarn,85% or > cotton by wt, of combed fiber, meas.<125 but not<106.38 decitex, >80nm but not >94nm, not put up for retail sale
5205.27.00	Single cotton yarn,85% or > cotton by wt,of combed fiber,meas.<106.38 but not<83.33 decitex, >94nm but not >120nm,not put up for retail sale
5205.28.00	Single cotton yarn, 85% or > cotton by wt, of combed fibers, meas.<83.33 decitex, >120 nm, not put up for retail sale
5205.31.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of uncombed fibers, n/o 14 nm per single yarn, not put up for retail sale
5205.32.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of uncombed fibers, yarn over 14 but n/o 43 nm, not put up for retail sale
5205.33.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of uncombed fibers, yarn over 43 but n/o 52 nm, not put up for retail sale
5205.34.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of uncombed fibers, yarn over 52 but n/o 80 nm, not put up for retail sale
5205.35.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of uncombed fibers, over 80 nm per single yarn, not put up for retail sale
5205.41.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of combed fibers, not over 14 nm per single yarn, not put up for retail sale
5205.42.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of combed fibers, yarn over 14 but n/o 43 nm, not put up for retail sale

HTS Subheading	Product Description
5205.43.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of combed fibers, yarn over 43 but n/o 52 nm, not put up for retail sale
5205.44.00	Multiple or cabled cotton yarn, 85% or more cotton by weight, of combed fibers, yarn over 52 but n/o 80 nm, not put up for retail sale
5205.46.00	Multiple or cabled cotton yarn, 85% or > cotton by wt, of combed fibers, >80nm but not >94nm/single yarn, not put up for retail sale
5205.47.00	Multiple or cabled cotton yarn, 85% or > cotton by wt, of combed fibers, >94nm but not >120nm/single yarn, not put up for retail sale
5205.48.00	Multiple or cabled cotton yarn, 85% or > cotton by wt, of combed fibers, >120nm per single yarn, not put up for retail sale
5206.11.00	Single cotton yarn, less than 85 percent cotton by weight, of uncombed fibers, not over 14 nm, not put up for retail sale
5206.12.00	Single cotton yarn, less than 85 percent cotton by weight, of uncombed fibers, over 14 but n/o 43 nm, not put up for retail sale
5206.13.00	Single cotton yarn, less than 85 percent cotton by weight, of uncombed fibers, over 43 but n/o 52 nm, not put up for retail sale
5206.14.00	Single cotton yarn, less than 85 percent cotton by weight, of uncombed fibers, over 52 but n/o 80 nm, not put up for retail sale
5206.15.00	Single cotton yarn, less than 85 percent cotton by weight, of uncombed fibers, over 80 nm, not put up for retail sale
5206.21.00	Single cotton yarn, less than 85 percent cotton by weight, of combed fibers, not over 14 nm, not put up for retail sale
5206.22.00	Single cotton yarn, less than 85 percent cotton by weight, of combed fibers, over 14 but n/o 43 nm, not put up for retail sale
5206.23.00	Single cotton yarn, less than 85 percent cotton by weight, of combed fibers, over 43 but n/o 52 nm, not put up for retail sale
5206.24.00	Single cotton yarn, less than 85 percent cotton by weight, of combed fibers, over 52 but n/o 80 nm, not put up for retail sale
5206.25.00	Single cotton yarn, less than 85 percent cotton by weight, of combed fibers, over 80 nm, not put up for retail sale
5206.31.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of uncombed fibers, not over 14 nm per single yarn, not put up for retail sale
5206.32.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of uncombed fibers, over 14 but n/o 43 nm/single yarn, not put up for retail sale
5206.33.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of uncombed fibers, over 43 but n/o 52 nm/single yarn, not put up for retail sale
5206.34.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of uncombed fibers, over 52 but n/o 80 nm/single yarn, not put up for retail sale
5206.35.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of uncombed fibers, over 80 nm per single yarn, not put up for retail sale
5206.41.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of combed fibers, n/o 14 nm per single yarn, not put up for retail sale
5206.42.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of combed fibers, over 14 but n/o 43 nm per single yarn, not put up for retail sale
5206.43.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of combed fibers, over 43 but n/o 52 nm per single yarn, not put up for retail sale
5206.44.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of combed fibers, over 52 but n/o 80 nm per single yarn, not put up for retail sale
5206.45.00	Multiple or cabled cotton yarn, < 85% cotton by weight, of combed fibers, over 80 nm per single yarn, not put up for retail sale
5207.10.00	Cotton yarn, other than sewing thread, containing 85 percent or more cotton by weight, put up for retail sale

HTS Subheading	Product Description
5207.90.00	Cotton yarn, other than sewing thread, containing less than 85 percent cotton by weight, put up for retail sale
5208.11.20	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight not over 100 g/m2, unbleached, of number 42 or lower
5208.11.40	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight not over 100 g/m2, unbleached, of numbers 43-68
5208.11.60	Woven cotton fabric, 85% or more cotton by weight, plain weave, wt n/o 100 g/m2, unbleached, of number 69 or over, for typewriter ribbon
5208.11.80	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight not over 100 g/m2, unbleached, of number 69 or over, nesoi
5208.12.40	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight over 100 but n/o 200 g/m2, unbleached, of numbers 42 or lower
5208.12.60	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight over 100 but n/o 200 g/m2, unbleached, of numbers 43-68
5208.12.80	Woven cotton fabric, 85% or more cotton by weight, plain weave, weight over 100 but n/o 200 g/m2, unbleached, of number 69 or over
5208.13.00	Unbleached 3- or 4-thread twill fabrics of cotton, incl. cross twill, containing 85% or more of cotton by weight, weighing not over 200 g/m2
5208.19.20	Unbleached satin or twill weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 200 g/m2, nesoi
5208.19.40	Unbleached woven fabrics of cotton, nesoi, 85% or more of cotton by weight, weighing not more than 200 g/m2, of number 42 or lower
5208.19.60	Unbleached woven fabrics of cotton, nesoi, 85% or more of cotton by weight, weighing not more than 200 g/m2, of numbers 43-68
5208.19.80	Unbleached woven fabrics of cotton, nesoi, 85% or more of cotton by weight, weighing not more than 200 g/m2, of number 69 or higher
5208.21.20	Woven cotton fabric, 85 percent or more cotton by weight, plain weave, not over 100 g/m2, bleached, of number 42 or lower
5208.21.40	Woven cotton fabric, 85% or more cotton by weight, plain weave, not over 100 g/m2, bleached, of numbers 43-68
5208.21.60	Woven cotton fabric, 85% or more cotton by weight, plain weave, not over 100 g/m2, bleached, of number 69 or higher
5208.22.40	Woven cotton fabric, 85% or more cotton by weight, plain weave, over 100 but n/o 200 g/m2, bleached, of number 42 or lower
5208.22.60	Woven cotton fabric, 85% or more cotton by weight, plain weave, over 100 but n/o 200 g/m2, bleached, of numbers 43-68
5208.22.80	Woven cotton fabric, 85% or more cotton by weight, plain weave, over 100 but n/o 200 g/m2, bleached, of number 69 or higher
5208.23.00	Woven cotton fabric, >= 85% by wt. cotton, <= 200 g/m2, bleached, exc. plain weave, 3- or 4-thread twill
5208.29.20	Bleached satin or twill weave fabrics, containing 85% or more cotton by weight, weighing not more than 200 g/m2, nesoi
5208.29.40	Bleached woven fabrics of cotton, nesoi, 85% or more cotton by weight, weighing not more than 200 g/m2, of number 42 or lower
5208.29.60	Bleached woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of numbers 43-68
5208.29.80	Bleached woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of number 69 or higher
5208.31.20	Dyed plain weave certified hand-loomed fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 100 g/m2
5208.31.40	Dyed plain weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 100 g/m2, of number 42 or lower, nesoi

HTS Subheading	Product Description
5208.31.60	Dyed plain weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 100 g/m2, of numbers 43-68, nesoi
5208.31.80	Dyed plain weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 100 g/m2, of number 69 or higher, nesoi
5208.32.10	Dyed plain weave certified hand-loomed fabrics of cotton, cont. 85% or more cotton by weight, weighing over 100 g/m2 but not over 200 g/m2
5208.32.30	Dyed plain weave fabrics of cotton, nesoi, 85% or more cotton by weight, over 100 g/m2 but not more than 200 g/m2, of number 42 or lower
5208.32.40	Dyed plain weave fabrics of cotton, nesoi, 85% or more cotton by weight, over 100 g/m2 but not more than 200 g/m2, of numbers 43-68
5208.32.50	Dyed plain weave fabrics of cotton, nesoi, 85% or more cotton by weight, over 100 g/m2 but not more than 200 g/m2, of number 69 or higher
5208.33.00	Dyed 3- or 4-thread twill fabrics of cotton, including cross twill, 85% or more cotton by weight, weighing not more than 200 g/m2
5208.39.20	Dyed satin or twill weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 200 g/m2, nesoi
5208.39.40	Dyed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of number 42 or lower
5208.39.60	Dyed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of numbers 43-68
5208.39.80	Dyed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of number 69 or higher
5208.41.20	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotton by weight, weighing not over 100 g/m2, of yarns of different colors
5208.41.40	Plain weave fabrics of cotton, 85% or more cotton by weight, weighing not over 100 g/m2, number 42 or lower, of yarns of different colors
5208.41.60	Plain weave fabrics of cotton, 85% or more cotton by weight, weighing not over 100 g/m2, of numbers 43-68, of yarns of different colors
5208.41.80	Plain weave fabrics of cotton, 85% or more cotton by weight, weighing not over 100 g/m2, of number 69 or higher, of yarn of different colors
5208.42.10	Plain weave certified hand-loomed fabrics of cotton, 85% or more cotton by weight, over 100 but n/o 200 g/m2, of yarns of different colors
5208.42.30	Plain weave fabrics of cotton, 85% or more cotton by weight, over 100 but n/o 200 g/m2, of numbers 42 or lower, of yarns of different colors
5208.42.40	Plain weave fabrics of cotton, 85% or more cotton by weight, over 100 but n/o 200 g/m2, of numbers 43-68, of yarns of different colors
5208.42.50	Plain weave fabrics of cotton, 85% or more cotton by weight, over 100 but n/o 200 g/m2, number 69 or higher, of yarns of different colors
5208.43.00	3- or 4-thread twill fabrics of cotton, including cross twill, 85% or more cotton by weight, not over 200 g/m2, of yarns of different colors
5208.49.20	Satin or twill weave fabrics of cotton, cont. 85% or more cotton by weight, weighing not over 200 g/m2, of yarns of different colors, nesoi
5208.49.40	Woven fabrics of cotton, nesoi, 85% or more cotton by weight, wt not more than 200 g/m2, of number 42 or lower, of yarns of different colors
5208.49.60	Woven fabrics of cotton, nesoi, 85% or more cotton by weight, wt not over 200 g/m2, of numbers 43-68, of yarns of different colors
5208.49.80	Woven fabrics of cotton, nesoi, 85% or more cotton by weight, wt not over 200 g/m2, of number 69 or higher, of yarns of different colors
5208.51.20	Printed certified hand-loomed plain weave fabrics of cotton, 85% or more cotton by weight, weighing not over 100 g/m2

HTS Subheading	Product Description
5208.51.40	Printed plain weave fabrics of cotton, containg 85% or more cotton by weight, weighing not over 100 g/m2, of number 42 or lower
5208.51.60	Printed plain weave fabrics of cotton, containing 85% or more cotton by weight, weighing not over 100 g/m2, of numbers 43-68
5208.51.80	Printed plain weave fabrics of cotton, containg 85% or more cotton by weight, weighing not over 100 g/m2, of number 69 or higher
5208.52.10	Printed certified hand-loomed plain weave fabrics of cotton, 85% or more cotton by weight, wt more than 100 g/m2 but not more than 200 g/m2
5208.52.30	Printed plain weave fabrics of cotton, 85% or more cotton by weight, weighing over 100g/m2 but not more than 200 g/m2, of number 42 or lower
5208.52.40	Printed plain weave fabrics of cotton, 85% or more cotton by weight, weighing over 100 g/m2 but not more than 200 g/m2, of numbers 43-68
5208.52.50	Printed plain weave fabrics of cotton, 85% or more cotton by weight, weighing over 100g/m2 but not more than 200g/m2, of number 69 or higher
5208.59.10	Printed 3- or 4-thread twill fabrics of cotton, including cross twill, 85% or more cotton by weight, weighing not more than 200 g/m2
5208.59.20	Printed satin or twill weave fabrics of cotton, containing 85% or more cotton by weight, weighing not more than 200 g/m2, nesoi
5208.59.40	Printed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of number 42 or lower
5208.59.60	Printed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of numbers 43-68
5208.59.80	Printed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing not more than 200 g/m2, of number 69 or higher
5209.11.00	Unbleached plain weave fabrics of cotton, 85 percent or more cotton by weight, weight more than 200 g/m2
5209.12.00	Unbleached 3- or 4-thread twill fabrics of cotton, including cross twill, 85 percent or more cotton by weight, weighing more than 200 g/m2
5209.19.00	Unbleached woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200g/m2
5209.21.00	Bleached plain weave fabrics of cotton, 85% or more cotton by weight, weighing more than 200 g/m2
5209.22.00	Bleached 3- or 4-thread twill fabrics of cotton, including cross twill, 85 percent or more cotton by weight, weighing more than 200 g/m2
5209.29.00	Bleached woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200g/m2
5209.31.30	Dyed, plain weave certified hand-loomed fabrics of cotton, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.31.60	Dyed, plain weave fabrics of cotton, containing 85% or more cotton by weight, weighing more than 200 g/m2, nesoi
5209.32.00	Dyed 3- or 4-thread twill fabrics of cotton, including cross twill, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.39.00	Dyed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.41.30	Plain weave certified hand-loomed fabrics of cotton, cont. 85% or more cotton by weight,weighing over 200 g/m2, of yarns of different colors
5209.41.60	Plain weave fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200 g/m2, of yarns of different colors
5209.42.00	Denim containing 85% or more cotton by weight, weighing more than 200 g/m2, of yarns of different colors
5209.43.00	3- or 4-thread twill fabrics of cotton,incl. cross twill, nesoi, 85% or more cotton by wt, weighing ov 200g/m2, of yarns of different colors
5209.49.00	Woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200 g/m2, of yarns of different colors

HTS Subheading	Product Description
5209.51.30	Printed plain weave certified hand-loomed fabrics of cotton, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.51.60	Printed plain weave fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.52.00	Printed 3- or 4-thread twill fabrics of cotton, including cross twill, containing 85% or more cotton by weight, weighing more than 200 g/m2
5209.59.00	Printed woven fabrics of cotton, nesoi, containing 85% or more cotton by weight, weighing more than 200 g/m2
5210.11.80	Unbleached plain weave fabrics of cotton, < 85% cotton, mixed mainly/solely with man-made fibers, wt < 200 g/m2, of number 69 or higher
5210.19.20	Unbleached satin or twill weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, not more than 200 g/m2
5210.19.40	Unbleached woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 42 or lower
5210.19.60	Unbleached woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of numbers 43-68
5210.19.80	Unbleached woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, n/o 200 g/m2, of number 69 or higher
5210.21.40	Bleached plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 42 or lower
5210.21.60	Bleached plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, not over 200 g/m2, of numbers 43-68
5210.21.80	Bleached plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 69 or higher
5210.29.10	Bleached 3- or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, n/o 200 g/m2
5210.29.20	Bleached satin or twill weave fabrics of cotton, < 85% cotton by weight, mixed mainly/solely with man-made fibers, not more than 200 g/m2
5210.29.40	Bleached woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely w/man-made fibers, n/o 200 g/m2, of number 42 or lower
5210.29.60	Bleached woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of numbers 43-68
5210.29.80	Bleached woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 69 or higher
5210.31.40	Dyed plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, not over 200 g/m2, of number 42 or lower
5210.31.60	Dyed plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, not over 200 g/m2, of numbers 43-68
5210.31.80	Dyed plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely with man-made fibers, not over 200 g/m2, of number 69 or higher
5210.32.00	Dyed 3 or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely with man-made fibers, wt n/o 200 g/m2
5210.39.20	Dyed satin or twill weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, weighing not more than 200 g/m2
5210.39.40	Dyed woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely w/man-made fibers, not over 200 g/m2, of number 42 or lower
5210.39.60	Dyed woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely w/man-made fibers, not over 200 g/m2, of numbers 43-68
5210.39.80	Dyed woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, not over 200 g/m2, of number 69 or higher
5210.41.40	Plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely w/mm fibers, n/o 200 g/m2, of number 42 or lower, of yarn of diff colors

HTS Subheading	Product Description
5210.41.60	Plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely w/mm fibers, n/o 200 g/m2, of numbers 43-68, of yarn of different colors
5210.41.80	Plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely w/mm fibers, n/o 200 g/m2, number 69 or higher, of yarn of diff colors
5210.49.10	3- or 4-thread twill fabrics of cotton,incl. cross twill,< 85% cotton by wt,mixed mainly/solely w/mm fibers,n/o 200 g/m2,of yarn diff colors
5210.49.20	Satin or twill weave fabrics of cotton,< 85% cotton by wt,mixed mainly/solely w/mm fibers, wt n/o 200g/m2, of yarn of different colors,nesoi
5210.49.40	Woven fabrics of cotton,nesoi,< 85% cotton by wt,mixed mainly/solely w/mm fibers, n/o 200g/m2, of number 42 or lower, of yarn of diff colors
5210.49.60	Woven fabrics of cotton,nesoi,< 85% cotton by wt,mixed mainly/solely w/man-made fibers, n/o 200 g/m2, numbers 43-68, of yarn of diff colors
5210.49.80	Woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly with m-m fibers, n/o 200 g/m2, number 69 or higher, of yarn of diff colors
5210.51.40	Printed plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 42 or lower
5210.51.60	Printed plain weave cotton fabrics, < 85% cotton by wt, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of numbers 43-68
5210.51.80	Printed plain weave cotton fabrics, < 85% cotton by weight, mixed mainly/solely with man-made fibers, n/o 200 g/m2, of number 69 or higher
5210.59.10	Printed 3- or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, n/o 200 g/m2
5210.59.20	Printed satin or twill weave cotton fabrics, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, weighing n/o 200 g/m2
5210.59.40	Printed woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, wt n/o 200g/m2, of number 42 or lower
5210.59.60	Printed woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely with man-made fibers, weighing n/o 200g/m2, of numbers 43-68
5210.59.80	Printed woven fabrics of cotton, nesoi, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, weighing n/o 200g/m2, number 69 or higher
5211.11.00	Unbleached plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, over 200 g/m2
5211.12.00	Unbleached 3- or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely w/man-made fiber, ov 200 g/m2
5211.19.00	Unbleached woven fabrics of cotton, nesoi, containing < 85% cotton by weight, mixed mainly/solely with man-made fibers, more than 200 g/m2
5211.20.21	Bleached plain weave fabrics of cotton, < 85% cotton by weight, mixed mainly/solely with man-made fibers, over 200 g/m2
5211.20.22	Bleached 3- or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, over 200 g/m2
5211.20.29	Bleached woven fabrics of cotton, nesoi, containing < 85% cotton by weight, mixed mainly/solely with man-made fibers, more than 200g/m2
5211.31.00	Dyed plain weave fabrics of cotton, containing < 85% cotton by weight, mixed mainly/solely with man-made fibers, more than 200 g/m2
5211.32.00	Dyed 3- or 4-thread twill fabrics of cotton, incl. cross twill, < 85% cotton by wt, mixed mainly/solely w/man-made fibers, more than 200g/m2
5211.39.00	Dyed woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely with man-made fibers, weighing more than 200g/m2
5211.41.00	Plain weave fabrics of cotton, < 85% cotton by weight, mixed mainly/solely with man-made fibers, over 200g/m2, of yarns of different colors

HTS Subheading	Product Description
5211.42.00	Denim containing < 85% cotton by wt, mixed mainly/solely w/man-made fibers, weighing > 200 g/m2, of yarns of different colors
5211.43.00	3-or 4-thread twill fab of cotton,incl cross twill,nesoi,< 85% cotton wt,mixed mainly/solely w/mm fibers,ov 200 g/m2, of yarn of diff colors
5211.49.00	Woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely w/manmade fibers, over 200g/m2, of yarns of different colors
5211.51.00	Printed plain weave fabrics of cotton, < 85% cotton by wt, mixed mainly/solely with man-made fibers, weighing more than 200g/m2
5211.52.00	Printed 3- or 4-thread twill fabrics of cotton, incl cross twill, < 85% cotton by wt, mixed mainly/solely with man-made fibers, over 200g/m2
5211.59.00	Printed woven fabrics of cotton, nesoi, < 85% cotton by weight, mixed mainly/solely with man-made fibers, weighing more than 200g/m2
5212.11.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing not more than 200 g/m2, unbleached
5212.11.60	Other woven fabrics of cotton, nesoi, weighing not more than 200 g/m2, unbleached
5212.12.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing not more than 200 g/m2, bleached
5212.12.60	Other woven fabrics of cotton, nesoi, weighing not more than 200 g/m2, bleached
5212.13.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing not more than 200 g/m2, dyed
5212.13.60	Other woven fabrics of cotton, nesoi, weighing not more than 200 g/m2, dyed
5212.14.10	Other woven fabrics of cotton, containing 36% or more of wool or fine hair, weighing not more than 200 g/m2, of yarns of different colors
5212.14.60	Other woven fabrics of cotton, nesoi, weighing not more than 200 g/m2, of yarns of different colors
5212.15.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing not more than 200 g/m2, printed
5212.15.60	Other woven fabrics of cotton, nesoi, weighing not more than 200 g/m2, printed
5212.21.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing more than 200 g/m2, unbleached
5212.21.60	Other woven fabrics of cotton, nesoi, weighing more than 200 g/m2, unbleached
5212.22.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing more than 200 g/m2, bleached
5212.22.60	Other woven fabrics of cotton, nesoi, weighing more than 200 g/m2, bleached
5212.23.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing more than 200 g/m2, dyed
5212.23.60	Other woven fabrics of cotton, nesoi, weighing more than 200 g/m2, dyed
5212.24.10	Other woven fabrics of cotton,containing 36% or more by weight of wool or fine hair,weighing more than 200 g/m2,of yarns of different colors
5212.24.60	Other woven fabrics of cotton, nesoi, weighing more than 200 g/m2, of yarns of different colors
5212.25.10	Other woven fabrics of cotton, containing 36% or more by weight of wool or fine hair, weighing more than 200 g/m2, printed
5212.25.60	Other woven fabrics of cotton, nesoi, weighing more than 200 g/m2, printed
5301.10.00	Flax, raw or retted
5301.21.00	Flax, broken or scutched
5301.29.00	Flax, hackled or otherwise processed, except broken or scutched but not spun
5301.30.00	Flax tow and waste (including yarn waste and garnetted stock)
5302.10.00	True hemp, raw or retted

HTS Subheading	Product Description
5302.90.00	True hemp, processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)
5303.10.00	Jute and other textile bast fibers (excluding flax, true hemp and ramie), raw or retted
5303.90.00	Jute and other textile bast fibers (excluding flax, true hemp and ramie), processed but not spun; tow and waste of these fibers
5305.00.00	Coconut, abaca, ramie, other veg. fibers, nesoi, raw or processed, not spun; tow noils and their wastes (incl. yarn waste and garnetted stoc
5306.10.00	Flax yarn, single
5306.20.00	Flax yarn, multiple (folded) or cabled
5307.10.00	Yarn of jute or other textile bast fibers (excluding flax, true hemp, and ramie), single
5307.20.00	Yarn of jute or other textile bast fibers (excluding flax, true hemp, and ramie), multiple (folded) or cabled
5308.10.00	Coir yarn
5308.20.00	True hemp yarn
5308.90.10	Paper yarn
5309.11.00	Woven fabrics of flax, containing 85 percent or more by weight of flax, unbleached or bleached
5309.19.00	Woven fabrics of flax, containing 85 percent or more by weight of flax, other than unbleached or bleached
5309.21.20	Woven fabrics of flax, containing less than 85% by weight of flax, containing over 17% of wool or fine animal hair, unbleached or bleached
5309.21.30	Woven fabrics of flax, < 85% by wt of flax, unbleached or bleached, containing < 17% by wt of wool and containing cotton and manmade fibers
5309.21.40	Woven fabrics of flax, containing less than 85 percent by weight of flax, unbleached or bleached, nesoi
5309.29.20	Woven fabrics of flax, containing < 85% by wt of flax, contain over 17% by wt of wool or fine animal hair, other than unbleached or bleached
5309.29.30	Woven fabrics of flax, less than 85% by wt of flax, containing less than 17% by wt of wool and containing cotton and manmade fibers, nesoi
5309.29.40	Woven fabrics of flax, containing less than 85 percent by weight of flax, other than unbleached or bleached, nesoi
5310.10.00	Unbleached woven fabrics of jute or of other textile bast fibers of heading 5303
5310.90.00	Woven fabrics of jute or of other textile bast fibers of heading 5303, other than unbleached
5311.00.20	Woven fabrics of other vegetable textile fibers, containing more than 17% by weight of wool or fine animal hair
5311.00.30	Woven fabrics of other vegetable textile fibers, containing cotton and manmade fibers, nesoi
5311.00.40	Woven fabrics of other vegetable textile fibers, nesoi
5311.00.60	Woven fabrics of paper yarn
5401.10.00	Sewing thread of synthetic filaments, whether or not put up for retail sale
5401.20.00	Sewing thread of artificial filaments, whether or not put up for retail sale
5402.11.30	Single high tenacity yarn of aramids, not put up for retail sale
5402.11.60	Multiple (folded) or cabled high tenacity yarn (except sewing thread) of aramids, not put up for retail sale
5402.19.30	Single high tenacity yarn of nylon or polyamides (except aramids), not put up for retail sale
5402.19.60	Multiple (folded) or cabled high tenacity yarn (except sewing thread) of nylon or other polyamides (except aramids), not put up for retail s
5402.20.30	Single high tenacity yarn of polyesters, not put up for retail sale
5402.31.30	Single textured yarn, of nylon or other polyamides, measuring not more than 500 decitex, not put up for retail sale
5402.31.60	Multiple or cabled textured yarn (except sewing thread), of polyamides, single yarn not more than 500 decitex, not put up for retail sale

HTS Subheading	Product Description
5402.32.30	Single textured yarn, of nylon or other polyamides, measuring more than 500 decitex, not put up for retail sale
5402.32.60	Multiple or cabled textured yarn (except sewing thread), of polyamides, single yarn more than 500 decitex, not put up for retail sale
5402.33.30	Single textured yarn of polyesters, not put up for retail sale
5402.33.60	Multiple or cabled textured yarn (except sewing thread), of polyesters, not put up for retail sale
5402.34.30	Single textured polypropylene yarn, not put up for retail sale
5402.34.60	Multiple or cabled textured polypropylene yarn (except sewing thread), not put up for retail sale
5402.39.31	Single textured yarn, nesoi, not put up for retail sale
5402.39.61	Multiple or cabled textured yarn (except sewing thread), nesoi, not put up for retail sale
5402.44.00	Single elastomeric yarns, monofil, untwisted or with a twist not exceeding 50 turns per meter, not for retail sale
5402.45.10	Synth filament yarn, for doll wigs, of colored multifil, untwisted/with twist < 5 turns/meter, of nylon or other polyamide, not retail sale
5402.45.90	Syn filament yarn (not for doll wigs), of colored multifil, untwisted/with twist < 5 turns/meter, of nylon or o/polyamides, not retail sale
5402.46.00	Non-textured yarn of polyesters, partially oriented, single, untwisted or with a twist not exceeding 50 turns/m, not put up for retail sale
5402.47.10	Single yarn, twist of 0-50 turns/m, wholly polyester, 75-80 decitex, 24 filaments, nesoi, not put up for retail sale
5402.47.90	Single yarn, twist of 0-50 turns/m, other than wholly of polyester, nesoi, not put up for retail sale
5402.48.00	Non-textured polypropylene yarns, monofil, untwisted or with a twist not exceeding 50 turns per meter, not for retail sale
5402.49.11	Colored multifilament yarn to be used to make wigs for dolls, of modacrylic, untwisted or twisted, < 5 turns per meter, not for retail sale
5402.49.91	Other yarns, monofil; multifil, untwisted or twisted > or = to 5, not exceeding 50 turns per meter of other synthetic, not for retail sale
5402.51.00	Nylon or other polyamide yarns, single, with a twist exceeding 50 turns/m, not put up for retail sale
5402.52.10	Single yarn, twist exceeding 50 turns/m, wholly polyester, 75-80 decitex, 24 filaments, nesoi, not put up for retail sale
5402.52.90	Single yarn, twist exceeding 50 turns/m, other than wholly of polyester, nesoi, not put up for retail sale
5402.53.00	Synthetic filament yarn of polypropylene: single other twisted yarns exc nylon/polyester, >50 turns/M, not put up for retail sale
5402.59.01	Synthetic filament yarn nesoi: single other twisted yarns exc nylon/polyester, >50 turns/M, not put up for retail sale
5402.61.00	Nylon or other polyamide yarn, multiple (folded) or cabled, (except sewing thread), not put up for retail sale
5402.62.00	Polyester yarn, multiple (folded) or cabled, (except sewing thread), not put up for retail sale
5402.63.00	Synthetic filament yarn exc sewing thread of polypropylene, not for retail sale inc monofilament <67 decitex:other yarn multiple (folded) or cabled
5402.69.01	Synthetic filament yarn exc sewing thread nesoi, not for retail sale inc monofilament <67 decitex:other yarn multiple (folded) or cabled
5403.10.30	Single high tenacity yarn of viscose rayon, not put up for retail sale
5403.10.60	Multiple (folded) or cabled high tenacity yarn of viscose rayon (except sewing thread), not put up for retail sale
5403.31.00	Single yarn of viscose rayon (not high ten. or sewing thread), untwisted or with a twist not over 120 turns/m, not put up for retail sale
5403.32.00	Single yarn of viscose rayon (not high ten. or sewing thread), with twist exceeding 120 turns/m, not put up for retail sale

HTS Subheading	Product Description
5403.33.00	Single yarn of cellulose acetate (not high ten. or sewing thread), not put up for retail sale
5403.39.10	Single textured artificial filament yarn (other than sewing thread), not put up for retail sale
5403.39.90	Artificial filament yarn nesoi, single, not put up for retail sale
5403.41.00	Viscose rayon yarn (except sewing thread), multiple (folded) or cabled, not put up for retail sale
5403.42.00	Yarn of cellulose acetate (except sewing thread) multiple (folded) or cabled, not put up for retail sale
5403.49.10	Multiple (folded) or cabled textured artificial filament yarn (other than sewing thread), not put up for retail sale
5403.49.90	Multiple (folded) or cabled non-textured artificial filament yarn (other than sewing thread), not put up for retail sale
5404.11.00	Synthetic monofilament (exc. polypropylene), elastomeric, of 67 decitex or more and with no cross-sectional dimension > 1 mm, nesoi
5404.12.10	Polypropylene monofilament of 67 decitex or more (not racket strings), and with no cross-sectional dim. > 1 mm, not over 254 mm in length
5404.12.90	Polypropylene monofilament of 67 decitex or more (not racket strings), and with no cross-sectional dim. > 1 mm, over 254 mm in length
5404.19.10	Racket strings of synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm
5404.19.80	Synthetic monofilament (exc. polypropylene), of 67 decitex or more and with no cross-sectional dimension > 1 mm, nesoi
5404.90.00	Strip and the like of synthetic textile materials of an apparent width not exceeding 5 mm
5405.00.30	Artificial monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm
5405.00.60	Strip and the like of artificial textile materials of an apparent width not exceeding 5 mm
5406.00.10	Synthetic filament yarn (except sewing thread), put up for retail sale
5406.00.20	Artificial filament yarn (except sewing thread), put up for retail sale
5407.10.00	Woven fabrics obtained from high tenacity yarn of nylon or other polyamides or of polyesters
5407.20.00	Woven fabrics obtained from strip or the like of synthetic textile materials
5407.30.10	Woven fabrics specified in note 9 to section XI, of synthetic filament yarn, over 60 percent by weight of plastics
5407.30.90	Woven fabrics specified in note 9 to section XI, of synthetic filament yarn, nesoi
5407.41.00	Woven fabrics, containing 85 percent or more by weight of filaments of nylon or other polyamides, unbleached or bleached
5407.42.00	Woven fabrics, containing 85 percent or more by weight of filaments of nylon or other polyamides, dyed
5407.43.10	Woven fabrics, over 85% by wt fil. of nylon/other polyamides, of diff colored yarns, thread count over 69-142/cm warp, over 31-71/cm filling
5407.43.20	Woven fabrics, containing 85 percent or more by weight of filaments of nylon or other polyamides, of yarns of different colors, nesoi
5407.44.00	Woven fabrics, containing 85 percent or more by weight of filaments of nylon or other polyamides, printed
5407.51.00	Woven fabrics, containing 85 percent or more by weight of textured polyester filaments, unbleached or bleached
5407.52.05	Woven fabrics, over 85 percent textured polyester filaments, dyed, less than 77 cm in width, thread count 69-142/cm warp, 31-71/cm filling
5407.52.20	Woven fabrics, over 85 percent textured polyester filaments, dyed, nesoi
5407.53.10	Woven fabrics, over 85% textured polyester filaments, of different colored yarns, thread count 69-142/cm warp and 31-71/cm filling
5407.53.20	Woven fabrics, containing 85 percent or more by weight of textured polyester filaments, of yarns of different colors, nesoi

HTS Subheading	Product Description
5407.61.11	Woven fab, dyed, 100% polyester, <77cm wide, >69-142 warp >31-71 filling, of non-tex singles yarn, 75-80dtx, 24 fil/yn, twist 900+ turns/m
5407.61.19	Woven fab,dyed,85%+ non-tex poly. fil., <77cm wide, >69-142 warp >31-71 filling (not 100%poly. sin.yarn, 75-80dtx, 24 fil/yn & 900+ turns/m)
5407.61.21	Woven fab,yn diff colors,<77cm wide, >69-142 warp, >31-71 filling, 100% poly.non-tex sin. yarn of 75-80 dtx., 24 fil/yn & twist 900+ turns/m
5407.61.29	Woven fab,85%+ non-tex poly,yn diff colors,<77cm wide,>69-142 warp,>31-71 filling (not 100%poly sin yarn, 75-80dtx,24 fil/yn & 900+ turns/m)
5407.61.91	Woven fab, 85%+ non-tex poly fil, wholly of polyester, of single yarns 75-80 decitex, 24 fil/yarn & a twist of 900 or more turns/m
5407.61.99	Woven fab, of 85%+ non-text. polyester filaments, nesoi (not wholly polyester single yarns, 75-80 dtx, 24 fil/yarn & twist 900+ turns/m)
5407.69.10	Woven fab, containing 85%+ by wt of polyester filaments nesoi, unbleached or bleached
5407.69.20	Woven fab, containing 85%+ by wt of polyester filaments nesoi, dyed
5407.69.30	Woven fab, cont. 85%+ by wt polyester filaments nesoi, thread count >69-142/cm in warp & >31-71/cm filling, of yarns of diff. colors
5407.69.40	Woven fab, containing 85%+ by wt polyester filaments nesoi, of yarns of different colors, nesoi
5407.69.90	Woven fab, containing 85%+ by wt polyester filaments nesoi, printed
5407.71.00	Woven fabrics, containing 85 percent or more by weight of synthetic filaments, unbleached or bleached
5407.72.00	Woven fabrics, containing 85 percent or more by weight of synthetic filaments, dyed
5407.73.10	Woven fabrics, cont. 85% or more syn. filaments by weight, thread count >69-142/cm warp and >31-71/cm filling, of different colored yarns
5407.73.20	Woven fabrics, containing 85% or more by weight of synthetic filaments, of yarns of different colors, nesoi
5407.74.00	Woven fabrics, containing 85 percent or more by weight of synthetic filaments, printed
5407.81.00	Woven fabrics, containing less than 85% by weight of synthetic filaments, mixed mainly or solely with cotton, unbleached or bleached
5407.82.00	Woven fabrics, containing less than 85 percent by weight of synthetic filaments, mixed mainly or solely with cotton, dyed
5407.83.00	Woven fabrics, less than 85 percent by weight of synthetic filaments, mixed mainly or solely with cotton, of yarns of different colors
5407.84.00	Woven fabrics, containing less than 85 percent by weight of synthetic filaments, mixed mainly or solely with cotton, printed
5407.91.05	Woven fabrics of synthetic filament yarn nesoi, containing 36 percent or more by weight of wool or fine animal hair, unbleached or bleached
5407.91.10	Woven fabrics of synthetic filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, unbleached or bleached, nesoi
5407.91.20	Woven fabrics of synthetic filament yarn nesoi, unbleached or bleached, nesoi
5407.92.05	Woven fabrics of synthetic filament yarn nesoi, containing 36 percent or more by weight of wool or fine animal hair, dyed
5407.92.10	Woven fabrics of synthetic filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, cont. <36% wool/fine animal hair, dyed
5407.92.20	Woven fabrics of synthetic filament yarn nesoi, dyed, nesoi
5407.93.05	Woven fabrics of synthetic filament yarn nesoi, containing 36% or more by weight of wool or fine animal hair, of yarns of different colors
5407.93.10	Woven fabrics of synthetic filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, of yarns of different colors, nesoi
5407.93.15	Woven fabrics, cont. 85% or more of man-made filaments, thread count >69-142/cm warp and >31-71/cm filling, of different colored yarns
5407.93.20	Woven fabrics of synthetic filament yarn nesoi, of yarns of different colors, nesoi

HTS Subheading	Product Description
5407.94.05	Woven fabrics of synthetic filament yarn nesoi, containing 36 percent or more by weight of wool or fine animal hair, printed
5407.94.10	Woven fabrics of synthetic filament yarn nesoi, mixed mainly/solely with wool/fine animal hair, contain < 36% wool/fine animal hair, printed
5407.94.20	Woven fabrics of synthetic filament yarn nesoi, printed, nesoi
5408.10.00	Woven fabrics obtained from high tenacity yarn, of viscose rayon
5408.21.00	Woven fabrics, containing 85 percent or more by weight of artificial filament or strip or the like, unbleached or bleached
5408.22.10	Woven fabric, 85%+ artificial filament or strip or the like, dyed, of cuprammonium rayon
5408.22.90	Woven fabric, 85%+ artificial filament or strip or the like, dyed, not of cuprammonium rayon, nesoi
5408.23.11	Woven fabric, 85%+ artificial filament/strip, of yarns of different colors,> 69-142 warp & > 31-71 filling yarns, of cupra/rayon, nesoi
5408.23.19	Woven fabric, 85%+ artificial filament/strip, of yarns of different colors,> 69-142 warp & > 31-71 filling yarns, not of cupra/rayon, nesoi
5408.23.21	Woven fabric, 85%+ artificial filament/strip, of yarns of different colors, not 69-142 warp & 31-71 filling yarns, of cupra/rayon, nesoi
5408.23.29	Woven fabric, 85%+ artificial filament/strip, of yarns of different colors, not 69-142 warp & 31-71 filling yarns, not of cupra/rayon, nesoi
5408.24.10	Woven fabric, 85%+ artificial filament/strip, printed, of cuprammonium rayon, nesoi
5408.24.90	Woven fabric, 85%+ artificial filament/strip, printed, not of cuprammonium rayon, nesoi
5408.31.05	Woven fabrics of artificial filament yarn nesoi, containing 36 percent or more by wt of wool or fine animal hair, unbleached or bleached
5408.31.10	Woven fabrics of artificial filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, unbleached or bleached, nesoi
5408.31.20	Woven fabrics of artificial filament yarn nesoi, unbleached or bleached, nesoi
5408.32.05	Woven fabrics of artificial filament yarn nesoi, containing 36 percent or more by wt of wool or fine animal hair, dyed
5408.32.10	Woven fabrics of artificial filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, dyed, nesoi
5408.32.30	Woven fabrics of artificial filament yarn nesoi, dyed, 30 percent or more by wt of silk or silk waste, valued over $33/kg
5408.32.90	Woven fabrics of artificial filament yarn nesoi, dyed, nesoi
5408.33.05	Woven fabrics of artificial filament yarn nesoi, containing 36% or more by wt of wool or fine animal hair, of yarns of different colors
5408.33.10	Woven fabrics of artificial filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, of yarns of different colors, nesoi
5408.33.15	Woven fabrics cont. 85% or more mm filaments nesoi, thread count > 69-142/cm warp and > 31-71/cm filling, of different colored yarns
5408.33.30	Woven fabrics of artificial filament yarn nesoi, of yarns of different colors, 30 percent or more of silk or silk waste, valued over $33/kg
5408.33.90	Woven fabrics of artificial filament yarn nesoi, of yarns of different colors, nesoi
5408.34.05	Woven fabrics of artificial filament yarn nesoi, containing 36 percent or more by weight of wool or fine animal hair, printed
5408.34.10	Woven fabrics of artificial filament yarn nesoi, mixed mainly or solely with wool or fine animal hair, printed, nesoi
5408.34.30	Woven fabrics of artificial filament yarn nesoi, printed, 30 percent or more by weight of silk or silk waste, valued over $33/kg
5408.34.90	Woven fabrics of artificial filament yarn nesoi, printed, nesoi
5501.10.00	Synthetic filament tow of nylon or other polyamides

HTS Subheading	Product Description
5501.20.00	Synthetic filament tow of polyesters
5501.30.00	Synthetic filament tow of acrylic or modacrylic
5501.40.00	Synthetic filament tow, of polypropylene
5501.90.01	Synthetic filament tow, nesoi
5502.10.00	Artificial filament tow of cellulose acetate
5502.90.00	Artificial filament tow other than of cellulose acetate
5503.11.00	Synthetic staple fibers, n/carded, combed or otherwise processed for spinning, of aramids
5503.19.10	Synthetic staple fibers, n/carded, combed or otherwise processed for spinning, of nylon/other polyamides (except aramids), cont 10% or more
5503.19.90	Synthetic staple fibers, n/carded, combed or otherwise processed for spinning, of nylon or other polyamides (except aramids), nesoi
5503.20.00	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters
5503.30.00	Synthetic (acrylic or modacrylic) staple fibers, not carded, combed or otherwise processed for spinning
5503.40.00	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polypropylene
5503.90.10	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, of vinyon
5503.90.90	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, nesoi
5504.90.00	Artificial staple fibers, not carded, combed or otherwise processed for spinning, other than of viscose rayon
5505.10.00	Waste (including noils, yarn waste and garnetted stock) of synthetic fibers
5505.20.00	Waste (including noils, yarn waste and garnetted stock) of artificial fibers
5506.10.00	Synthetic staple fibers, carded, combed or otherwise processed for spinning, of nylon or other polyamides
5506.20.00	Synthetic staple fibers, carded, combed or otherwise processed for spinning, of polyesters
5506.30.00	Synthetic (acrylic or modacrylic) staple fibers, carded, combed or otherwise processed for spinning
5506.40.00	Synthetic staple fibers of polypropylene, carded, combed or otherwise processed for spinning
5506.90.01	Other Synthetic staple fibers nesoi, carded, combed or otherwise processed for spinning
5507.00.00	Artificial staple fibers, carded, combed or otherwise processed for spinning
5508.10.00	Sewing thread of synthetic staple fibers, whether or not put up for retail sale
5508.20.00	Sewing thread of artificial staple fibers, whether or not put up for retail sale
5509.11.00	Yarn (other than sewing thread) containing 85% or more by weight of nylon/polyamide staple fibers, singles, not put up for retail sale
5509.12.00	Yarn (other than sewing thread) cont. 85% or more by weight of nylon/polyamide staple fibers, multiple or cabled, not put up for retail sale
5509.21.00	Yarn (other than sewing thread) containing 85% or more by weight of polyester staple fibers, singles, not put up for retail sale
5509.22.00	Yarn (other than sewing thread) cont. 85% or more by weight of polyester staple fibers, multiple or cabled, not put up for retail sale
5509.31.00	Yarn (not sewing thread) cont. 85% or more by weight of acrylic or modacrylic staple fibers, singles, not put up for retail sale
5509.32.00	Yarn (not sewing thread) cont. 85% or more by wt. of acrylic or modacrylic staple fibers,multiple or cabled,not put up for retail sale
5509.41.00	Yarn (other than sewing thread) containing 85% or more by weight of synthetic staple fibers nesoi, singles, not put up for retail sale
5509.42.00	Yarn (other than sewing thread) cont. 85% or more by weight of synthetic staple fibers nesoi, multiple or cabled, not put up for retail sale
5509.51.30	Yarn (not sewing thread) of polyester staple fibers mixed mainly/solely with artificial staple fibers, single, not put up for retail sale

HTS Subheading	Product Description
5509.51.60	Yarn (not sewing thread) of polyester staple fibers mixed mainly/solely with artificial staple fibers, multiple, not put up for retail sale
5509.52.00	Yarn (other than sewing thread) of polyester staple fibers mixed mainly/solely with wool or fine animal hair, not put up for retail sale
5509.53.00	Yarn (other than sewing thread) of polyester staple fibers mixed mainly or solely with cotton, not put up for retail sale
5509.59.00	Yarn (other than sewing thread) of polyester staple fibers nesoi, not put up for retail sale
5509.61.00	Yarn (other than sewing thread) of acrylic or modacrylic staple fibers mixed with wool or fine animal hair, not put up for retail sale
5509.62.00	Yarn (other than sewing thread) of acrylic or modacrylic staple fibers mixed mainly or solely with cotton, not put up for retail sale
5509.69.20	Yarn (not sew thread) of acrylic/modacrylic staple fibers mixed mainly/solely w/artificial staple fibers, singles, not for retail sale
5509.69.40	Yarn (not sewing thread) of acrylic/modacrylic staple fiber mixed mainly/solely w/artificial staple fiber,multiple or cabled,not retail sale
5509.69.60	Yarn (other than sewing thread) of acrylic or modacrylic staple fibers nesoi, not put up for retail sale
5509.91.00	Yarn (other than sewing thread) of synthetic staple fibers mixed mainly or solely with wool or fine animal hair, not put up for retail sale
5509.92.00	Yarn (other than sewing thread) of synthetic staple fibers mixed mainly or solely with cotton, not put up for retail sale
5509.99.20	Yarn (not sewing thread) of synthetic staple fibers nesoi, mixed mainly/solely w/artificial staple fibers, singles, not for retail sale
5509.99.40	Yarn (not sewing thread) of synthetic staple fibers nesoi, mixed mainly/solely w/artificial staple fibers, multiple, not for retail sale
5509.99.60	Yarn (other than sewing thread) of synthetic staple fibers nesoi, not put up for retail sale
5510.11.00	Yarn (other than sewing thread) containing 85% or more by weight of artificial staple fibers, singles, not put up for retail sale
5510.12.00	Yarn (other than sewing thread) cont. 85% or more by weight of artificial staple fibers, multiple or cabled, not put up for retail sale
5510.20.00	Yarn (other than sewing thread) of artificial staple fibers mixed mainly or solely with wool or fine animal hair, not put up for retail sale
5510.30.00	Yarn (other than sewing thread) of artificial staple fibers mixed mainly or solely with cotton, not put up for retail sale
5510.90.20	Yarn (other than sewing thread) of artificial staple fibers mixed mainly/solely with synthetic staple fibers, singles, not for retail sale
5510.90.40	Yarn (other than sewing thread) of artificial staple fibers mixed mainly/solely with synthetic staple fibers, multiple, not for retail sale
5510.90.60	Yarn (other than sewing thread) of artificial staple fibers nesoi, not put up for retail sale
5511.10.00	Yarn (other than sewing thread) of synthetic staple fibers, containing 85% or more by weight of such fibers, put up for retail sale
5511.20.00	Yarn (other than sewing thread) of synthetic staple fibers, containing less than 85% by weight of such fibers, put up for retail sale
5511.30.00	Yarn (other than sewing thread) of artificial staple fibers, put up for retail sale
5512.11.00	Woven fabrics containing 85% or more by weight of polyester staple fibers, unbleached or bleached
5512.19.00	Woven fabrics containing 85% or more by weight of polyester staple fibers, other than unbleached or bleached
5512.21.00	Woven fabrics containing 85% or more by weight of acrylic or modacrylic staple fibers, unbleached or bleached
5512.29.00	Woven fabrics containing 85% or more by weight of acrylic or modacrylic staple fibers, other than unbleached or bleached
5512.91.00	Woven fabrics, containing 85% or more by weight of synthetic fibers nesoi, unbleached or bleached

HTS Subheading	Product Description
5512.99.00	Woven fabrics, containing 85% or more by weight of synthetic fibers nesoi, other than unbleached or bleached
5513.11.00	Woven fabric of poly staple fiber,< 85% wt poly staple fibers,mixed mainly/solely w/cotton,wt n/o 170 g/m2,plain weave,unbleached/bleached
5513.12.00	Woven 3-or 4-thread twill fabric of poly staple fib,< 85% poly staple fiber,mixed mainly/solely w/cotton,wt n/o 170 g/m2,unbleached/bleached
5513.13.00	Woven fabrics of polyester staple fibers,< 85% polyester staple fibers, mixed mainly/solely w/cotton,n/o 170 g/m2,unbleached/bleached, nesoi
5513.19.00	Woven fabrics of synthetic staple fibers nesoi, < 85% by weight of such fibers, mixed with cotton, n/o 170g/m2, unbleached or bleached
5513.23.01	Woven fabrics of polyester staple fibers, < 85% by wt polyester staple fibers, mixed mainly/solely w/cotton, not over 170 g/m2, dyed, nesoi
5513.29.00	Woven fabrics of synthetic staple fibers nesoi, < 85% by wt of such fibers, mixed mainly/solely w/cotton, weighing n/o 170g/m2, dyed, nesoi
5513.31.00	Woven fabrics of poly staple fib,< 85% polyester staple fibers,mixed mainly/solely w/cotton,n/o 170 g/m2,plain weave,of yarns of dif. colors
5513.39.01	Woven fabrics of synthetic staple fibers nesoi,< 85% by wt of such fibers, mixed mainly/solely w/cotton, n/o 170g/m2, of dif. colored yarns
5513.41.00	Printed plain weave fabrics of poly staple fib,< 85% by weight polyester staple fibers, mixed mainly/solely with cotton, n/o 170g/m2
5513.49.10	Printed 3-or 4-thread twill fabric of poly staple fib,incl cross twill,< 85% wt poly staple fibers,mixed mainly/solely w/cotton,n/o 170g/m2
5513.49.20	Printed woven fabrics of polyester staple fibers, < 85% by wt polyester staple fibers, mixed mainly/solely with cotton, weighing n/o 170g/m2
5513.49.90	Printed woven fabrics of synthetic staple fibers nesoi, < 85% by weight of such fibers, mixed mainly or solely with cotton, n/o 170g/m2
5514.11.00	Plain weave fabrics of poly staple fiber,< 85% wt polyester staple fibers, mixed mainly/solely w/cotton, wt ov 170 g/m2, unbleached/bleached
5514.12.00	Wov 3-or 4-thread twill fabric of poly staple fib,< 85% polyester staple fiber,mixed mainly/solely w/cotton,ov 170 g/m2,unbleached/bleached
5514.19.10	Woven fabric of polyester staple fiber, < 85% wt polyester , mixed mainly/solely w/cotton, over 170 g/m2, unbleached/bleached
5514.19.90	Unbleached or bleached woven fabric of synthetic staple fibers nesoi, < 85% by wt of such fibers, mixed mainly/solely w/cotton, over 170g/m2
5514.21.00	Plain weave fabrics of polyester staple fiber, < 85% by wt polyester staple fibers, mixed mainly/solely with cotton, over 170 g/m2, dyed
5514.22.00	Wov 3-or 4-thread twill fabric of poly staple fib,incl cross twill,< 85% poly staple fibers,mixed mainly/solely w/cotton,ov 170 g/m2, dyed
5514.23.00	Woven fabrics of polyester staple fib, < 85% by wt polyester staple fibers, mixed mainly/solely w/cotton, over 170 g/m2, dyed, nesoi
5514.29.00	Dyed woven fabrics of synthetic staple fibers nesoi, < 85% by weight of such fibers, mixed mainly or solely with cotton, over 170g/m2
5514.30.31	Plain weave fabrics of poly staple fiber, < 85% polyester staple fibers, mixed mainly/solely with cotton,ov 170 g/m2,of yarns of dif. colors
5514.30.32	Woven 3-or 4-thread twill fabric of poly staple fib,< 85% poly staple fibers,mixed mainly/solely w/cotton,ov 170 g/m2,of yarn of dif. colors
5514.30.33	Woven fabrics of poly staple fiber,< 85% polyester staple fibers,mixed mainly/solely w/cotton,ov 170 g/m2,of yarns of different colors,nesoi
5514.30.39	Woven fabrics of synthetic staple fibers nesoi, < 85% by wt of such fibers, mixed mainly/solely w/cotton, ov 170g/m2, of dif. colored yarns
5514.41.00	Printed plain weave fabrics of polyester staple fiber, < 85% by wt polyester staple fibers, mixed mainly or solely with cotton, over 170g/m2

HTS Subheading	Product Description
5514.42.00	Printed 3-or 4-thread twill fab of poly staple fib,incl cross twill,< 85% by wt poly staple fibers, mixed mainly/solely w/cotton,ov 170g/m
5514.43.00	Printed woven fabrics of polyester staple fiber, < 85% by wt polyester staple fibers, mixed mainly/solely with cotton, over 170g/m2, nesoi
5514.49.00	Printed woven fabrics of synthetic staple fibers nesoi, < 85% by weight of such fibers, mixed mainly or solely with cotton, over 170g/m2
5515.11.00	Woven fabrics of polyester staple fibers, mixed mainly or solely with viscose rayon staple fibers, nesoi
5515.12.00	Woven fabrics of polyester staple fibers, mixed mainly or solely with man-made filaments, nesoi
5515.13.05	Woven fabrics of polyester staple fibers, containing 36 percent or more by weight of wool or fine animal hair, nesoi
5515.13.10	Woven fabrics of polyester staple fibers, mixed mainly or solely with wool or fine animal hair, nesoi
5515.19.00	Woven fabrics of polyester staple fibers, nesoi
5515.21.00	Woven fabrics of acrylic or modacrylic staple fibers, mixed mainly or solely with man-made filaments, nesoi
5515.22.05	Woven fabrics of acrylic or modacrylic staple fibers, containing 36% or more by weight of wool or fine animal hair, nesoi
5515.22.10	Woven fabrics of acrylic or modacrylic staple fibers, mixed mainly or solely with wool or fine animal hair, nesoi
5515.29.00	Woven fabrics of acrylic or modacrylic staple fibers, nesoi
5515.91.00	Woven fabrics of synthetic staple fibers (not polyester/acrylic or modacrylic staple fiber) mixed mainly/solely w/man-made filaments, nesoi
5515.99.05	Woven fabrics of synthetic staple fibers (not polyester/acrylic or modacrylic staple fiber) contain 36% or more wool/fine animal hair, nesoi
5515.99.10	Woven fabrics of synthetic staple fibers (not polyester/acrylic/modacrylic staple fiber) mixed mainly/solely w/wool/fine animal hair,nesoi
5515.99.90	Woven fabrics of synthetic staple fibers (not of polyester, acrylic or modacrylic staple fibers), nesoi
5516.11.00	Woven fabrics of artificial staple fibers, containing 85% or more by weight of such fibers, unbleached or bleached
5516.12.00	Woven fabrics of artificial staple fibers, containing 85% or more by weight of such fibers, dyed
5516.13.00	Woven fabrics of artificial staple fibers, containing 85% or more by weight of such fibers, of yarns of different colors
5516.14.00	Woven fabrics of artificial staple fibers, containing 85% or more by weight of such fibers, printed
5516.21.00	Woven fabrics of artificial staple fibers, < 85% by weight of such fibers, mixed mainly/solely with man-made filaments, unbleached/bleached
5516.22.00	Woven fabrics of artificial staple fibers, < 85% by weight of such fibers, mixed mainly/solely with man-made filaments, dyed
5516.23.00	Woven fabrics of artificial staple fibers, < 85% by wt of such fibers, mixed mainly/solely w/man-made filaments, of different colored yarns
5516.24.00	Woven fabrics of artificial staple fibers, < 85% by weight of such fibers, mixed mainly or solely with man-made filaments, printed
5516.31.05	Woven fabrics of artificial staple fibers, < 85% of such fibers, containing 36% or more of wool or fine animal hair,unbleached or bleached
5516.31.10	Woven fabrics of artificial staple fibers, < 85% of such fibers, mixed mainly/solely w/wool or fine animal hair, unbleached/bleached, nesoi
5516.32.05	Woven fabrics of artificial staple fibers, < 85% of such fibers, containing 36% or more of wool or fine animal hair, dyed
5516.32.10	Woven fabrics of artificial staple fibers, < 85% by weight of such fibers, mixed mainly/solely with wool or fine animal hair, dyed, nesoi
5516.33.05	Woven fabrics of artificial staple fibers, < 85% such fibers, containing 36% or more of wool or fine animal hair, of different colored yarns

HTS Subheading	Product Description
5516.33.10	Woven fabrics of artificial staple fibers, < 85% of such fiber, mixed mainly/solely w/wool or fine animal hair, of dif. colored yarns, nesoi
5516.34.05	Woven fabrics of artificial staple fibers, < 85% of such fibers, containing 36% or more of wool or fine animal hair, printed
5516.34.10	Woven fabrics of artificial staple fibers, < 85% of such fibers, mixed mainly or solely with wool or fine animal hair, printed, nesoi
5516.41.00	Woven fabrics of artificial staple fibers, < 85% by weight of such fibers, mixed mainly or solely with cotton, unbleached or bleached
5516.42.00	Woven fabrics of artificial staple fibers, less than 85% by weight of such fibers, mixed mainly or solely with cotton, dyed
5516.43.00	Woven fabrics of artificial staple fibers, < 85% by wt. of such fibers, mixed mainly or solely with cotton, of yarns of different colors
5516.44.00	Woven fabrics of artificial staple fibers, less than 85% by weight of such fibers, mixed mainly or solely with cotton, printed
5516.91.00	Woven fabrics of artificial staple fibers nesoi, unbleached or bleached, nesoi
5516.92.00	Woven fabrics of artificial staple fibers nesoi, dyed, nesoi
5516.93.00	Woven fabrics of artificial staple fibers nesoi, of yarns of different colors, nesoi
5516.94.00	Woven fabrics of artificial staple fibers nesoi, printed, nesoi
5601.21.00	Wadding of cotton and other articles of cotton wadding nesoi
5601.22.00	Wadding of man-made fibers and other articles of such wadding nesoi
5601.29.00	Wadding of textile materials (excluding cotton and man-made fibers) and articles thereof, nesoi
5601.30.00	Textile flock, not exceeding 5 mm in length, and textile dust and mill neps
5602.10.10	Laminated fabrics of needleloom felt or stitch-bonded fiber fabrics
5602.10.90	Needleloom felt and stitch-bonded fabrics, whether or not impregnated, coated or covered, nesoi
5602.21.00	Felt, excluding needleloom felt and stitch-bonded fiber fabrics, not impregnated, coated, covered or laminated, of wool or fine animal hair
5602.29.00	Felt, excluding needleloom felt and stitch-bonded fiber fabrics, not impregnated, coated, covered or laminated, of textile materials nesoi
5602.90.30	Laminated fabrics of felt, nesoi
5602.90.60	Felt, impregnated, coated or covered, of man-made fibers, nesoi
5602.90.90	Felt, impregnated, coated or covered, nesoi
5603.11.00	Nonwovens, of man-made filaments, weighing not >25 g/square m, whether or not impregnated, coated, covered or laminated
5603.12.00	Nonwovens, of man-made filaments, weighing >25 but not >70 g/square m, whether or not impregnated, coated, covered or laminated
5603.13.00	Nonwovens, of man-made filaments, weighing >70 but not >150 g/square m, whether or not impregnated, coated, covered or laminated
5603.14.30	Laminated nonwoven fabs, of man-made filaments, weighing >150 g/square m
5603.14.90	Nonwovens (except laminated), of man-made filaments, weighing >150 g/square m, whether or not impregnated, coated, or covered
5603.91.00	Nonwovens (not of man-made filaments), weighing not >25 g/square m, whether or not impregnated, coated, covered or laminated
5603.92.00	Nonwovens (not of man-made filaments), weighing >25 but not >70 g/square m, whether or not impregnated, coated, covered or laminated
5603.93.00	Nonwovens (not of man-made filaments), weighing >70 but not >150 g/square m, whether or not impregnated, coated, covered or laminated
5603.94.10	Nonwoven floor covering underlays (not of man-made filaments), weighing >150 g/square m, whether or not impreg, coated, cov or laminated

HTS Subheading	Product Description
5603.94.30	Laminated nonwovens nesoi (not of man-made filaments), weighing >150 g/square m
5603.94.90	Nonwovens nesoi (not of man-made filaments), weighing >150 g/square m, whether or not impregnated, coated, covered but not laminated
5604.10.00	Rubber thread and cord, textile covered
5604.90.20	High tenacity yarn of polyesters, of nylon or other polyamides or of viscose rayon, impregnated or coated
5604.90.90	Textile yarn and strip and the like of heading 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics, nesoi
5605.00.10	Metal coated or metal laminated man-made monofilament or strip or the like, ungimped & untwisted or w/twist of less than 5 turns per meter
5605.00.90	Metalized textile yarn nesoi, of man-made monofilament or strip or the like, other than ungimped or w/twist of < 5 turns per meter
5606.00.00	Gimped yarn, and strip and the like of man-made monofilament; chenille yarn; loop wale-yarn
5607.21.00	Binder or baler twine, of sisal or other textile fibers of genus Agave
5607.29.00	Twine (except binder or baler twine), cordage, rope and cables of sisal or other textile fibers of genus Agave
5607.41.10	Binder or baler twine of wide nonfibrillated strip, of polyethylene or polypropylene
5607.41.30	Binder or baler twine, of polyethylene or polypropylene, nesoi
5607.49.10	Twine (other than binder or baler twine), cordage, rope and cables of wide nonfibrillated strip, of polyethylene or polypropylene
5607.49.15	Twine (ex binder/baler twine), cordage, rope and cables, of polyethylene or polypropylene, not braided or plaited, less than 4.8 mm in diam
5607.49.25	Twine (except binder or baler twine), cordage, rope and cables, of polyethylene or polypropylene, not braided or plaited, nesoi
5607.49.30	Twine (except binder or baler twine), cordage, rope and cables, of polyethylene or polypropylene, nesoi
5607.50.25	3- or 4-ply multicolor twine of synthetic fibers nesoi at least 10% cotton, having "S" twist, < 3.5 mm diameter, not braided or plaited
5607.50.35	Twine nesoi, cordage, rope and cables of synthetic fibers, other than of polyethylene or polypropylene, not braided or plaited
5607.50.40	Twine, cordage, rope and cables of synthetic fibers, other than of polyethylene or polypropylene, nesoi
5607.90.10	Twine, cordage, rope and cables, of coir
5607.90.15	Twine, cordage, rope and cables, of jute or other textile bast fibers (excluding flax, true hemp and ramie)
5607.90.25	Twine, cordage, rope and cables of abaca or other hard (leaf) fibers, of stranded construction measuring 1.88 cm or over in diameter
5607.90.35	Twine, cordage, rope & cables of abaca or other hard (leaf) fibers, other than stranded construction or stranded n/o 1.88 cm in diameter
5607.90.90	Twine, cordage, rope and cables, of materials nesoi
5608.11.00	Made-up fishing nets, of man-made textile materials
5608.19.10	Fish netting (other than made-up fishing nets) of man-made textile materials
5608.19.20	Knotted netting of twine, cordage or rope (excluding fish netting or made-up fishing nets) of man-made textile materials
5608.90.10	Fish netting and fishing nets, of textile materials other than man-made materials
5608.90.23	Hammocks, of cotton
5608.90.27	Netting or nets, of cotton, other than hammocks or netting or nets for fishing
5608.90.30	Knotted netting of twine, cordage or rope or other made-up nets (not fish netting and nets) of textile materials (not cotton/manmade mat.)
5609.00.10	Articles of yarn, strip, twine, cordage, rope or cables nesoi, of cotton
5609.00.20	Articles of yarn, strip, twine, cordage, rope or cables nesoi, of vegetable fibers except cotton

HTS Subheading	Product Description
5609.00.30	Articles of yarn, strip, twine, cordage, rope or cables nesoi, of man-made fibers
5609.00.40	Articles of yarn, strip or the like of man-made monofilaments, twine, cordage, rope or cables, nesoi
5701.10.13	Carpet & other textile floor covering,hand-knotted/hand-inserted,w/ov 50% wt pile of fine animal hair,foregoing cert. hand-loomed & folklore
5701.10.16	Carpets & other textile floor coverings, hand-knotted or hand-inserted, w/ov 50% by weight of the pile of fine animal hair, nesoi
5701.10.40	Carpets and other textile floor coverings, of wool or fine animal hair, hand-hooked (tufts were inserted and knotted by hand or hand tool)
5701.10.90	Carpets and other textile floor coverings, of wool or fine animal hair, not hand-hooked, not hand knotted during weaving
5701.90.10	Carpet and oth textile floor covering, knotted,of text. materials (not wool/hair) nesoi, pile inserted & knotted during weaving or knitting
5701.90.20	Carpet & oth textile floor covering, knotted, of text materials (not wool/hair) nesoi,not w/pile inserted & knotted during weaving/knitting
5702.10.10	Certified hand-loomed and folklore products being "Kelem", "Schumacks", "Karamanie" and similar hand-woven rugs
5702.10.90	"Kelem", "Schumacks", "Karamanie" and similar hand-woven rugs, other than certified hand-loomed and folklore products
5702.20.10	Floor coverings of coconut fibers (coir), woven, not tufted or flocked, with pile
5702.20.20	Floor coverings of coconut fibers (coir), woven, not tufted or flocked, other than with pile
5702.31.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, not made up, of wool or fine animal hair
5702.31.20	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, not made up, of wool/fine animal hair, nesoi
5702.32.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, not made up, of man-made textile materials
5702.32.20	Carpets & other textile floor coverings of pile construction, woven,not tufted or flocked, not made up, of man-made textile materials, nesoi
5702.39.10	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, not made up, of jute
5702.39.20	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, not made up, of other textile materials nesoi
5702.41.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, made up, of wool or fine animal hair
5702.41.20	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, made up, of wool or fine animal hair, nesoi
5702.42.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, made up, of man-made textile materials
5702.42.20	Carpets and other textile floor coverings, of pile construction, woven, not tufted or flocked, made up, of man-made textile materials, nesoi
5702.49.10	Carpets not other textile floor coverings of pile construction, woven, not tufted or flocked, made up, of cotton
5702.49.15	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, made up, of jute
5702.49.20	Carpets & other textile floor coverings of pile construction, woven, not tufted or flocked, made up, of other textile materials nesoi
5702.50.20	Carpets & other textile floor coverings, not of pile construction, woven but not on a power-driven loom,not made up,of wool/fine animal hair
5702.50.40	Carpets & other textile floor coverings, not of pile construction, woven, not made up, of wool or fine animal hair, nesoi

HTS Subheading	Product Description
5702.50.52	Carpets & other textile floor coverings, not of pile construction, woven, not made up, of man-made textile materials
5702.50.56	Carpets & other textile floor coverings, not of pile construction, woven, not made up, of cotton
5702.50.59	Carpets & other textile floor coverings, not of pile construction, woven, not made up, of other textile materials nesoi
5702.91.20	Certified hand-loomed & folklore floor covering, woven not on power-driven loom,not of pile construction,made up,of wool or fine animal hair
5702.91.30	Floor coverings,not of pile construction,woven not on power-driven loom, made up, of wool or fine animal hair,nesi
5702.91.40	Carpets & other textile floor coverings, not of pile construction, woven nesoi, made up, of wool or fine animal hair, nesoi
5702.92.10	Hand-loomed carpet & other textile floor coverings, not of pile construction, woven, made up, of man-made textile materials,nesi
5702.92.90	Carpet & other textile floor coverings, not of pile construction, woven, made up, of man-made textile materials,nesi
5702.99.05	Hand-loomed carpets and other textile floor coverings, not of pile construction, woven, made up, of cotton
5702.99.15	Carpets and other textile floor coverings, not of pile construction, woven, made up, of cotton, nesoi
5702.99.20	Carpets & other textile floor coverings, not of pile construction, woven, made up, of other textile materials nesoi
5703.10.20	Hand-hooked carpets and other textile floor coverings, tufted, whether or not made up, of wool or fine animal hair
5703.10.80	Carpets and other textile floor coverings, tufted, whether or not made up, of wool or fine animal hair, nesoi
5703.20.10	Carpets and other textile floor coverings, tufted, whether or not made up, of nylon or other polyamides, hand-hooked
5703.20.20	Carpets and other textile floor coverings, tufted, whether or not made up, of nylon or other polyamides, nesoi
5703.30.20	Hand-hookded carpets & other textile floor coverings, tufted, whether or not made up, of man-made materials (not nylon/other polyamides)
5703.30.80	Carpets & other textile floor coverings, tufted, whether or not made up, of man-made textile materials (not nylon/other polyamides), nesoi
5703.90.00	Carpets and other textile floor coverings, tufted, whether or not made up, of other textile materials nesoi
5704.10.00	Carpet tiles of felt, not tufted or flocked, whether or not made up, having a maximum surface area of 0.3 m2
5704.20.00	Carpet tiles of felt, not tufted or flocked, whether or not made up, having a maximum surface area exceeding 0.3m2 but not exceeding 1m2
5704.90.01	Carpets and other textile floor coverings of felt, not tufted or flocked, whether or not made up, other surface area
5705.00.10	Carpets and other textile floor coverings, whether or not made up, of coir, nesoi
5705.00.20	Carpets and other textile floor coverings, whether or not made up, nesoi
5801.10.00	Woven pile fabrics and chenille fabrics, other than fabrics of heading 5802 or 5806, of wool or fine animal hair
5801.21.00	Uncut weft pile fabrics of cotton, other than fabrics of heading 5802 or 5806
5801.22.10	Cut corduroy woven pile fabrics of cotton, greater than 7.5 wales per cm, other than fabrics of heading 5802 or 5806
5801.22.90	Cut corduroy woven pile fabrics of cotton, less than 7.5 wales per cm, other than fabrics of heading 5802 or 5806
5801.23.00	Weft pile fabrics, cut, of cotton, other than fabrics of heading 5802 or 5806, nesoi
5801.26.00	Chenille fabrics of cotton, other than fabrics of heading 5802 or 5806
5801.27.10	Warp pile fabrics, epingle (uncut), of cotton, other than fabrics of heading 5802 or 5806
5801.27.50	Warp pile fabrics, cut, of cotton, other than fabrics of heading 5802 or 5806

HTS Subheading	Product Description
5801.37.10	Warp pile fabrics, epingle (uncut), of man-made fibers, other than fabrics of heading 5802 or 5806
5801.37.50	Warp pile fabrics, cut, of man-made fibers, other than fabrics of heading 5802 or 5806
5801.90.10	Woven pile fabrics and chenille fabrics of vegetable fibers except cotton, other than fabrics of heading 5802 or 5806
5801.90.20	Woven pile fabrics and chenille fabrics of textile materials nesoi, other than fabrics of heading 5802 or 5806
5802.11.00	Terry toweling and similar woven terry fabrics (other than narrow fabrics of heading 5806) of cotton, unbleached
5802.19.00	Terry toweling and similar woven terry fabrics (other than narrow fabrics of heading 5806) of cotton, other than unbleached
5802.20.00	Terry toweling and similar woven terry fabrics (other than narrow fabrics of heading 5806) of textile materials other than cotton
5802.30.00	Tufted textile fabrics, other than products of heading 5703
5803.00.10	Gauze (other than narrow fabrics of heading 5806) of cotton
5803.00.20	Gauze (other than narrow fabrics of heading 5806) tapestry and upholstery fabrics, of wool or fine animal hair, weighing not over 140 g/m2
5803.00.30	Gauze (not narrow fabrics of heading 5806), except tapestry and upholstery fabrics, of wool or fine animal hair, weighing n/o 140 g/m2
5803.00.40	Gauze (other than narrow fabrics of heading 5806) of vegetable fibers except cotton
5803.00.50	Gauze (other than narrow fabrics of heading 5806) of man-made fibers
5803.00.90	Gauze (other than narrow fabrics of heading 5806) of other textile materials nesoi
5804.10.10	Tulles and other net fabrics (not including woven, knitted or crocheted fabrics) of cotton or man-made fibers
5804.10.90	Tulles and other net fabrics (not including woven, knitted or crocheted fabrics) of textile fibers except cotton or man-made
5804.21.00	Mechanically made lace, in the piece, in strips or in motifs (not fabric of heading 6002), of man-made fibers
5804.29.10	Mechanically made lace, in the piece, in strips or in motifs (not fabric of heading 6002), of cotton
5804.29.90	Mechanically made lace, in the piece, in strips or in motifs (not fabric of heading 6002), of textile materials (not cotton or mm fibers)
5804.30.00	Hand-made lace, in the piece, in strips or in motifs (other than fabrics of heading 6002)
5805.00.10	Hand-woven tapestries of the type Gobelins, Flanders, Aubusson, Beauvais and the like, used only as wall hangings, valued over $215/m2
5805.00.20	Certified hand-loomed and folklore hand-woven tapestries nesoi and needle-worked tapestries, of wool or fine animal hair
5805.00.25	Hand-woven tapestries nesoi and needle-worked tapestries, of wool or fine animal hair
5805.00.30	Hand-woven tapestries nesoi and needle-worked tapestries, of cotton
5805.00.40	Hand-woven tapestries nesoi and needle-worked tapestries, other than of cotton, wool or fine animal hair
5806.10.10	Narrow woven pile fabrics (including terry toweling and the like) and chenille fabrics (other than goods of heading 5807) of cotton
5806.10.24	Narrow woven pile fastener fabric tapes (other than goods of heading 5807) of man-made fibers
5806.10.28	Narrow woven pile fabrics, incl terry toweling/chenille fabric (excl fastener fabric tape)) (other than goods of heading 5807) of m-m fibers
5806.10.30	Narrow woven pile fabrics (including terry toweling/the like) & chenille fabrics, except of cotton or of m-m fibers (not goods of head 5807)
5806.20.00	Narrow woven fabrics (not goods of heading 5807), not pile, containing by weight 5 percent or more of elastomeric yarn or rubber thread
5806.31.00	Narrow woven fabrics (other than goods of heading 5807), not pile, not cont by wt 5% or more of elastomeric yarn or rubber, of cotton, nesoi
5806.32.10	Woven ribbons of man-made fibers, not pile, not cont by wt 5% or more of elastomeric yarn or rubber

HTS Subheading	Product Description
5806.32.20	Narrow woven fabrics (other than ribbons), not pile, of man-made fibers, not cont by wt 5% or more of elastomeric yarn or rubber
5806.39.10	Narrow woven fabrics (not goods of heading 5807), not pile, of wool/fine animal hair, not cont by wt 5% or more elastomeric yarn or rubber
5806.39.20	Narrow woven fabric (not good of heading 5807), not pile, of vegetable fibers except cotton, not cont by wt 5% or more elastomer yarn/rubber
5806.39.30	Narrow woven fabrics (not goods of heading 5807), not pile, of textile materials nesoi, not cont by wt 5% or more elastomeric yarn or rubber
5806.40.00	Narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)
5807.10.05	Labels, in the piece, in strips or cut to shape or size, woven, not embroidered, of cotton or man-made fibers
5807.10.15	Labels, in the piece, in strips or cut to shape or size, woven, not embroidered, of textile materials other than cotton or man-made fibers
5807.10.20	Woven badges and similar articles of textile materials (except labels), in the piece, in strips or cut to shape or size, not embroidered
5807.90.05	Labels, in the piece, in strips or cut to shape or size, nonwoven, not embroidered, of cotton or man-made fibers
5807.90.15	Labels, in the piece, in strips or cut to shape or size, nonwoven, not embroidered, of textile materials other than cotton or man-made fiber
5807.90.20	Badges & similar articles (except labels) of textile materials, not woven, not embroidered, in the piece, in strips or cut to shape or size
5808.10.10	Braids, in the piece, of abaca or ramie, suitable for making or ornamenting headwear
5808.10.40	Braids in the piece, suitable for making or ornamenting headwear, of cotton or man-made fibers
5808.10.50	Braids in the piece, suitable for making or ornamenting headwear, of textile materials other than cotton or man-made fibers
5808.10.70	Braids in the piece, not suitable for making or ornamenting headwear, of cotton or man-made fibers
5808.10.90	Braids in the piece, not suitable for making or ornamenting headwear, of textile materials other than cotton or man-made fibers
5808.90.00	Ornamental trimmings in the piece, without embroidery, other than knitted or crocheted; tassels, pompons and similar articles
5809.00.00	Woven fabrics of metal thread & woven fabrics of metallized yarn of heading 5605, used in apparel, as furnishing fabrics or the like, nesoi
5810.10.00	Embroidery in the piece, in strips or in motifs, without visible ground
5810.91.00	Embroidery of cotton, in the piece, in strips or in motifs, other than without visible ground
5810.92.10	Badges, emblems, and motifs of man-made fibers, embroidered, in the piece or in strips, other than without visible ground
5810.92.90	Embroidery in the piece or in strips (excluding badges, emblems and motifs), of man-made fibers, other than without visible ground
5810.99.10	Embroidery in the piece, in strips or in motifs, of wool or fine animal hair, other than without visible ground
5810.99.90	Embroidery in piece/strips/motifs,of textile material except cotton, man-made fiber, wool or fine animal hair, other than w/o visible ground
5811.00.10	Quilted textile products in the piece (excluding embroidery), of one or more layers assembled with padding, of wool or fine animal hair
5811.00.20	Quilted textile products in the piece (excluding embroidery), of one or more layers assembled with padding, of cotton
5811.00.30	Quilted textile products in the piece (excluding embroidery), of one or more layers assembled with padding, of man-made fibers
5811.00.40	Quilted textile products in the piece (excluding embroidery), of one or more layers assembled with padding, of textile materials nesoi

HTS Subheading	Product Description
5901.10.10	Textile fabrics coated with gum or amylaceous substances, of a kind used for outer covers of books or the like, of man-made fibers
5901.10.20	Textile fabrics coated with gum or amylaceous substances, of a kind used for outer covers of books or the like, other than man-made fibers
5901.90.20	Tracing cloth, prepared painting canvas, buckram and similar stiffened textile fabrics used in hat foundations, of man-made fibers
5901.90.40	Tracing cloth, prepared painting canvas, buckram and similar stiffened textile fabrics used in hat foundations, except of man-made fibers
5902.10.00	Tire cord fabric of high tenacity yarn of nylon or other polyamides
5902.20.00	Tire cord fabric of high tenacity yarn of polyesters
5902.90.00	Tire cord fabric of high tenacity yarns of viscose rayon
5903.10.10	Textile fabrics of cotton, impregnated, coated, covered or laminated with polyvinyl chloride
5903.10.18	Textile fabrics spec in note 9 to section XI, of man-made fibers, impregnated, coated, covered or laminated with polyvinyl chloride, nesoi
5903.10.20	Textile fabrics nesoi,of man-made fibers,impregnated, coated, covered or laminated with polyvinyl chloride, over 70% wt. rubber or plastics
5903.10.25	Textile fabrics nesoi,of man-made fibers,impregnated,coated,covered or laminated with polyvinyl chloride, n/o 70% by wt. rubber or plastics
5903.10.30	Textile fabrics nesoi, impregnated, coated, covered or laminated with polyvinyl chloride, other than those of heading 5902
5903.20.10	Textile fabrics of cotton, impregnated, coated, covered or laminated with polyurethane
5903.20.15	Textile fabrics spec in note 9 to section XI, of man-made fibers, impreg, coated, covered or laminated with polyurethane, over 60% plastics
5903.20.18	Textile fabrics specified in note 9 to section XI, of man-made fibers, impregnated, coated, covered or laminated with polyurethane, nesoi
5903.20.20	Textile fabrics of man-made fibers, impregnated, coated, covered or laminated with polyurethane, over 70% weight rubber or plastics
5903.20.25	Textile fabrics of man-made fibers, impregnated, coated, covered or laminated with polyurethane, n/o 70% by weight rubber or plastics
5903.20.30	Textile fabrics nesoi, impregnated, coated, covered or laminated with polyurethane
5903.90.10	Textile fabrics of cotton, impregnated, coated, covered or laminated with plastics nesoi, other than those of heading 5902
5903.90.15	Textile fabrics spec in note 9 to section XI, of man-made fibers, impreg, coated, covered or laminated w/plastics, nesoi, over 60% plastics
5903.90.18	Textile fabrics specified in note 9 to section XI, of man-made fabrics, impregnated, coated, covered or laminated with plastics, nesoi
5903.90.20	Textile fabrics of man-made fibers, impregnated, coated, covered or laminated with plastics, nesoi, over 70% weight rubber or plastics
5903.90.25	Textile fabrics of man-made fibers, impregnated, coated, covered or laminated with plastics, nesoi, n/o 70% by weight rubber or plastics
5903.90.30	Textile fabrics nesoi, impreg, coated, covered or laminated w/plastics other than vinyl chloride or polyurethane, other than those head 5902
5904.10.00	Linoleum, whether or not cut to shape
5904.90.10	Floor coverings consisting of a coating or covering applied on a textile backing, with a base consisting of needleloom felt or nonwovens
5904.90.90	Floor coverings consisting of a coating or covering applied on textile backing, with textile base other than of needleloom felt or nonwovens
5905.00.10	Textile wall coverings backed with permanently affixed paper
5905.00.90	Textile wall coverings, nesoi

HTS Subheading	Product Description
5906.10.00	Rubberized textile fabric adhesive tape of a width not exceeding 20 cm (other than fabric of heading 5902)
5906.91.10	Rubberized textile fabrics of cotton, knitted or crocheted (other than fabric of heading 5902
5906.91.20	Rubberized textile fabrics (other than of heading 5902) nesoi, knitted or crocheted, of man-made fibers, ov 70% by wt of rubber or plastics
5906.91.25	Rubberized textile fabrics (other than of head 5902), nesoi, knitted or crocheted, of man-made fibers, n/o 70% by wt of rubber or plastics
5906.91.30	Rubberized textile fabrics (other than of heading 5902) nesoi, knitted or crocheted, other than of cotton or man-made fibers
5906.99.10	Rubberized textile fabrics not knitted or crocheted, of cotton, other than fabrics of heading 5902
5906.99.20	Rubberized textile fabrics (other than of head 5902), nesoi, not knitted or crocheted, of man-made fibers, ov 70% by wt of rubber/plastics
5906.99.25	Rubberized textile fabrics (other than of head 5902), nesoi, not knitted or crocheted, of man-made fibers, n/o 70% by wt of rubber/plastics
5906.99.30	Rubberized textile fabrics, not knitted or crocheted, other than those of heading 5902, nesoi
5907.00.05	Laminated fabrics specified in note 9 to sect. XI of HTS, of m-m fiber, for theatrical, ballet, & operatic scenery & properties, incl sets
5907.00.15	Laminated fabrics spec in note 9 to sect XI of HTS, of m-m fiber, other than theatrical, ballet, & operatic scenery & properties, incl sets
5907.00.25	Lam fabs specified in nte 9 to sect. XI of HTS, of tx mats except m-m fiber, for theatrical, ballet, & opera scenery & properties, incl sets
5907.00.35	Lam fabs specified in nte 9 to sect. XI of HTS, of tx mats except m-m fiber, other than theatrical, ballet, & oper scenery & prop, incl sets
5907.00.60	Other fabric, impregnated, coated or covered, and painted canvas being theatrical scenery, back-cloths or the like, of man-made fibers
5907.00.80	Other fabric, impregnated, coated or covered, & painted canvas being theatrical scenery, back-cloths or the like, other than man-made fibers
5908.00.00	Textile wicks, woven, plaited or knitted, for lamps, stoves, candles and the like; gas mantles and tubular knitted gas mantle fabric
5909.00.10	Textile hosepiping and similar textile tubing of vegetable fibers, with or without lining, armor or accessories of other materials
5909.00.20	Textile hosepiping and similar textile tubing nesoi, with or without lining, armor or accessories of other materials
5910.00.10	Transmission or conveyor belts or belting of man-made fibers
5910.00.90	Transmission or conveyor belts or belting of textile materials, other than man-made fibers
5911.10.10	Printers' rubberized blankets of textile fabrics
5911.10.20	Textile fabrics, felt and felt-lined woven fabrics, combined with layer(s) of rubber, leather or other material, for technical uses, nesoi
5911.20.10	Bolting cloth fabrics principally used for stenciling purposes in screen-process printing, whether or not made up
5911.20.20	Bolting cloth nesoi, of silk, whether or not made up
5911.20.30	Bolting cloth, whether or not made up, nesoi
5911.31.00	Textile fabrics and felts, endless or fitted with linking devices, used for papermaking or similar machines, weighing less than 650 g/m2
5911.32.00	Textile fabrics and felts, endless or fitted with linking devices, used for papermaking or similar machines, weighing 650 g/m2 or more
5911.40.00	Straining cloth of a kind used in oil presses or the like, of textile material or of human hair
5911.90.00	Textile products and articles, of a kind used in machinery or plants for technical uses, specified in note 7 to chapter 59, nesoi
6001.10.20	Knitted or crocheted "long pile" fabrics of man-made fibers

HTS Subheading	Product Description
6001.10.60	Knitted or crocheted "long pile" fabrics, other than of man-made fibers
6001.21.00	Knitted or crocheted looped pile fabrics of cotton
6001.29.00	Knitted or crocheted looped pile fabrics of textile materials, other than of cotton or man-made fibers
6001.91.00	Knitted or crocheted pile fabrics (other than "long pile" or looped pile) of cotton
6001.92.00	Knitted or crocheted pile fabrics (other than "long pile" or looped pile) of man-made fibers
6001.99.10	Knitted or crocheted pile fabrics (except long or looped pile), of tex mats other than cotton or mmf, containing 85% or more by wt of silk
6001.99.90	Knitted or crocheted pile fabrics (except long or looped pile), of tex mats other than cotton or mmf, cont less than 85% by wt of silk,
6002.40.40	Knitted or crocheted fabrics nesoi, width not exceeding 30 cm, containing 5% or more elastomeric yarn but no rubber thread, of cotton
6002.40.80	Knitted or crocheted fabrics nesoi, width n/o 30 cm, containing 5% or more elastomeric yarn but no rubber thread, other than of cotton
6002.90.40	Knitted or crocheted fabrics nesoi, width not exceeding 30 cm, containing 5% or more elastomeric yarn or rubber thread nesoi, of cotton
6002.90.80	Knitted or crocheted fabrics nesoi, width n/o 30 cm, containing 5% or more elastomeric yarn or rubber thread nesoi, other than of cotton
6003.10.10	Warp knit open-worked fabrics of wool or fine animal hair, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.10.90	Knitted or crocheted fabrics of wool or fine animal hair nesoi, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.20.10	Warp knit open-worked fabrics of cotton, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.20.30	Knitted or crocheted fabrics of cotton (other than warp knit open-worked), width not exceed 30 cm, other than those of heading 6001 or 6002
6003.30.10	Warp knit open-worked fabrics of synthetic fibers, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.30.60	Knitted or crocheted fabrics of synthetic fibers nesoi, width not over 30 cm, other than those of heading 6001 or 6002
6003.40.10	Warp knit open-worked fabrics of artificial fibers, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.40.60	Knitted or crocheted fabrics of artifical fibers nesoi, width not over 30 cm, other than those of heading 6001 or 6002
6003.90.10	Warp knit open-worked fabrics nesoi, width not exceeding 30 cm, other than those of heading 6001 or 6002
6003.90.90	Knitted or crocheted fabrics nesoi, width not exceeding 30 cm, other than those of heading 6001 or 6002
6004.10.00	Knitted or crocheted fabrics, width exceeding 30 cm, containing 5% or more of elastomeric yarn but no rubber thread, not of heading 6001
6004.90.20	Knitted or crocheted fabrics, width exceeding 30 cm, containing 5% or more of elastomeric yarn and rubber thread, other than of heading 6001
6004.90.90	Knitted or crocheted fabrics, width exceeding 30 cm, containing 5% or more of rubber thread, other than those of heading 6001
6005.21.00	Unbleached or bleached warp knit fabrics (including those made on galloon knitting machines) of cotton, other than of headings 6001 to 6004
6005.22.00	Dyed warp knit fabrics (including those made on galloon knitting machines) of cotton, other than those of headings 6001 to 6004
6005.23.00	Warp knit fabrics of yarns of different colors (including made on galloon knitting machines) of cotton, other than headings 6001 to 6004
6005.24.00	Printed warp knit fabrics (including those made on galloon knitting machines) of cotton, other than those of headings 6001 to 6004

HTS Subheading	Product Description
6005.36.00	Other wrap knit fabrics of synthetic fibers, bleached or unbleached, but not dyed and not specified in subheading note 1 to this chapter
6005.37.00	Other wrap knit fabrics of synthetic fibers, dyed, not specified in subheading note 1 to this chapter
6005.38.00	Other wrap knit fabrics of synthetic fibers, of yarns of different colors, not specified in subheading note 1 to this chapter
6005.39.00	Other wrap knit fabrics of synthetic fibers, printed, not specified in subheading note 1 to this chapter
6005.42.00	Dyed warp knit fabrics (including those made on galloon knitting machines) of artificial fibers, other than those of headings 6001 to 6004
6005.43.00	Warp knit fabrics of yarn of different color (including made on galloon knitting machine) of artificial fiber, other than headings 6001-6004
6005.44.00	Printed warp knit fabrics (including those made on galloon knitting machine) of artificial fibers, other than those of headings 6001 to 6004
6005.90.10	Warp knit fabrics (including those made on galloon knitting machines) of wool or fine animal hair, other than those of headings 6001 to 6004
6005.90.90	Warp knit fabric (including made on galloon knit machine), not of wool/fine animal hair, cotton or manmade fiber, not of headings 6001-6004
6006.10.00	Knitted or crocheted fabrics of wool or fine animal hair, nesoi
6006.21.10	Unbleached or bleached circular knit fabric, wholly of cotton yarns over 100 metric number per single yarn, nesoi
6006.21.90	Unbleached or bleached knitted or crocheted fabrics of cotton, nesoi
6006.22.10	Dyed circular knit fabric, wholly of cotton yarns over 100 metric number per single yarn, nesoi
6006.22.90	Dyed knitted or crocheted fabrics of cotton, nesoi
6006.23.10	Circular knit fabric, of yarns of different colors, wholly of cotton yarns over 100 metric number per single yarn, nesoi
6006.23.90	Knitted or crocheted fabrics of cotton, of yarns of different colors, nesoi
6006.24.10	Printed circular knit fabric, wholly of cotton yarns over 100 metric number per single yarn, nesoi
6006.31.00	Unbleached or bleached knitted or crocheted fabrics of synthetic fibers, nesoi
6006.32.00	Dyed knitted or crocheted fabrics of synthetic fibers, nesoi
6006.33.00	Knitted or crocheted fabrics of synthetic fibers, of yarns of different colors, nesoi
6006.34.00	Printed knitted or crocheted fabrics of synthetic fibers, nesoi
6006.42.00	Dyed knitted or crocheted fabrics of artificial fibers, nesoi
6006.43.00	Knitted or crocheted fabrics of artificial fibers, of yarns of different colors, nesoi
6006.44.00	Printed knitted or crocheted fabrics of artificial fibers, nesoi
6006.90.10	Other knitted or crocheted fabrics nesoi, containing 85 percent or more by weight of silk or silk waste
6006.90.90	Other knitted or crocheted fabrics nesoi, other than of wool, cotton or manmade fibers & containing < 85% by wt of silk/silk waste
6501.00.30	Hat forms, hat bodies and hoods, not blocked to shape or with made brims; plateaux & manchons; all of fur felt, for men or boys
6501.00.60	Hat forms, hat bodies and hoods, not blocked to shape or with made brims; plateaux & manchons; all of fur felt, not for men or boys
6501.00.90	Hat forms, hat bodies and hoods, not blocked to shape or with made brims; plateaux & manchons; all of felt, other than fur felt
6502.00.20	Hat shapes, plaited or assembled from strips, not blocked/lined/trimmed & w/o made brims, of veg. fibers or materls, or paper yarn, sewed
6502.00.40	Hat shapes, plaited or asmbld from strips, n/blocked/lined/trimmed & w/o made brims, of veg. fibers or materls, not sewed/bleached/colored

HTS Subheading	Product Description
6502.00.60	Hat shapes, plaited or asmbld from strips, n/blocked/lined/trimmed & w/o made brims, of veg. fibers or materls, not sewed but bleachd/colord
6502.00.90	Hat shapes, plaited or assembled from strips, not blocked/lined/trimmed & w/o made brims, not veg. fibers/veg. materials/paper yarn, nesoi
6504.00.30	Hats and headgear, plaited or assembled from strips of veg. fibers or unspun fibrous veg. materials and/or paper yarn, sewed
6504.00.60	Hats and headgear, plaited or assembled from strips of veg. fibers or unspun fibrous veg. materials and/or paper yarn, not sewed
6504.00.90	Hats and headgear, plaited or assembled from strips of any material (o/than veg. fibers/unspun fibrous veg. materials and/or paper yarn)
6505.00.04	Hats and headgear of fur felt made from hat forms and hat bodies of 6501
6505.00.08	Hats and headgear made from hat forms and hat bodies of 6501, except of fur felt
6505.00.15	Hats and headgear, of cotton and/or flax, knitted
6505.00.20	Headwear, of cotton, not knitted; certified hand-loomed and folklore hats & headgear, of cotton or flax, not knitted
6505.00.25	Hats and headgear, of cotton or flax, not knitted, not certified hand-loomed folklore goods
6505.00.30	Hats and headgear, of wool, knitted or crocheted or made up from knitted or crocheted fabric
6505.00.40	Hats and headgear, of wool, made up from felt or of textile material, not knitted or crocheted or made up from knitted or crocheted fabric
6505.00.50	Hats and headgear, of man-made fibers, knitted or crocheted or made up from knitted or crocheted fabric, wholly or in part of braid
6505.00.60	Hats and headgear, of man-made fibers, knitted or crocheted or made up from knitted or crocheted fabrics, not in part of braid
6505.00.70	Hats and headgear, of man-made fibers, made up from felt or of textile material, not knitted or crocheted, wholly or in part braid
6505.00.80	Hats and headgear, of man-made fibers, made up from felt or of textile material, not knitted or crocheted, not in part of braid
6505.00.90	Hats and headgear, of textile materials (other than of cotton, flax, wool or man-made fibers), nesoi
6506.91.00	Headgear (other than safety headgear), nesoi, of rubber or plastics, whether or not lined or trimmed
6506.99.30	Headgear, nesoi, of furskin, whether or not lined or trimmed
6506.99.60	Headgear (other than safety headgear), nesoi, of materials other than rubber, plastics, or furskins, whether or not lined or trimmed
6507.00.00	Headbands, linings, covers, hat foundations, hat frames, peaks (visors) and chinstraps, for headgear
6701.00.30	Articles of feathers or down (other than articles & apparel filled or stuffed with feathers/down and worked quills & scapes)
6701.00.60	Skins and o/parts of birds w/their feathers or down, feathers, pts of feathers/down, nesoi
6801.00.00	Setts, curbstones and flagstones, of natural stone (except slate)
6802.10.00	Tiles/cubes/similar arts. of natural stone, enclosable in a sq. w/a side less than 7 cm; artificially colored granules, chippings & powder
6802.21.10	Monumental or building stone & arts. thereof, of travertine, simply cut/sawn, w/flat or even surface
6802.21.50	Monumental or building stone & arts. thereof, of marble & alabaster, simply cut/sawn, w/flat or even surface
6802.23.00	Monumental or building stone & arts. thereof, of granite, simply cut/sawn, w/flat or even surface
6802.29.10	Monumental or building stone & arts. thereof, of calcareous stone, nesoi, simply cut/sawn, w/flat or even surface
6802.29.90	Monumental or building stone & arts. thereof, of stone, nesoi, simply cut/sawn, w/flat or even surface
6802.91.05	Marble slabs, further worked than simply cut/sawn

HTS Subheading	Product Description
6802.91.15	Monumental or building stone & arts. thereof (o/than slabs), of marble, further worked than simply cut/sawn, nesoi
6802.91.20	Monumental or building stone & arts. thereof, of travertine, dressed or polished but not further worked, nesoi
6802.91.25	Monumental or building stone & arts. thereof, of travertine, further worked than dressed or polished, nesoi
6802.91.30	Monumental or building stone & arts. thereof, of alabaster, further worked than simply cut/sawn, nesoi
6802.92.00	Monumental or building stone & arts. thereof, of calcareous stone, nesoi, further worked than simply cut/sawn, nesoi
6802.93.00	Monumental or building stone & arts. thereof, of granite, further worked than simply cut/sawn, nesoi
6802.99.00	Monumental or building stone & arts. thereof, nesoi, further worked than simply cut/sawn, nesoi
6803.00.10	Roofing slate
6803.00.50	Worked slate (other than roofing slate) and articles of slate or agglomerated slate
6804.10.00	Millstones and grindstones for milling, grinding or pulping
6804.21.00	Millstones, grindstones, grinding wheels and the like, nesoi, of agglomerated synthetic or natural diamond
6804.22.10	Millstones, grindstones, grinding wheels and the like, nesoi, of agglomerated abrasives nesoi, or ceramics, bonded with synthetic resins
6804.22.40	Abrasive wheels of agglomerated abrasives nesoi, or ceramics, not bonded with synthetic resins
6804.22.60	Millstones, grindstones, grinding wheels and the like, nesoi, of agglomerated abrasives nesoi, or ceramics, not bonded w/synthetic resins
6804.23.00	Millstones, grindstones, grinding wheels and the like, nesoi, of natural stone
6804.30.00	Hand sharpening or polishing stones
6805.10.00	Natural or artificial abrasive powder or grain on a base of woven textile fabric only
6805.20.00	Natural or artificial abrasive powder or grain on a base of paper or paperboard only
6805.30.10	Articles wholly or partly coated natural or artificial abrasive powder or grain, on a base of materials nesoi, in sheets, strips, disks,etc.
6805.30.50	Natural or artificial abrasive powder or grain on a base of materials nesoi, in forms nesoi
6806.10.00	Slag wool, rock wool and similar mineral wools, in bulk, sheets or rolls
6806.20.00	Exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials
6806.90.00	Mixtures and articles of heat-insulating, sound-insulating or sound-absorbing mineral materials, nesoi
6807.10.00	Articles of asphalt or of similar material, in rolls
6807.90.00	Articles of asphalt or of similar material, not in rolls
6808.00.00	Panels, boards, tiles and similar articles of vegetable fiber, straw or wood wastes, agglomerated with cement, plaster or o/mineral binders
6809.11.00	Panels, boards, sheets, tiles and similar articles of plaster or comp. plaster, n/ornamented, faced or reinforced w/paper or paperboard only
6809.19.00	Panels, boards, sheets, tiles and similar articles of plaster or comp. plaster, not ornamented, nesoi
6809.90.00	Articles (other than panels, boards, sheets, tiles, etc.) of plaster or of compositions based on plaster, nesoi
6810.11.00	Building blocks and bricks, of cement, concrete or artificial stone, whether or not reinforced
6810.19.12	Floor and wall tiles, of stone agglomerated with binders other than cement
6810.19.14	Floor and wall tiles, of cement, concrete, or of artificial stone (except stone agglom. w/binders other than cement)
6810.19.50	Tiles, flagstones, and similar articles, nesoi, of cement, concrete or artificial stone, whether or not reinforced
6810.91.00	Prefabricated structural components for building or civil engineering, of cement, concrete or artificial stone, nesoi
6810.99.00	Articles of cement (other than tiles, flagstones, bricks and similar arts.), of concrete or artificial stone, nesoi

HTS Subheading	Product Description
6811.40.00	Articles of asbestos-cement
6811.81.00	Corrugated sheets, of cellulose fiber-cement or the like (not containing asbestos)
6811.82.00	Sheets (other than corrugated), panels, tiles and similar articles of cellulose-fiber cement or the like (not containing asbestos)
6811.89.10	Tubes, pipes and tube or pipe fittings, of cellulose fiber-cement or the like (not containing asbestos)
6811.89.90	Articles of cellulose fiber-cement or the like (not containing asbestos), nesoi
6812.80.10	Footwear of crocidolite
6812.80.90	Articles or mixtures of crocidolite, nesoi
6812.91.10	Footwear of asbestos other than crocidolite
6812.91.90	Clothing, accessories, and headgear of asbestos other than crocidolite
6812.92.00	Paper, millboard and felt of asbestos other than crocidolite
6812.93.00	Compressed asbestos (other than crocidolite) fiber jointing, in sheets
6812.99.00	Articles nesoi, of asbestos other than crocidolite or mixtures with a basis of asbestos other than crocidolite
6813.20.00	Friction material & articles thereof, containing asbestos
6813.81.00	Brake linings and pads not containing asbestos
6813.89.00	Friction material & articles thereof with a basis of mineral substances (other than asbestos) or of cellulose, nesoi
6814.10.00	Agglomerated or reconstituted mica, in plates, sheets and strips, whether or not on a support
6814.90.00	Worked mica and articles of mica, nesoi, whether or not on a support of paper, paperboard or other materials
6815.10.01	Nonelectrical articles of graphite or other carbon
6815.20.00	Articles of peat, nesoi
6815.91.00	Articles containing magnesoite, dolomite or chromite, nesoi
6815.99.20	Talc, steatite and soapstone, cut or sawn, or in blanks, crayons, cubes, disks or other forms
6815.99.40	Articles of stone or of other mineral substances (including carbon fibers & articles thereof), nesoi
6901.00.00	Siliceous fossil meal or earth bricks, blocks, tiles and other ceramic goods
6902.10.10	Refractory bricks of magnesite, containing by weight o/50% MgO
6902.10.50	Refractory bricks, blocks, tiles and similar goods containing by weight o/50% MgO, CaO, or Cr2O3
6902.20.10	Refractory bricks containing by weight o/50% alumina (Al2O2) or silica (SiO2) or mixtures or compounds thereof
6902.20.50	Refractory blocks, tiles & similar goods (o/than bricks), cont. by wt. o/50% alumina (Al2O2) or silica (SiO2) or mixtures thereof
6902.90.10	Refractory bricks, nesoi
6902.90.50	Refractory blocks, tiles & similar goods (other than bricks), nesoi
6903.10.00	Refractory ceramic goods (o/than of siliceous fossil meals or earths), nesoi, cont. by wt. o/50% graphite or o/forms or mix. of carbon
6903.20.00	Refractory ceramic goods (o/than of siliceous fossil meals or earths), nesoi, cont. by wt. o/50% alumina or mix. or comp. of Al2O3 & SiO3
6903.90.00	Refractory ceramic goods (o/than of siliceous fossil meals or earths), nesoi
6904.10.00	Ceramic building bricks (o/than refractory bricks)
6904.90.00	Ceramic flooring blocks, support or filler tiles and the like (other than bricks)
6905.10.00	Ceramic roofing tiles
6905.90.00	Ceramic chimney pots, cowls, chimney liners, architectural ornaments and other construction goods
6906.00.00	Ceramic pipes, conduits, guttering and pipe fittings
6907.21.10	Unglazed ceramic tiles, other than those of subheading 6907.30 and 6907.40, of H2O absorp coeff by wt <=0.5%

HTS Subheading	Product Description
6907.21.20	Glazed ceramic tiles having <=3229 tiles per m2, surf area in sq w/ side <7cm, H2O absorp coeff by wt <=0.5%
6907.21.30	Glazed ceramic tiles having surface area <38.7cm2, surf area in sq w/ side <7cm, of H2O absorp coeff by wt <=0.5%
6907.21.40	Glazed ceramic tiles having surface area >=38.7cm2, , surf area in sq w/ side <7cm, of a H2O absorp coeff by wt <=0.5%
6907.21.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt <=0.5%
6907.22.10	Unglazed ceramic tiles, other than those of subheading 6907.30 and 6907.40, of H2O absorp coeff by wt exceeding 0.5% but not exceeding 10%
6907.22.20	Glazed ceramic tiles having <=3229 tiles per m2, surf area in sq w/ side <7cm, H2O absorp coeff by wt exceeding 0.5% but not exceeding 10%
6907.22.30	Glazed ceramic tiles having surface area <38.7cm2, surf area in sq w/ side <7cm, of H2O absorp coeff by wt exceeding 0.5% but not exceeding 10%
6907.22.40	Glazed ceramic tiles having surface area >=38.7cm2, , surf area in sq w/ side <7cm, of a H2O absorp coeff by wt exceeding 0.5% but not exceeding 10%
6907.22.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt exceeding 0.5% but not exceeding 10%
6907.23.10	Unglazed ceramic tiles, other than those of subheading 6907.30 and 6907.40, of H2O absorp coeff by wt >10%
6907.23.20	Glazed ceramic tiles having <=3229 tiles per m2, surf area in sq w/ side <7cm, H2O absorp coeff by wt >10%
6907.23.30	Glazed ceramic tiles having surface area <38.7cm2, surf area in sq w/ side <7cm, of H2O absorp coeff by wt >10%
6907.23.40	Glazed ceramic tiles having surface area >=38.7cm2, , surf area in sq w/ side <7cm, of a H2O absorp coeff by wt >10%
6907.23.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt >10%
6907.30.10	Unglazed ceramic mosaic cubes, o/t subheading 6907.40
6907.30.20	Glazed ceramic mosaic cubes having <=3229 tiles per m2, surf area in sq w/ side <7cm
6907.30.30	Glazed ceramic mosaic cubes having surface area <38.7cm2, surf area in sq w/ side <7cm
6907.30.40	Glazed ceramic mosaic cubes having surface area >=38.7cm2, surf area in sq w/ side <7cm
6907.30.90	Glazed ceramic mosaic cubes nesoi, o/t subheading 6907.40
6907.40.10	Unglazed finishing ceramics
6907.40.20	Glazed finishing ceramics having <=3229 tiles per m2, surf area in sq w/ side <7cm
6907.40.30	Glazed finishing ceramics having surface area <38.7cm2, surf area in sq w/ side <7cm
6907.40.40	Glazed finishing ceramics having surface area >=38.7cm2, , surf area in sq w/ side <7cm
6907.40.90	Glazed finishing ceramics nesoi
6909.11.20	Porcelain or china ceramic machinery parts
6909.11.40	Porcelain or china ceramic wares for laboratory, chemical or other technical uses (other than machinery parts), nesoi
6909.12.00	Ceramic wares (o/than of porcelain or china) for laboratory, chemical or technical uses, w/hardness equivalent to 9 or more on Mohs scale
6909.19.10	Ceramic ferrite core memories
6909.19.50	Ceramic wares for laboratory, chemical or other technical uses (o/than of porcelain or china), nesoi
6909.90.00	Ceramic troughs, tubes & siml. receptacles for agriculture; ceramic pots, jars, & siml. arts. for conveyance or packing of goods
6914.10.40	Porcelain or china ceramic ferrules, n/o 3mm diam or 25mm long, w/fiber channel open. and/or ceramic mating sleeves of Al2O3 or zirconia
6914.10.80	Porcelain or china arts. (o/than tableware/kitchenware/household & ornament. arts),nesoi
6914.90.41	Ceramic (o/porcelain or china) ferrules, n/o 3mm or 25mm long, w/fiber channel open. and/or ceramic mating of sleeves of Al2O3 or zirconia
6914.90.80	Ceramic (o/than porcelain or china) arts. (o/than tableware/kitchenware/household & ornament. arts), nesoi

HTS Subheading	Product Description
7001.00.10	Glass in the mass of fused quartz or other fused silica
7001.00.20	Glass in the mass (other than of fused quartz or other fused silica)
7001.00.50	Cullet and other waste and scrap of glass
7002.10.10	Glass in balls (o/than microspheres of heading 7018), unworked, n/o 6mm in diameter
7002.10.20	Glass in balls (o/than microspheres of heading 7018), unworked, over 6 mm in diameter
7002.20.50	Glass rods (o/than of fused quartz or other fused silica), unworked
7002.31.00	Glass tubes of fused quartz or other fused silica, unworked
7002.32.00	Glass tubes (o/than fused quartz/silica), w/linear coefficient of expansion n/o 5x10-6 per Kelvin in range of 0-300 degrees C, unworked
7002.39.00	Glass tubes (o/than fused quartz/silica), nesoi, unworked
7003.12.00	Cast or rolled glass, in nonwired sheets, colored thru the mass, opacified, flashed or w/absorbent,reflect. or non-reflect.layer, not wkd.
7003.19.00	Cast or rolled glass, in nonwired sheets, n/colored thru the mass, opacified, flashed, etc. & not further worked
7003.20.00	Cast or rolled glass, in wired sheets
7003.30.00	Cast or rolled glass profiles
7004.20.10	Drawn or blown glass, in sheets, w/absorbent, reflecting or non-reflecting layer, n/furth. wkd.
7004.20.20	Drawn or blown glass, in rect. sheets, colored thru the mass, etc., w/o absorbent, reflecting or non-reflect. layer, n/furth wkd
7004.20.50	Drawn or blown glass, in sheets (o/than rect.), colored thru the mass, opacified, flashed, w/o absorbent, etc. layer, n/furth. wkd.
7004.90.05	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. n/o 1.5 mm & n/o 0.26 m2 in area, n/further wkd.
7004.90.10	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. n/o 1.5 mm & over 0.26 m2 in area, n/further wkd.
7004.90.15	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. over 1.5 but n/o 2 mm & n/o 0.26 m2 in area, n/further wkd.
7004.90.20	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. over 1.5 but n/o 2 mm & over 0.26 m2 in area, n/further wkd.
7004.90.25	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. over 2 but n/o 3.5 mm, not further wkd.
7004.90.30	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. over 3.5 mm & n/o 0.65 m2 in area, not further wkd.
7004.90.40	Drawn or blown glass, nesoi, in rectangular sheets, w/thick. over 3.5 mm & over 0.65 m2 in area, not further wkd.
7004.90.50	Drawn or blown glass, nesoi, in sheets (other than rectangular), nesoi
7005.10.40	Surface ground or polished glass, w/absorb. or reflect. layer, n/o 1.2 mm thick & n/o 0.8 M2 in area, suitable for use in LCD's
7005.10.80	Float glass & surface ground or polished glass, nonwired, in sheets, w/absorb. or reflect. layer, nesoi, not worked
7005.21.10	Float glass & surface ground or polished glass, nonwired, in sheets, colored thru mass, opacified, flashed, under 10 mm thick, not worked
7005.21.20	Float glass & surface ground or polished glass, nonwired, in sheets, colored thru mass, opacified, flashed, 10 mm or more thick, not worked
7005.29.04	Float glass & surface ground or polished glass, in sheets, less than 10 mm thick, w/area n/o 0.65 M2 & for liquid crystal displays
7005.29.08	Float glass & surface ground or polished glass, nonwired, in sheets, less than 10 mm thick, w/area n/o 0.65 M2 & not for LCD's
7005.29.14	Float glass & surface ground or polished glass, in sheets, less than 10 mm thick, w/area o/0.65 M2 & for liquid crystal displays
7005.29.18	Float glass & surface ground or polished glass, nonwired, in sheets, less than 10 mm thick, w/area over 0.65 M2 & not for LCD's

HTS Subheading	Product Description
7005.29.25	Float glass & surface ground or polished glass, nonwired, in sheets, 10 mm or more in thickness
7005.30.00	Float glass & surface ground or polished glass, wired, in sheets
7006.00.10	Glass of heading 7003-7005 in strips n/o 15.2 cm wide & o/2 mm thick, w/longitudinal edges ground or smoothed
7006.00.20	Drawn or blown glass, not containing wire netting & not surface ground or polished, but bent, edged or otherwise worked but not framed
7006.00.40	Glass of heading 7003-7005, bent, edgeworked, engraved, drilled, enameled or otherwise worked, but not framed or fitted, nesoi
7007.11.00	Toughened (tempered) safety glass, of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
7007.19.00	Toughened (tempered) safety glass, not of size or shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
7007.21.10	Laminated safety glass, windshields, of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
7007.21.50	Laminated safety glass (o/than windshields), of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
7007.29.00	Laminated safety glass, not of size or shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels
7008.00.00	Glass multiple-walled insulating units
7009.10.00	Glass rearview mirrors for vehicles
7009.91.10	Glass mirrors (o/than rearview mirrors), unframed, n/o 929 cm2 in reflecting area
7009.91.50	Glass mirrors (o/than rearview mirrors), unframed, over 929 cm2 in reflecting area
7009.92.10	Glass mirrors (o/than rearview mirrors), framed, n/o 929 cm2 in reflecting area
7009.92.50	Glass mirrors (o/than rearview mirrors), framed, over 929 cm2 in reflecting area
7010.10.00	Glass ampoules used for the conveyance or packing of goods
7010.20.20	Glass stoppers, lids and other closures produced by automatic machine
7010.20.30	Glass stoppers, lids and other closures not produced by automatic machine
7010.90.05	Glass serum bottles, vials and other pharmaceutical containers
7010.90.20	Glass containers for conveyance/packing perfume/toilet preps & containers with/designed for ground glass stopper, made by automatic machine
7010.90.30	Glass containers for convey/pack perfume/toilet preps & containers with/designed for ground glass stopper, not made by automatic machine
7010.90.50	Glass carboys, bottles, jars, pots, flasks, & other containers for conveyance/packing of goods (w/wo closures) & preserving jars, nesoi
7011.10.10	Glass bulbs (w/o fittings) for electric incandescent lamps
7011.10.50	Glass envelopes, open, & glass parts thereof, for electric lighting (other than bulbs for incandescent lamps), without fittings
7011.20.10	Glass cones (w/o fittings) for cathode-ray tubes
7011.20.45	Monochrome glass envelopes (open & w/o fittings), certified by importer for actual use in computer or graphic display CRTs
7011.20.85	Glass envelopes (open & w/o fittings) & glass parts thereof, nesoi, for cathode-ray tubes
7011.90.00	Glass envelopes (open & w/o fittings) & glass parts thereof (o/than for electric lighting or cathode-ray tubes
7014.00.10	Glass lens blanks (other than for spectacles), not optically worked
7014.00.20	Glass optical elements (other than lens blanks), not optically worked
7014.00.30	Glass lenses and filters (other than optical elements) and parts thereof, for signaling purposes, not optically worked

HTS Subheading	Product Description
7014.00.50	Signaling glassware, nesoi, not optically worked
7016.10.00	Glass cubes and other glass smallwares, whether or not on a backing, for mosaics or similar decorative purposes
7016.90.10	Paving blocks, slabs, bricks, squares, tiles & other arts. of pressed or molded glass, for building or construction purposes
7016.90.50	Leaded glass windows & the like; multicellular or foam glass in blocks, panels, plates, shells or similar forms
7017.10.30	Fused quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for semiconductor wafer production
7017.10.60	Laboratory, hygienic or pharmaceutical glassware, whether or not calibrated or graduated, of fused quartz or other fused silica, nesoi
7017.20.00	Laboratory, hygienic or pharmaceutical glassware, whether or not calibrated or graduated, of glass w/low coefficient of heat expansion
7017.90.10	Glass microscope slides and micro cover glasses
7017.90.50	Laboratory, hygienic or pharmaceutical glassware, whether or not calibrated, nesoi, of glass, nesoi
7018.10.10	Glass imitation pearls and pearl beads of all shapes and colors, whether or not drilled, not strung and not set
7018.10.20	Glass imitation precious or semiprecious stones (except beads)
7018.10.50	Glass beads (o/than imitat. pearls) & similar glass smallwares, nesoi
7018.20.00	Glass microspheres not exceeding 1 mm in diameter
7018.90.50	Articles (o/than imitation jewellry) of glass beads, pearls and imitation stones and statuettes & ornaments of lamp-worked glass
7019.11.00	Glass fiber chopped strands of a length not more than 50 mm
7019.12.00	Glass fiber rovings
7019.19.05	Fiberglass rubber reinforcing yarn,not color,of electrically nonconductive continuous filament 9 to 11 microns diam & impreg for adhesion to
7019.19.15	Glass fiber yarns, not colored, other than fiberglass rubber reinforcing yarn
7019.19.24	Fiberglass rubber reinforce yarn,color,of electrically nonconduct. continuous filament 9 to 11 microns diam & impreg for adhesion to polym.
7019.19.28	Glass fiber yarns, colored, other than fiberglass rubber reinforcing yarn
7019.19.70	Fiberglass rubber reinforce cord,of electrically nonconduct. contin. filament 9 to 11 microns diam & impreg for adhesion to polymeric comp.
7019.19.90	Glass fiber slivers
7019.31.00	Nonwoven glass fiber mats
7019.32.00	Nonwoven glass fiber in thin sheets (voiles)
7019.39.10	Nonwoven glass wool insulation products
7019.39.50	Nonwoven glass fiber webs, mattresses, boards and similar articles of nonwoven glass fibers, nesoi
7019.40.05	Woven fiberglass tire cord fabric of rovings,n/o 30 cm wide,of elect. nonconductive cont. filament 9-11 micron diam & impreg for adhesion
7019.40.15	Woven glass fiber fabric of rovings, n/o 30 cm in width, other than fiberglass tire cord fabric
7019.40.30	Woven fiberglass tire cord fabric of roving,o/30 cm wide,n/color, of elect. nonconduct. contin. fil. 9-11 micron diam & impreg for adhesion
7019.40.40	Woven glass fiber fabric of rovings, o/30 cm wide, not colored, other than fiberglass tire cord fabric
7019.40.70	Woven fiberglass tire cord fabric of roving,o/30 cm wide,color,of elect nonconduct. cont. filament 9-11 micron diam & impreg for adhesion
7019.51.10	Woven fiberglass tire cord fabric,n/roving,n/o 30 cm wide,of electrical nonconduct. contin. filament 9-11 micron diam & impreg for adhesion
7019.51.90	Woven glass fiber fabric, not of rovings, n/o 30 cm wide, other than fiberglass tire cord fabric

HTS Subheading	Product Description
7019.52.30	Woven fiberglass tire cord fabric,n/rov,pl.weave,o/30 cm wide & less than 250 g/m2,w/no single yarn o/136 tex,n/colrd,of elect nonconduct
7019.52.40	Woven glass fiber woven fabric, not colored, not of rovings, plain weave, o/30 cm wide, less than 250 g/m2, w/no single yarn o/136 tex,nesoi
7019.52.70	Woven fiberglass tire cord fabric,n/rov,color,pl. weave,o/30 cm wide & less thna 250 g/m2,w/no single yarn o/136 tex, of elect nonconduct
7019.52.90	Woven glass fiber fabric,not colored,not rovings,plain weave,o/30 cm wide & less than 250 g/m2,w/no single yarn not more than 136 tex, nesoi
7019.59.30	Woven fiberglass tire cord fabric,n/colored,nesoi,o/30 cm wide,of elect. noncond contin filament 9-11 micron diam and impreg for adhesion
7019.59.40	Woven glass fiber woven fabrics, not colored, nesoi, o/30 cm wide, nesoi
7019.59.70	Woven fiberglass tire cord fabric,colored,nesoi,o/30 cm wide,of elect. nonconduct contin filaments 9-11 micron diam & impreg for adhesion
7019.59.90	Woven glass fiber woven fabrics, colored, nesoi, o/30 cm wide, nesoi
7019.90.10	Woven glass fiber articles (other than fabrics), nesoi
7019.90.50	Glass fibers (including glass wool), nesoi, and articles thereof, nesoi
7020.00.30	Quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for semiconductor wafer production, nesoi
7020.00.40	Glass inners for vacuum flasks or for other vacuum vessels
7020.00.60	Articles of glass, not elsewhere specified or included
7102.21.10	Miners' diamonds, unworked or simply sawn, cleaved or bruted
7102.21.30	Industrial diamonds (other than miners' diamonds), simply sawn, cleaved or bruted
7102.21.40	Industrial diamonds (other than miners' diamonds), unworked
7102.29.00	Industrial diamonds, worked, but not mounted or set
7105.10.00	Diamond dust and powder
7105.90.00	Natural or synthetic precious (except diamond) or semiprecious stone dust and powder
7106.10.00	Silver powder
7106.91.10	Silver bullion and dore
7106.91.50	Silver, unwrought (o/than bullion and dore)
7106.92.10	Silver (incl. silver plate w gold/platinum),semimanufacture,rectangular/near rectangular shape,99.5% or > pure,marked only by wgt/identity
7106.92.50	Silver (including silver plated with gold or platinum), in semimanufactured form, nesoi
7107.00.00	Base metals clad with silver, not further worked than semimanufactured
7108.11.00	Gold powder
7108.12.10	Gold, nonmonetary, bullion and dore
7108.12.50	Gold, nonmonetary, unwrought (o/than gold bullion and dore)
7108.13.10	Gold leaf
7108.13.55	Gold (incl. gold plated w platinum),not money,semimanufacture,rectangle/near rectangular shape,99.5% or > pure,marked only by wgt/identity
7108.13.70	Gold (including gold plated with platinum), nonmonetary, in semimanufactured forms (except gold leaf), nesoi
7108.20.00	Gold, monetary, in unwrought, semimanufactured or powder form
7109.00.00	Base metals or silver clad with gold, but not further worked than semimanufactured
7110.11.00	Platinum, unwrought or in powder form
7110.19.00	Platinum, in semimanufactured forms

HTS Subheading	Product Description
7110.21.00	Palladium, unwrought or in powder form
7110.29.00	Palladium, in semimanufactured forms
7110.31.00	Rhodium, unwrought or in powder form
7110.39.00	Rhodium, in semimanufactured forms
7110.41.00	Iridium, osmium and ruthenium, unwrought or in powder form
7110.49.00	Iridium, osmium and ruthenium, in semimanufactured forms
7111.00.00	Base metals, silver or gold clad with platinum, not further worked than semimanufactured
7112.30.00	Ash containing precious metals or precious metal compounds
7112.91.00	Gold waste and scrap, including metal clad with gold but excluding sweepings containing other precious metals
7112.92.00	Platinum waste and scrap, including metal clad with platinum but excluding sweepings containing other precious metals
7112.99.00	Precious metal (other than of gold or platinum) waste and scrap, including metal clad with precious metals, nesoi
7114.11.10	Knives with handles of silver, whether or not plated or clad with other precious metal
7114.11.20	Forks with handles of silver, whether or not plated or clad with other precious metal
7114.11.30	Spoons and ladles with handles of sterling silver
7114.11.40	Spoons and ladles (o/than w/sterling silver handles) of silver, whether or not plated or clad w/other precious metal
7114.11.45	Sets of two or more knives or forks w/silver handles or spoons and ladles of silver, whether or not clad or plated w/prec.metal
7114.11.50	Tableware, nesoi, of sterling silver
7114.11.60	Articles of silver nesoi, for household, table or kitchen use, toilet and sanitary wares, including parts thereof
7114.11.70	Silversmiths' wares (other than for household/table/kitchen use & toilet and sanitary wares) of silver, nesoi
7114.19.00	Precious metal (o/than silver) articles, nesoi, whether or not plated or clad with other precious metal, nesoi
7114.20.00	Goldsmiths' or silversmiths' wares of base metal clad with precious metal
7115.10.00	Platinum catalysts in the form of wire cloth or grill
7115.90.05	Precious metal articles, incl. metal clad w/precious metal,rectangle/near rectangle shape,99.5%/ or pure,marked only by wgt/identity
7115.90.30	Gold (including metal clad with gold) articles (o/than jewellry or goldsmiths' wares), nesoi
7115.90.40	Silver (including metal clad with silver) articles (o/than jewellry or silversmiths' wares), nesoi
7115.90.60	Articles of precious metal (o/than gold or silver), including metal clad with precious metal, nesoi
7201.10.00	Nonalloy pig iron containing by weight 0.5 percent or less of phosphorus
7201.20.00	Nonalloy pig iron containing by weight more than 0.5 percent of phosphorus
7201.50.30	Alloy pig iron in blocks or other primary forms
7201.50.60	Spiegeleisen in blocks or other primary forms
7202.11.10	Ferromanganese containing by weight more than 2 percent but not more than 4 percent of carbon
7202.11.50	Ferromanganese containing by weight more than 4 percent of carbon
7202.19.10	Ferromanganese containing by weight not more than 1 percent of carbon
7202.19.50	Ferromanganese containing by weight more than 1 percent but not more than 2 percent of carbon
7202.21.10	Ferrosilicon containing by weight more than 55% but not more than 80% of silicon and more than 3% of calcium
7202.21.50	Ferrosilicon containing by weight more than 55% but not more than 80% of silicon, nesoi
7202.21.75	Ferrosilicon containing by weight more than 80% but not more than 90% of silicon

HTS Subheading	Product Description
7202.21.90	Ferrosilicon containing by weight more than 90% of silicon
7202.29.00	Ferrosilicon containing by weight 55% or less of silicon
7202.30.00	Ferrosilicon manganese
7202.41.00	Ferrochromium containing by weight more than 4 percent of carbon
7202.49.10	Ferrochromium containing by weight more than 3 percent but not more than 4 percent of carbon
7202.49.50	Ferrochromium containing by weight 3 percent or less of carbon
7202.50.00	Ferrosilicon chromium
7202.80.00	Ferrotungsten and ferrosilicon tungsten
7202.91.00	Ferrotitanium and ferrosilicon titanium
7202.92.00	Ferrovanadium
7202.99.10	Ferrozirconium
7202.99.20	Calcium silicon ferroalloys
7203.10.00	Ferrous products obtained by direct reduction of iron ore
7203.90.00	Spongy ferrous products, in lumps, pellets or like forms; iron of a minimum purity by weight of 99.94% in lumps, pellets or like forms
7204.10.00	Cast iron waste and scrap
7204.21.00	Stainless steel waste and scrap
7204.29.00	Alloy steel (o/than stainless) waste and scrap
7204.30.00	Tinned iron or steel waste and scrap
7204.41.00	Ferrous turnings, shavings, chips, milling wastes, sawdust, fillings, trimmings and stampings, whether or not in bundles
7204.49.00	Ferrous waste and scrap nesoi
7204.50.00	Iron or steel remelting scrap ingots
7205.10.00	Pig iron, spiegeleisen, and iron or steel granules
7205.21.00	Alloy steel powders
7205.29.00	Pig iron, spiegeleisen, and iron or steel (o/than alloy steel) powders
7216.61.00	Iron/nonalloy steel, angles, shapes & sections nesoi, not further worked than cold-formed or cold-finished, from flat-rolled products
7216.69.00	Iron/nonalloy steel, angles, shapes & sections nesoi, not further worked than cold-formed or cold-finished, not from flat-rolled products
7216.91.00	Iron/nonalloy steel, angle, shapes & sections nesoi,cold-formed/cold-finished from flat-rolled prod. & furth wkd th/cold-formed/cold-finish
7301.20.10	Iron or nonalloy steel, angles, shapes and sections, welded
7301.20.50	Alloy steel, angles, shapes and sections of alloy steel, welded
7302.30.00	Iron or steel, switch blades, crossing frogs, point rods and other crossing pieces, for jointing or fixing rails
7303.00.00	Cast iron, tubes, pipes and hollow profiles
7307.11.00	Cast nonmalleable iron, fittings for tubes or pipes
7307.19.30	Cast ductile iron or steel, fittings for tubes or pipes
7307.19.90	Cast iron or steel, fittings for tubes or pipes, nesoi
7307.21.10	Stainless steel, flanges for tubes/pipes, forged, not machined, not tooled and not otherwise processed after forging
7307.21.50	Stainless steel, not cast, flanges for tubes/pipes, not forged or forged and machined, tooled and otherwise processed after forging
7307.22.10	Stainless steel, not cast, threaded sleeves (couplings) for tubes/pipes

HTS Subheading	Product Description
7307.22.50	Stainless steel, not cast, threaded elbow and bends for tubes/pipes
7307.23.00	Stainless steel, not cast, butt welding fittings for tubes/pipes
7307.29.00	Stainless steel, not cast, fittings for tubes/pipes, nesoi
7307.91.10	Iron or nonalloy steel, flanges for tubes/pipes, forged, not machined, not tooled and not otherwise processed after forging
7307.91.30	Alloy steel (o/than stainless), not cast, flanges for tubes/pipes, forged, not machined/tooled and not otherwise processed after forging
7307.91.50	Iron or steel (o/than stainless), not cast, flanges for tubes/pipes, not forged or forged and machined, tooled & processed after forging
7307.92.30	Iron or steel (o/than stainless), not cast, threaded sleeves (couplings) for tubes/pipes
7307.92.90	Iron or steel (o/than stainless), not cast, threaded elbow and bends for tubes/pipes
7307.93.30	Iron or nonalloy steel, not cast, butt welding fittings for tubes/pipes, w/inside diam. less than 360mm
7307.93.60	Alloy steel (o/than stainless), not cast, butt welding fittings for tubes/pipes, w/inside diam. less than 360mm
7307.93.90	Iron or alloy steel (o/than stainless), not cast, butt welding fittings for tubes/pipes, w/inside diam. 360mm or more
7307.99.10	Iron or nonalloy steel, fittings for tubes/pipes, nesoi, forged, not machined, not tooled and not otherwise processed after forging
7307.99.30	Alloy steel (o/than stainless), fittings for tubes/pipes, nesoi, forged, not machined/tooled and not otherwise processed after forging
7307.99.50	Iron/steel (o/than stainless), n/cast, fittings for tubes/pipes, nesoi, not forged or forged and machined, tooled & processed after forging
7308.30.10	Stainless steel, doors, windows and their frames, and thresholds for doors
7308.30.50	Iron or steel (o/than stainless), doors, windows and their frames, and thresholds for doors
7308.40.00	Iron or steel, props and similar equipment for scaffolding, shuttering or pit-propping
7309.00.00	Iron/steel, reservoirs, tanks, vats, siml. contain., for any material (o/than compress./liq.gas), w/capacity o/300 l, n/fit. w/mech/thermal
7310.10.00	Iron/steel, tanks, casks, drums, cans, boxes & siml. cont. for any material (o/than compress./liq.gas), w/cap. of 50+ l but n/o 300 l
7310.21.00	Iron/steel, cans for any material (o/compressed/liq. gas), closed by soldering or crimping, w/cap. less than 50 l
7310.29.00	Iron/steel, cans for any material (o/compressed/liq. gas), n/closed by soldering or crimping, w/cap. less than 50 l
7311.00.00	Iron/steel, containers for compressed or liquefied gas
7312.10.05	Stainless steel, stranded wire, not elect. insulated, fitted with fittings or made up into articles
7312.10.10	Stainless steel, stranded wire, not elect. insulated, not fitted with fittings or made up into articles
7312.10.20	Iron or steel (o/than stainless), stranded wire, not elect. insul., fitted with fittings or made up into articles
7312.10.30	Iron or steel (o/than stainless), stranded wire, not elect. insul., not fitted with fittings or made up into articles
7312.10.50	Stainless steel, ropes, cables and cordage (o/than stranded wire), not elect. insul., fitted with fittings or made up into articles
7312.10.60	Stainless steel, ropes, cables and cordage (o/than stranded wire), not elect. insul., not fitted with fittings or made up into articles
7312.10.70	Iron/steel (o/stainless), ropes, cables & cordage (o/than stranded wire), n/elect. insul., fitted with fittings or made up into articles
7312.10.80	Iron/steel (o/stainless), ropes, cables & cordage, of brass plated wire (o/than stranded wire), n/elect. insul., w/o fittings or arts.
7312.10.90	Iron/steel (o/stainless), ropes, cables & cordage, o/th of brass plate wire (o/than stranded wire), n/elect. insul., w/o fittings etc.

HTS Subheading	Product Description
7312.90.00	Iron/steel (o/stainless), plaited bands, slings and the like, not electrically insulated
7313.00.00	Iron/steel, barbed wire; iron/steel, twisted hoop or single flat wire and loosely twisted double wire, of a kind used for fencing
7314.12.10	Stainless steel, woven cloth endless bands for machinery, w/meshes not finer than 12 wires to the lineal cm in warp or filling
7314.12.20	Stainless steel, woven cloth endless bands for machinery, w/meshes finer than 12 but n/finer than 36 wires to the lineal cm warp or filling
7314.12.30	Stainless steel, Fourdrinier wires for papermaking machines w/94 or more wires to the lineal cm in warp or filling
7314.12.60	Stainless steel, Fourdrinier wires for papermaking machines w/36 to 93 wires to the lineal cm in warp or filling
7314.12.90	Stainless steel, woven cloth endless bands for machinery, nesoi, w/meshes finer than 36 wires to the lineal cm in warp or filling
7314.14.10	Stainless steel, woven cloth (o/than endless bands for machinery), w/meshes not finer than 12 wires to the lineal cm in warp or filling
7314.14.20	Stainless steel, woven cloth (o/than endless bands for machinery), w/meshes finer 12 but n/finer 36 wires to the lineal cm warp/filling
7314.14.30	Stainless steel, Fourdrinier wires (o/than endless bands) for papermaking machines,w/meshes 94 or more wire to lineal cm warp/filling
7314.14.60	Stainless steel, Fourdrinier wires (o/than endless bands) for papermaking machines, w/meshes 36 to 93 wires to the lineal cm warp/filling
7314.14.90	Stainless steel woven cloth (other than endless band for machinery), neosi, w/meshes finer than 36 wires to the lineal cm in warp or filling
7314.19.01	Iron or steel (o/than stainless), woven cloth
7314.20.00	Iron/steel, grill, netting & fencing, of wire w/maximum x-sect. dimension 3 mm or more, welded at intersection, w/mesh size 100 cm2 or more
7314.31.10	Iron/steel, fencing, of wire, welded at the intersection, plated or coated with zinc, whether or not covered w/plastic material
7314.31.50	Iron/steel, grill and netting, of wire, welded at the intersection, plated or coated with zinc, nesoi
7314.39.00	Iron/steel, grill, netting and fencing, of wire, welded at the intersection, not plated or coated with zinc
7314.41.00	Iron/steel, grill, netting and fencing, of wire, not welded at the intersection, plated or coated with zinc
7314.42.00	Iron/steel, grill, netting and fencing, of wire, not welded at the intersection, coated with plastics
7314.49.30	Iron/steel, grill, netting and fencing, of wire, not welded at the intersection, not cut to shape
7314.49.60	Iron/steel, grill, netting and fencing, of wire, not welded at the intersection, cut to shape
7314.50.00	Iron or steel, expanded metal
7315.11.00	Iron or steel, roller chain
7315.12.00	Iron or steel, articulated link chain (other than roller chain)
7315.19.00	Iron or steel, parts of articulated link chain
7315.20.10	Iron or steel, skid chain, not over 8 mm in diameter
7315.20.50	Iron or steel, skid chain, over 8 mm in diameter
7315.81.00	Iron or steel, stud link chain
7315.82.10	Alloy steel, welded link chain, not over 10 mm in diameter
7315.82.30	Alloy steel, welded link chain, over 10 mm in diameter
7315.82.50	Iron or nonalloy steel, welded link chain, not over 10 mm in diameter
7315.82.70	Iron or nonalloy steel, welded link chain, over 10 mm in diameter
7315.89.10	Iron or steel, chain nesoi, with links of essentially round cross section, not over 8 mm in diameter
7315.89.30	Iron or steel, chain nesoi, with links of essentially round cross sections, over 8 mm in diameter

HTS Subheading	Product Description
7315.89.50	Iron or steel, chain nesoi
7315.90.00	Iron or steel, parts of chain (other than articulated link chain)
7316.00.00	Iron or steel, anchors, grapnels and parts thereof
7317.00.20	Iron or steel, nails, tacks, corrugated nails, staples & similar arts., not threaded, suitable for use in powder-actuated hand tools
7317.00.30	Iron or steel, nails, tacks, corrugated nails, staples & similar arts., threaded, suitable for use in powder-actuated hand tools
7317.00.55	Iron or steel, nails, tacks, corrugated nails, staples & similar arts., of one piece construction, made of round wire, nesoi
7317.00.65	Iron or steel, nails, tacks, corrugated nails, staples & similar arts., of one piece construction, not made of round wire, nesoi
7317.00.75	Iron or steel, nails, tacks, corrugated nails, staples & similar arts., of two or more pieces, nesoi
7318.11.00	Iron or steel, coach screws
7318.12.00	Iron or steel, wood screws (o/than coach screws)
7318.13.00	Iron or steel, screw hooks and screw rings
7318.14.10	Iron or steel, self-tapping screws, w/shanks or threads less than 6 mm in diameter
7318.14.50	Iron or steel, self-tapping screws, w/shanks or threads 6 mm or more in diameter
7318.15.20	Iron or steel, bolts and bolts & their nuts or washers, imported in the same shipment
7318.15.40	Iron or steel, machine screws (o/than cap screws), 9.5 mm or more in length and 3.2 mm in diameter
7318.15.50	Iron or steel, threaded studs
7318.15.60	Iron or steel, screws and bolts, nesoi, having shanks or threads less than 6 mm in diameter
7318.15.80	Iron or steel, screws and bolts, nesoi, having shanks or threads 6 mm or more in diameter
7318.19.00	Iron or steel, threaded articles similar to screws, bolts, nuts, coach screws & screw hooks, nesoi
7318.21.00	Iron or steel, spring washers and other lock washers
7318.22.00	Iron or steel, washers (o/than spring washers and other lock washers)
7318.23.00	Iron or steel, rivets
7318.24.00	Iron or steel, cotters and cotter pins
7318.29.00	Iron or steel, nonthreaded articles similar to rivets, cotters, cotter pins, washers and spring washers
7320.10.30	Iron or steel, leaf springs & leaves therefore, to be used in motor vehicles having a G.V.W. not exceeding 4 metric tons
7320.10.60	Iron or steel, leaf springs & leaves therefore, suitable for motor vehicle suspension (o/than for motor vehicles w/a G.V.W. o/4 metric tons)
7320.10.90	Iron or steel, leaf springs & leaves therefore, not suitable for motor vehicle suspension
7320.90.10	Iron or steel, hairsprings
7320.90.50	Iron or steel, springs (o/than leaf springs, helical springs or hairsprings)
7321.11.10	Iron or steel, portable non-electric domestic cooking appliances and plate warmers, for gas fuel or for both gas and other fuels
7321.11.30	Iron or steel, nonportable non-electric domestic stoves or ranges, for gas fuel or for both gas and other fuels
7321.11.60	Iron or steel, nonportable non-electric domestic cook. appl. (o/th stoves or ranges) & plate warmers, for gas fuel or both gas & other fuels
7321.90.10	Iron/steel, cooking chambers for nonportable non-electric domestic stoves or ranges, for gas or for gas and other fuels
7321.90.20	Iron/steel, top surface panels w/ or w/o burners/controls for nonportable non-elect. domest. stoves or ranges, for gas or gas & other fuels

HTS Subheading	Product Description
7321.90.40	Iron/steel, door assmbly w/more than one of inner panel, out. panel, window, insul., for non-elect. stoves or ranges, for gas or gas & other
7321.90.50	Iron/steel, parts of nonportable non-electric domestic stoves or ranges, nesoi, for gas fuel or for both gas and other fuels
7321.90.60	Iron/steel, parts, of nonelectric domestic cooking and warming appliances, nesoi
7322.11.00	Cast iron, non-electrically heated radiators and parts thereof, for central heating
7322.19.00	Iron (o/than cast) or steel, non-electrically heated radiators and parts thereof, for central heating
7322.90.00	Iron or steel, non-electrically heated air heaters and hot air distributors w/motor driven fan or blower and parts thereof
7323.10.00	Iron or steel wool; iron or steel pot scourers and scouring or polishing pads, gloves and the like
7323.99.90	Iron (o/th cast)/steel (o/th tinplate or stainless), table, kitchen (o/th cooking.) or o/household arts & part, n/coated/plated w/prec.metal
7324.10.00	Stainless steel, sinks and wash basins
7324.21.10	Cast iron, baths (whether or not enameled), coated or plated with precious metal
7324.21.50	Cast iron, baths (whether or not enameled), not coated or plated with precious metal
7324.90.00	Iron or steel, sanitary ware (o/than baths or stainless steel sinks and wash basins) and parts thereof
7325.10.00	Nonmalleable cast iron, articles, nesoi
7325.91.00	Iron or steel, cast grinding balls and similar articles for mills
7325.99.10	Cast iron (o/than nonmalleable cast iron), articles nesoi
7325.99.50	Steel, cast articles nesoi
7326.11.00	Iron or steel, forged or stamped grinding balls and similar articles for mills
7326.19.00	Iron or steel, articles forged or stamped but n/further worked, nesoi
7326.20.00	Iron or steel, articles of wire, nesoi
7326.90.10	Tinplate, articles nesoi
7326.90.25	Iron or steel, cable or inner wire for caliper and cantilever brakes and casing therefore, whether or not cut to length
7326.90.35	Iron or steel, containers of a kind normally carried on the person, in the pocket or in the handbag, nesoi
7326.90.45	Iron or steel, horse and mule shoes
7326.90.60	Iron or steel, articles nesoi, coated or plated with precious metal
7326.90.86	Iron or steel, articles, nesoi
7402.00.00	Unrefined copper; copper anodes for electrolytic refining
7403.11.00	Refined copper cathodes and sections of cathodes
7403.12.00	Refined copper, wire bars
7403.13.00	Refined copper, billets
7403.19.00	Refined copper, unwrought articles nesoi
7403.21.00	Copper-zinc base alloys (brass), unwrought nesoi
7403.22.00	Copper-tin base alloys (bronze), unwrought nesoi
7403.29.01	Copper alloys (o/than copper-zinc, copper-tin alloys), unwrought nesoi
7404.00.30	Copper spent anodes; copper waste & scrap containing less than 94% by weight of copper
7404.00.60	Copper, waste and scrap containing 94% or more by weight of copper
7405.00.10	Copper master alloys, containing 5% or more but n/more than 15% by weight of phosphorus
7405.00.60	Copper master alloys, not containing 5% or more but n/more than 15% by weight of phosphorus
7406.10.00	Copper, powders of non-lamellar structure

HTS Subheading	Product Description
7406.20.00	Copper, powders of lamellar structure; copper flakes
7407.10.15	Refined copper, hollow profiles
7407.10.30	Refined copper, profiles (o/than hollow profiles)
7407.10.50	Refined copper, bars and rods
7407.21.15	Copper-zinc base alloys (brass), hollow profiles
7407.21.30	Copper-zinc base alloys (brass), profiles (o/than hollow profiles)
7407.21.50	Copper-zinc base alloys (brass), low fuming brazing rods
7407.21.70	Copper-zinc base alloys (brass), bars & rods nesoi, having a rectangular cross section
7407.21.90	Copper-zinc base alloys (brass), bars & rods nesoi, not having a rectangular cross section
7407.29.16	Copper alloys , hollow profiles
7407.29.34	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), profiles (o/than hollow profiles)
7407.29.38	Copper alloys (o/than cupro-nickel or nickel silver), profiles (o/than hollow profiles)
7407.29.40	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), bars & rods
7407.29.50	Copper alloys (o/than brass, cupro-nickel or nickel silver), bars and rods
7408.11.30	Refined copper, wire, w/maximum cross-sectional dimension over 9.5 mm
7408.11.60	Refined copper, wire, w/maximum cross-sectional dimension over 6 mm but not over 9.5 mm
7408.19.00	Refined copper, wire, w/maximum cross-sectional dimension of 6 mm or less
7408.21.00	Copper-zinc base alloys (brass), wire
7408.22.10	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), wire, coated or plated with metal
7408.22.50	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), wire, not coated or plated w/metal
7408.29.10	Copper alloys (o/than brass, cupro-nickel or nickel-silver), wire, coated or plated with metal
7408.29.50	Copper alloys (o/than brass, cupro-nickel or nickel-silver), wire, not coated or plated with metal
7409.11.10	Refined copper, plates, sheets and strip, in coils, with a thickness of 5 mm or more
7409.11.50	Refined copper, plates, sheets and strip, in coils, with a thickness over 0.15mm but less than 5 mm
7409.19.10	Refined copper, plates, sheets and strip, not in coils, with a thickness of 5 mm or more
7409.19.50	Refined copper, plates, sheets and strip, not in coils, with a thickness o/0.15mm but less than 5 mm & a width of 500 mm or more
7409.19.90	Refined copper, plates, sheets and strip, not in coils, with a thickness o/0.15mm but less than 5 mm & a width of less than 500 mm
7409.21.00	Copper-zinc base alloys (brass), plates, sheets and strip, in coils
7409.29.00	Copper-zinc base alloys (brass), plates, sheets and strip, not in coils
7409.31.10	Copper-tin base alloys (bronze), plates, sheets and strip, in coils. with a thickness of 5 mm or more
7409.31.50	Copper-tin base alloys (bronze), plates, sheets and strip, in coils, with a thickness o/0.15mm but less than 5mm & a width of 500mm or more
7409.31.90	Copper-tin base alloys (bronze), plates, sheets and strip, in coils, w/thickness o/0.15mm but less than 5mm & a width of less than 500mm
7409.39.10	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness of 5 mm or more
7409.39.50	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness o/0.15 but less than 5 mm & of a width of 500 mm or more
7409.39.90	Copper-tin base alloys (bronze), plates, sheets and strip, with a thickness o/0.15 but less than 5 mm & of a width of less than 500 mm

HTS Subheading	Product Description
7409.40.00	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver), plates, sheets and strip, w/thickness o/0.15mm
7409.90.10	Copper alloys (o/than brass/bronze/cupro-nickel/nickel silver), plates, sheets & strip, with thickness of 5 mm or more
7409.90.50	Copper alloys (o/than brass/bronze/cupro-nickel/nickel silver), plates, sheets & strip, w/thick. o/0.15mm but less th/5mm & width 500mm+
7409.90.90	Copper alloys (o/than brass/bronze/cupro-nickel/nickel silver), plates, sheets & strip, w/thick. o/0.15mm but less th/5mm & width less 500mm
7410.11.00	Refined copper, foil, w/thickness of 0.15 mm or less, not backed
7410.12.00	Copper alloys, foil, w/thickness of 0.15 mm or less, not backed
7410.21.30	Refined copper, clad laminates, w/thickness of 0.15 mm or less, backed
7410.21.60	Refined copper, foil, w/thickness of 0.15 mm or less, backed
7410.22.00	Copper alloys, foil, w/thickness of 0.15 mm or less, backed
7411.10.10	Refined copper, tubes and pipes, seamless
7411.10.50	Refined copper, tubes and pipes, other than seamless
7411.21.10	Copper-zinc base alloys (brass), tubes and pipes, seamless
7411.21.50	Copper-zinc base alloys (brass), tubes and pipes, other than seamless
7411.22.00	Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel-silver), tubes and pipes
7411.29.10	Copper alloys (o/than brass/cupro-nickel/nickel-silver), pipes and tubes, seamless
7411.29.50	Copper alloys (o/than brass/cupro-nickel/nickel-silver), pipes and tubes, other than seamless
7412.10.00	Refined copper, fittings for tubes and pipes
7412.20.00	Copper alloys, fittings for tubes and pipes
7413.00.10	Copper, stranded wire, not electrically insulated, not fitted with fittings and not made up into articles
7413.00.50	Copper, cables, plaited bands and the like, not fitted with fittings and not made up into articles
7413.00.90	Copper, stranded wire, cables, plaited bands and the like, not electrically insulated, fitted with fittings or made up into articles
7415.10.00	Copper or iron/steel w/heads of copper, nails and tacks, drawing pins, staples and similar articles
7415.21.00	Copper, washers (including spring washers)
7415.29.00	Copper, rivets, cotters, cotter pins and similar non-threaded articles (o/than washers)
7415.33.05	Copper screws for wood
7415.33.10	Muntz or yellow metal copper bolts
7415.33.80	Screws (other than wood screws), bolts (other than Muntz or yellow metal) and nuts, of copper, threaded, nesoi
7415.39.00	Copper, screw hooks and other threaded articles, nesoi
7418.20.10	Copper-zinc base alloys (brass), sanitary ware and parts thereof
7418.20.50	Copper (o/than brass), sanitary ware and parts thereof
7419.10.00	Copper, chain and parts thereof
7419.91.00	Copper, articles nesoi, cast, molded, stamped, or forged but not further worked
7419.99.03	Copper, Fourdrinier wires, for use in papermaking machines, w/94 or more wires to the lineal cm
7419.99.06	Copper cloth, nesoi
7419.99.09	Copper, wire grill and netting; expanded metal of copper
7419.99.15	Copper, containers a kind normally carried on the person, in the pocket or in the handbag
7419.99.16	Copper, springs
7419.99.30	Copper, articles nesoi, coated or plated with precious metal

HTS Subheading	Product Description
7419.99.50	Copper, articles nesoi, not coated or plated with precious metal
7501.10.00	Nickel mattes
7501.20.00	Nickel oxide sinters and other intermediate products of nickel metallurgy
7502.10.00	Nickel (o/than alloy), unwrought
7502.20.00	Nickel alloys, unwrought
7503.00.00	Nickel, waste and scrap
7504.00.00	Nickel, powders and flakes
7505.11.10	Nickel (o/than alloy), bars and rods, cold formed
7505.11.30	Nickel (o/than alloy), bars and rods, not cold formed
7505.11.50	Nickel (o/than alloy), profiles
7505.12.10	Nickel alloy, bars and rods, cold formed
7505.12.30	Nickel alloy, bars and rods, not cold formed
7505.12.50	Nickel alloy, profiles
7505.21.10	Nickel (o/than alloy), wire, cold formed
7505.21.50	Nickel (o/than alloy), wire, not cold formed
7505.22.10	Nickel alloy, wire, cold formed
7505.22.50	Nickel alloy, wire, not cold formed
7506.10.05	Nickel, foil, w/thickness not over 0.15 mm
7506.10.10	Nickel (o/than alloy), plates, sheets and strip, cold formed
7506.10.30	Nickel (o/than alloy), plates, sheets and strip, not cold formed
7506.20.05	Nickel alloy, foil, w/thickness not over 0.15 mm
7506.20.10	Nickel alloy, plates, sheets and strip, cold formed
7506.20.30	Nickel alloy, plates, sheets and strip, not cold formed
7507.11.00	Nickel (o/than alloy), tubes and pipes
7507.12.00	Nickel alloy, tubes and pipes
7507.20.00	Nickel, fittings for tubes and pipes
7508.10.00	Nickel, wire cloth, grill and netting
7508.90.10	Nickel, stranded wire
7508.90.50	Nickel, articles of nesoi
7602.00.00	Aluminum, waste and scrap
7603.10.00	Aluminum, powders of non-lamellar structure
7603.20.00	Aluminum, powders of lamellar structure; aluminum flakes
7610.90.00	Aluminum, structures and parts of structures, nesoi; aluminum plates, rods, profiles, tubes and the like prepared for use in structures
7611.00.00	Aluminum, reservoirs, tanks, vats & like containers for any material (o/than compressed or liq. gas), w/capacity o/300 l, not fitted w/
7612.10.00	Aluminum, collapsible tubular containers, w/capacity of 300 l or less
7612.90.10	Aluminum, casks, drums & like containers, for any material (o/than compressed or liq. gas), w/cap. n/o 20 l, n/fitted w/mech/thermal
7612.90.50	Aluminum, casks, drums & like containers, for any material (o/thna compressed or liq. gas), w/cap. o/20 but n/o 300 l, n/fitted w/mech
7613.00.00	Aluminum, containers for compressed or liquefied gas

HTS Subheading	Product Description
7614.10.50	Aluminum, stranded wire, cables & the like w/steel core, not electrically insulated, fitted with fittings or made up into articles
7614.90.40	Aluminum, stranded wire, cables, & the like (o/than elect. conduct or w/steel core), n/elect. insulated, n/fitted w/fittings or articles
7614.90.50	Aluminum, stranded wire, cables and the like (o/than w/steel core), not electrically insulated, fitted w/fittings or made up into articles
7615.20.00	Aluminum, sanitary ware and parts thereof
7616.10.10	Aluminum, nails, tacks and staples
7616.10.30	Aluminum, rivets
7616.10.50	Aluminum, cotters and cotter pins
7616.10.70	Aluminum, screws, bolts, nuts, screw hooks, washers and similar articles w/shanks, threads, or holes o/6 mm in diameter
7616.10.90	Aluminum, screws, bolts, nuts, screw hooks, washers and similar articles w/shanks, threads or holes 6 mm or less in diameter
7616.91.00	Aluminum, wire cloth, grill, netting and fencing
7616.99.10	Aluminum, luggage frames
7616.99.51	Aluminum, articles, nesoi
7801.91.00	Lead (o/than refined lead), containing by weight antimony as the principal other element, unwrought
7801.99.30	Lead (o/than refined lead), bullion
7801.99.90	Lead (o/than refined lead), unwrought nesoi
7804.11.00	Lead, sheets, strip and foil, w/thickness n/o 0.2 mm, excluding any backing
7804.19.00	Lead, plates & sheets, strip and foil w/thickness o/0.2mm, nesoi
7804.20.00	Lead, powders and flakes
7806.00.03	Lead, bars, rods, profiles and wire
7806.00.05	Lead, tubes or pipes and fittings for tubes or pipes
7806.00.80	Lead, articles, nesoi
7903.10.00	Zinc, dust
7903.90.30	Zinc, powders
7903.90.60	Zinc, flakes
7904.00.00	Zinc, bars, rods, profiles and wire
7905.00.00	Zinc, plates, sheets, strip and foil
7907.00.20	Zinc, tubes or pipes and fittings for tubes or pipes
7907.00.60	Zinc, articles (o/than for household, table or kitchen use), nesoi
8007.00.10	Tin, household, table or kitchen use articles; tin toilet and sanitary wares; all the foregoing, n/coated or plated w/prec. metal
8007.00.50	Tin, articles nesoi
8101.96.00	Tungsten wire
8102.96.00	Molybdenum wire
8104.30.00	Magnesium, raspings, turnings and granules graded according to size; magnesium powders
8104.90.00	Magnesium, articles nesoi
8105.20.30	Cobalt alloys, unwrought
8105.20.60	Cobalt (other than alloys), unwrought
8105.20.90	Cobalt, mattes and other intermediate products of cobalt metallurgy; cobalt powders

HTS Subheading	Product Description
8105.30.00	Cobalt waste and scrap
8105.90.00	Cobalt, articles thereof nesoi
8106.00.00	Bismuth (including waste & scrap) and articles thereof, nesoi
8107.20.00	Cadmium, unwrought; cadmium powders
8107.30.00	Cadmium waste and scrap
8107.90.00	Cadmium, articles thereof nesoi
8108.20.00	Titanium, unwrought; titanium powders
8108.30.00	Titanium waste and scrap
8108.90.30	Titanium, articles nesoi
8108.90.60	Titanium, wrought nesoi
8109.30.00	Zirconium waste and scrap
8109.90.00	Zirconium, articles, nesoi
8112.12.00	Beryllium, unwrought; beryllium powders
8112.13.00	Beryllium waste and scrap
8112.19.00	Beryllium, articles nesoi
8112.29.00	Articles of chromium, nesoi
8112.51.00	Thallium, unwrought; thallium powders
8112.52.00	Thallium waste and scrap
8112.59.00	Articles of thallium, nesoi
8112.92.06	Waste and scrap of gallium, germanium, hafnium, indium, niobium, rhenium, or vanadium
8112.92.10	Gallium, unwrought; gallium powders
8112.92.20	Hafnium, unwrought; hafnium powders
8112.92.40	Niobium (columbium), unwrought; niobium powders
8112.92.50	Rhenium, unwrought; rhenium powders
8112.92.65	Germanium powder, wrought
8112.92.70	Vanadium, unwrought and powders
8112.99.10	Germanium nesoi and articles thereof
8112.99.20	Vanadium, nesoi, and articles thereof
8112.99.90	Articles of gallium, hafnium, indium, niobium or rhenium, nesoi
8113.00.00	Cermets (including waste & scrap) and articles thereof
8201.10.00	Spades and shovels and base metal parts thereof
8201.30.00	Mattocks, picks, hoes and rakes and base metal parts thereof
8201.40.30	Machetes, and base metal parts thereof
8201.40.60	Axes, bill hooks and similar hewing tools (o/than machetes), and base metal parts thereof
8201.50.00	One-handed secateurs, pruners and shears (including poultry shears), and base metal parts thereof
8201.60.00	Hedge shears, two-handed pruning shears and similar two-handed shears, and base metal parts thereof
8201.90.30	Grass shears, and base metal parts thereof
8201.90.40	Forks (hand tools) and base metal parts thereof
8201.90.60	Base metal hand tools of a kind used in agriculture, horticulture or forestry nesoi, and base metal parts thereof
8202.10.00	Hand saws, and base metal parts thereof (except blades)

HTS Subheading	Product Description
8202.20.00	Band saw blades
8202.31.00	Circular saw blades (including slitting or slotting saw blades), w/working part of steel
8202.39.00	Circular saw blades (including slitting or slotting saw blades), with working part of o/than steel, & base metal parts thereof
8202.40.30	Chain saw blades & base metal parts thereof, w/cutting parts cont. o/0.2% of Cr, Mo or W, or o/0.1% of V
8202.40.60	Chain saw blades and base metal parts thereof, nesoi
8202.91.30	Hacksaw blades for working metal
8202.91.60	Straight saw blades for working metal (o/than hacksaw blades), and base metal parts thereof
8202.99.00	Saw blades nesoi, and base metal parts thereof
8203.10.30	Files, rasps and similar tools, n/o 11 cm in length
8203.10.60	Files, rasps and similar tools, o/11 cm but n/o 17 cm in length
8203.10.90	Files, rasps and similar tools, o/17 cm in length
8203.20.20	Base metal tweezers
8203.20.40	Slip joint pliers
8203.20.60	Pliers (including cutting pliers but not slip joint pliers), pincers and similar tools
8203.20.80	Base metal parts of pliers (including cutting pliers), pincers, tweezers and similar tools
8203.30.00	Metal cutting shears and similar tools, and base metal parts thereof
8203.40.30	Pipe cutters, bolt cutters, perf. punches & similar tools, w/cutting parts o/0.2% Cr, Mo or W, or o/0.1% V & base metal pts.
8203.40.60	Pipe cutters, bolt cutters, perforating punches and similar tools, nesoi, and base metal parts thereof
8204.11.00	Hand-operated non-adjustable spanners and wrenches, and base metal parts thereof
8204.12.00	Hand-operated adjustable spanners and wrenches, and base metal parts thereof
8204.20.00	Socket wrenches, with or without handles, drives and extensions, and base metal parts thereof
8205.10.00	Drilling, threading or tapping tools, and base metal parts thereof
8205.20.30	Hammers and sledge hammers, with heads not over 1.5 kg each, and base metal parts thereof
8205.20.60	Hammers and sledge hammers, with heads over 1.5 kg each, and base metal parts thereof
8205.30.30	Planes, chisels, gouges etc. for working wood, over 0.2% chromium, molybdenum or tungsten, or over 0.1% vanadium, base metal parts thereof
8205.30.60	Planes, chisels, gouges and similar cutting tools for working wood, nesoi, and base metal parts thereof
8205.40.00	Screwdrivers and base metal parts thereof
8205.51.15	Carving and butcher steels, of iron or steel, with or without their handles
8205.51.30	Iron or steel household handtools (o/than carving & butcher steels), and base metal parts thereof
8205.51.45	Copper household handtools, and base metal parts thereof
8205.51.60	Aluminum household handtools, and base metal parts thereof
8205.51.75	Base metal, nesoi, household handtools, and base metal parts thereof
8205.59.10	Pipe tools and base metal parts thereof
8205.59.20	Powder-actuated hand tools and base metal parts thereof
8205.59.30	Crowbars, track tools and wedges, and base metal parts thereof
8205.59.45	Caulking guns of iron or steel, and base metal parts thereof
8205.59.55	Iron or steel handtools (o/ than household, o/than caulking guns) nesoi, and base metal parts thereof
8205.59.60	Copper handtools (o/than household) nesoi, and base metal parts thereof
8205.59.70	Aluminum handtools (o/than household) nesoi, and base metal parts thereof

HTS Subheading	Product Description
8205.59.80	Base metal, nesoi, handtools (o/than household), and base metal parts thereof
8205.60.00	Blow torches and similar self-contained torches, and base metal parts thereof
8205.70.00	Vises, clamps and the like, and base metal parts thereof
8205.90.10	Anvils, portable forges, hand- or pedal-operated grinding wheels with frameworks and base metal parts thereof
8205.90.60	Sets of articles (handtools and other specified tools) of two or more foregoing subheadings
8206.00.00	Tools of two or more of headings 8202 to 8205 put up in sets for retail sale
8207.13.00	Interchangeable tools for rock drilling or earth boring tools, w/working part of cermets
8207.19.30	Interchangeable tools for rock drilling or earth boring tools, w/cutting part o/0.2% Cr, Mo or W, or o/0.1% V by wt., & base metal parts
8207.19.60	Interchangeable tools for rock drilling or earth boring tools, w/working part neosi, and base metal parts thereof
8207.20.00	Interchangeable dies for drawing or extruding metal, and base metal parts thereof
8207.30.30	Interchangeable tools for pressing, stamping or punching, suitable for cutting metal, and base metal parts thereof
8207.30.60	Interchangeable tools for pressing, stamping or punching, not suitable for cutting metal, and base metal parts thereof
8207.40.30	Interchangeable tools for tapping or threading, w/cutting pts ov 0.2% by wt of Cr, Mo, W, or ov 0.1% V, & base metal pts thereof
8207.40.60	Interchangeable tools for tapping or threading, nesoi, and base metal parts thereof
8207.50.20	Interchangeable tools for drilling (o/than rock drilling) w/cutting part ov 0.2% Cr, Mo or W, or ov 0.1% V & base metal parts thereof
8207.50.40	Interchangeable tools for drilling (o/than rock drilling), nesoi, suitable for cutting metal, and base metal parts thereof
8207.50.60	Interchangeable tools for handtools, for drilling (o/than rock drilling), nesoi, n/suitable for cutting metal, & base metal parts thereof
8207.50.80	Interchangeable tools (o/than for handtools) for drilling (o/than rock drilling), nesoi, not suitable for cutting metal, & base metal parts
8207.60.00	Interchangeable tools for boring or broaching, and base metal parts thereof
8207.70.30	Interchangeable tools for milling, w/cutting part ov 0.2% by wt of Cr, Mo or W, or ov 0.1% by wt of V & base metal parts thereof
8207.70.60	Interchangeable tools for milling, nesoi, and base metal parts thereof
8207.80.30	Interchangeable tools for turning, w/cutting part ov 0.2% by wt of Cr, Mo or W, or ov 0.1% by wt of V & base metal parts thereof
8207.80.60	Interchangeable tools for turning, nesoi, and base metal parts thereof
8207.90.15	Interchangeable files and rasps, including rotary files and rasps, and base metal parts thereof
8207.90.30	Interchangeable cutting tools, nesoi, w/cutting part ov 0.2% by wt of Cr, Mo or W, or ov 0.1% by wt of V, and base metal parts thereof
8207.90.45	Interchangeable tools, nesoi, suitable for cutting metal, nesoi and base metal parts thereof
8207.90.60	Interchangeable tools for handtools, nesoi, not suitable for cutting metal, nesoi and base metal parts thereof
8207.90.75	Interchangeable tools (o/than for handtools) nesoi, not suitable for cutting metal, nesoi and base metal parts thereof
8208.10.00	Knives and cutting blades for metal working machines or mechanical appliances, and base metal parts thereof
8208.20.00	Knives and cutting blades for wood working machines or mechanical appliances, and base metal parts thereof
8208.30.00	Knives and cutting blades for kitchen appliances or for machines used by the food industry, and base metal parts thereof
8208.40.30	Lawnmower blades for agricultural, horticultural or forestry machines

HTS Subheading	Product Description
8208.40.60	Knives and cutting blades (o/than lawnmower blades) for agricultural, horticultural or forestry machines, and base metal parts thereof
8208.90.30	Knives and cutting blades for shoe machinery, and base metal parts thereof
8208.90.60	Knives and cutting blades, nesoi for machines or for mechanical appliances nesoi, and base metal parts thereof
8209.00.00	Cermet plates, sticks, tips and the like for tools, unmounted
8210.00.00	Hand-operated mechanical appliances weighing 10 kg or less, used in preparation, conditioning, serving food or drink & base metal pts
8211.93.00	Knives having other than fixed blades
8211.94.10	Base metal blades for knives having fixed blades
8211.94.50	Base metal blades for knives having other than fixed blades
8211.95.10	Base metal handles for table knives w/fixed blades
8211.95.50	Base metal handles for knives (o/than table knivies) w/fixed blades
8211.95.90	Base metal handles for knives having other than fixed blades
8215.20.00	Sets of assted. base metal spoons, forks, ladles, etc. & similar kitchen or tableware, w/no articles plated with precious metal
8215.99.05	Base metal forks, w/stainless steel handles cont. Ni or o/10% by wt of Mn, nesoi
8301.20.00	Base metal locks, of a kind used on motor vehicles
8302.10.60	Iron or steel, aluminum, or zinc hinges and base metal parts thereof, not designed for motor vehicles
8302.10.90	Base metal (o/than iron/steel/aluminum/zinc) hinges and base metal parts thereof
8302.20.00	Base metal castors and base metal parts thereof
8302.30.30	Iron or steel, aluminum or zinc mountings, fittings and similar articles nesoi, suitable for motor vehicles, and base metal parts thereof
8302.30.60	Base metal (o/than iron/steel/aluminum/zinc) mountings, fittings & similar articles, suitable for motor vehicles, & base metal pts thereof
8302.41.30	Base metal door closers (except automatic door closers) suitable for buildings, and base metal parts thereof
8302.41.60	Iron or steel, aluminum or zinc mountings, fittings & similar articles, nesoi, suitable for buildings, & base metal pts thereof
8302.41.90	Base metal (o/than iron/steel/aluminum/zinc) mountings, fittings and similar arts, nesoi, suitable for buildings & base metal parts thereof
8302.49.20	Base metal harness, saddlery or riding-bridle hardware coated or plated w/prec. metal, and base metal parts thereof
8302.49.40	Base metal harness, saddlery or riding-bridle hardware, not coated or plated w/prec. metal, and base metal parts thereof
8302.49.60	Iron or steel, aluminum, or zinc, mountings, fittings & similar articles nesoi, and base metal parts thereof
8302.49.80	Base metal (o/than iron/steel/aluminum/zinc) mountings, fittings & similar articles nesoi, and base metal parts thereof
8302.50.00	Base metal hat-racks, hat pegs, brackets and similar fixtures, and base metal parts thereof
8302.60.30	Base metal automatic door closers
8302.60.90	Base metal parts of automatic door closers
8303.00.00	Base metal armored or reinforced safes/strong-boxes & doors & safe deposit lockers for strong rooms/cash & deed boxes etc., & base metal pts
8306.30.00	Base metal photograph, picture or similar frames; base metal mirrors; base metal parts thereof
8307.10.30	Iron or steel flexible tubing, with fittings
8307.10.60	Iron or steel flexible tubing, without fittings
8307.90.30	Base metal (o/than iron or steel) flexible tubing, with fittings

HTS Subheading	Product Description
8307.90.60	Base metal (o/than iron or steel) flexible tubing, without fittings
8308.10.00	Base metal hooks, eyes, and eyelets, of a kind used for clothing, footwear, awnings, handbags, travel goods, or other made up articles
8308.20.30	Iron or steel bifurcated rivets, not brightened, not lathed and not machined
8308.20.60	Base metal tubular or bifurcated rivets (o/than of iron or steel)
8308.90.30	Base metal beads and spangles
8308.90.60	Base metal buckles and buckle clasps, and base metal parts thereof
8308.90.90	Base metal clasps, frames with clasps not incorporating a lock, and like articles, and base metal parts thereof
8309.10.00	Base metal crown corks (including crown seals and caps), and base metal parts thereof
8309.90.00	Base metal stoppers, caps and lids (o/than crown corks), threaded bungs, bung covers, seals, other packing accessories and parts
8310.00.00	Base metal sign plates, name plates, address plates, numbers, letters and other symbols (o/than of 9405), and base metal parts thereof
8311.10.00	Coated base metal electrodes for electric arc-welding
8311.20.00	Base metal cored wire for electric arc-welding
8311.30.30	Coated rod or cored wire lead-tin solders
8311.30.60	Coated rods and cored wire of base metal (o/than lead-tin solders), for soldering, brazing or welding by flame
8311.90.00	Wire & rods of agglom. base metal powder for metal spray.; metal carbide wire, rods, tubes, electrodes, coated/cored w/flux, for welding etc
8404.10.00	Auxiliary plant for use with boilers of heading 8402 or 8403
8406.81.10	Steam turbines other than for marine propulsion, of an output exceeding 40 MW
8406.90.20	Parts of steam turbines, rotors, finished for final assembly
8406.90.30	Parts of steam turbines, rotors, not further worked than cleaned or machined for removal of fins, etc., or certain other working
8406.90.40	Parts of steam turbines, blades, rotating or stationary
8406.90.45	Parts of steam turbines, other
8406.90.50	Parts of vapor turbines other than steam turbines, rotors, finished for final assembly
8406.90.60	Parts of vapor turbines other than steam turbines, rotors, not further worked than cleaned or machined for removal of fins, etc., or other
8406.90.70	Parts of vapor turbines other than steam turbines, blades, rotating or stationary
8406.90.75	Parts of vapor turbines other than steam turbines, other
8407.31.00	Spark-ignition reciprocating piston engines used for propulsion of vehicles of chapter 87, of a cylinder capacity not exceeding 50cc
8407.32.10	Spark-ignition reciprocating piston engines used in tractors suitable for agricultural use, of a cylinder capacity over 50cc but n/o 250cc
8407.32.20	Spark-ignition reciprocating piston engines used in vehicles of heading 8701.20, 8702-8704, cylinder capacity over 50cc but n/o 250cc
8407.32.90	Spark-ignition reciprocating piston engines used for vehicles, of chap. 87 nesi, of a cylinder capacity over 50 but not over 250cc
8407.33.10	Spark-ignition reciprocating piston engines used in tractors for agricultural use, of a cylinder capacity over 250cc but not over 1000cc
8407.33.30	Spark-ignition reciprocating piston engines, for certain spec. veh. of 8701.20, 8702, 8703 or 8704, cylinder cap. > 250 cc > or = 1, 000 cc
8407.33.60	Spark-ignition reciprocating piston engines, for other veh. of 8701.20, 8702, 8703 or 8704, cylinder cap. > 250 cc > or = 1, 000 cc, nesi

HTS Subheading	Product Description
8407.33.90	Spark-ignition reciprocating piston engines for vehicles of chap. 87 nesi, of a cylinder capacity over 250cc but not over 1000cc
8407.34.14	Spark-ignition reciprocating piston engines for vehicles of 8701.20 or 8702-8704, cylinder cap. over 1000 cc to 2000 cc, used or rebuilt
8407.34.18	Spark-ignition reciprocating piston engines for vehicles of 8701.20 or 8702-8704, cylinder cap. over 1000 cc to 2000 cc, new
8407.34.25	Spark-ignition reciprocating piston engines for other vehicles of chap. 87, of a cylinder capacity over 1000 cc to 2000 cc
8407.34.44	Spark-ignition reciprocating piston engines for vehicles of 8701.20 or 8702-8704, cylinder capacity over 2000 cc, used or rebuilt
8407.34.48	Spark-ignition reciprocating piston engines for vehicles of 8701.20 or 8702-8704, cylinder capacity over 2000 cc, new
8407.34.55	Spark-ignition reciprocating piston engines for other vehicles of chap. 87 nesi, of a cylinder capacity exceeding 2000 cc
8408.20.20	Compression-ignition internal-combustion piston engines to be installed in vehicles of heading 8701.20, 8702, 8703, or 8704
8408.20.90	Compression-ignition internal-combustion piston engines used for propulsion of vehicles of chapter 87, nesi
8409.91.10	Cast-iron parts used solely or principally with spark-ignition internal-combustion piston engines of heading 8407
8409.91.30	Aluminum cylinder heads for spark-ignition internal combustion piston engines for vehicles of 8701.20 or 8702-8704
8409.91.50	Parts nesi, used solely or principally with spark-ignition internal-combustion piston engines for vehicles of head 8701.20, 8702-8704
8409.91.92	Parts nesi, used solely or principally with spark-ignition internal-combustion piston engines for marine propulsion
8409.91.99	Parts nesi, used solely or principally with spark-ignition internal-combustion piston engines of heading 8407, nesi
8409.99.10	Cast iron parts not advanced beyond cleaning & machined only for removal of fins, gates, etc. or to permit location in machinery
8409.99.91	Parts nesi, used solely or principally with the engines of heading 8408, for vehicles of heading 8701.20, 8702, 8703, 8704
8409.99.92	Parts nesi, used solely or principally with compression-ignition internal-combustion piston engines for marine propulsion
8409.99.99	Parts nesi, used solely or principally with compression-ignition internal-combustion piston engines of heading 8407 or 8408, nesi
8412.90.90	Parts for engines of heading 8412 other than hydrojet engines for marine propulsion
8413.11.00	Pumps fitted or designed to be fitted with a measuring device, used for dispensing fuel or lubricants, of the type used in filling-stations
8413.20.00	Hand pumps other than those of subheading 8413.11 or 8413.19, not fitted with a measuring device
8413.30.10	Fuel-injection pumps for compression-ignition engines, not fitted with a measuring device
8413.30.90	Fuel, lubricating or cooling medium pumps for internal-combustion piston engines, not fitted with a measuring device, nesi
8413.92.00	Parts of liquid elevators
8414.10.00	Vacuum pumps
8414.20.00	Hand-operated or foot-operated air pumps
8414.40.00	Air compressors mounted on a wheeled chassis for towing
8414.59.10	Blowers for pipe organs
8414.59.15	Fans used for cooling microprocessors, telecommunications equipment, or computers

HTS Subheading	Product Description
8414.59.65	Other fans, nesi
8414.60.00	Ventilating or recycling hoods incorporating a fan, having a maximum horizontal side not exceeding 120 cm
8414.80.16	Air compressors, nesoi
8414.80.90	Air or gas pumps, compressors and fans, nesi
8414.90.10	Parts of fans (including blowers) and ventilating or recycling hoods
8415.10.30	Window or wall type air conditioning machines, self-contained
8415.10.60	Window or wall type air conditioning machines, "split-system", incorporating a refrigerating unit & valve for reversal of cooling/heat cycle
8415.10.90	Window or wall type air conditioning machines, "split-system", nesoi
8415.20.00	Air conditioning machines of a kind used for persons, in motor vehicles
8415.81.01	Air conditioning machines incorporating a refrigerating unit and valve for reversal of cooling/heat cycle, nesoi
8415.82.01	Air conditioning machines incorporating a refrigerating unit, nesoi
8415.83.00	Air conditioning machines not incorporating a refrigerating unit
8416.30.00	Mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors, electric or other
8418.21.00	Refrigerators, household compression-type, electric or other, other than those of subheading 8418.10
8418.29.10	Refrigerators, household absorption-type, electrical, other than those of subheading 8418.10
8418.29.20	Refrigerators, household type, electric or other, other than those of subheading 8418.10, nesi
8418.30.00	Freezers of the chest type, not exceeding 800 liters capacity, electric or other
8418.40.00	Freezers of the upright type, not exceeding 900 liters capacity, electric or other
8418.50.00	Refrigerating or freezing display counters, cabinets, showcases and similar refrigerating or freezing furniture
8418.61.01	Heat pumps, other than the air-conditioning machines of heading 8415
8418.91.00	Furniture designed to receive refrigerating or freezing equipment
8418.99.40	Certain door assemblies for refrigerators, freezers and other refrigerating or freezing equipment
8418.99.80	Parts for refrigerators, freezers and other refrigerating or freezing equipment, electric or other, nesi; parts for heat pumps, nesi
8421.11.00	Cream separators
8421.23.00	Oil or fuel filters for internal combustion engines
8421.31.00	Intake air filters for internal combustion engines
8422.90.04	Door assemblies for the dishwashing machines of subheading 8422.11
8423.81.00	Weighing machinery having a maximum weighing capacity not exceeding 30 kg
8424.20.10	Simple piston pump sprays and powder bellows
8424.20.90	Spray guns and similar appliances other than simple piston pump sprays and powder bellows
8424.30.10	Sand blasting machines
8424.30.90	Steam blasting machines and similar jet projecting machines, other than sand blasting machines; nesi
8424.41.10	Portable sprayers excl self-contained sprayers having a capacity >=20 liters)
8424.41.90	Portable sprayers self-contained having a capacity >=20 liters
8424.49.00	Sprayers, not portable, nesoi
8424.90.90	Parts of mechanical appliances for projecting, dispersing or spraying liquids or powders, fire extinguishers and similar machines, nesi

HTS Subheading	Product Description
8425.19.00	Pulley tackle and hoists other than skip hoists or hoists used for raising vehicles, not powered by electric motor
8425.31.01	Winches nesi, and capstans, powered by electric motor
8425.41.00	Built-in jacking systems of a type used in garages
8425.42.00	Hydraulic jacks and hoists, nesi
8425.49.00	Jacks and hoists of a kind used for raising vehicles, other than hydraulic, nesi
8426.30.00	Portal or pedestal jib cranes
8426.91.00	Derricks, cranes and other lifting machinery nesi, designed for mounting on road vehicles
8427.90.00	Trucks, fitted with lifting or handling equipment, nesi
8428.40.00	Escalators and moving walkways
8430.49.40	Offshore oil and natural gas drilling and production platforms
8430.50.10	Self-propelled peat excavators
8432.41.00	Manure spreaders
8433.90.10	Parts of mowers for lawns, parks or sports grounds
8441.10.00	Cutting machines of all kinds used for making up paper pulp, paper or paperboard
8442.50.10	Printing plates
8443.15.00	Letterpress printing machinery, excluding flexographic printing, other than reel-fed
8443.16.00	Flexographic printing machinery
8443.39.20	Electrostatic photocopying apparatus, operating by reproducing the original image via an intermediate onto the copy (indirect process)
8443.39.30	Photocopying apparatus, other than electrostatic, incorporating an optical system
8443.39.40	Photocopying apparatus, other than electrostatic, of the contact type
8443.39.50	Thermocopying apparatus
8443.99.10	Accessory & auxiliary machines intended for attachment to an electrostatic photocopier & which do not operate independent of such copier
8443.99.30	Parts of facsimile machines specified in additional U.S. note 3 to this chapter
8443.99.35	Parts and accessories of facsimile machines, nesoi
8446.30.50	Shuttleless type weaving machines (looms), for weaving fabrics of a width exceeding 30 cm, nesi
8448.51.20	Spring-beard needles for knitting machines
8451.10.00	Dry-cleaning machines
8451.21.00	Drying machines, each of a dry linen capacity not exceeding 10 kg
8451.29.00	Drying machines for yarns, fabrics or made up textile articles, each of a dry linen capacity exceeding 10 kg
8451.30.00	Ironing machines and presses (including fusing presses) for textile fabrics or made up textile articles
8451.40.00	Washing, bleaching or dyeing machines for textile yarns, fabrics or made up textile articles
8451.50.00	Machines for reeling, unreeling, folding, cutting or pinking textile fabrics
8451.80.00	Machinery for the handling of textile yarns, fabrics or made up textile articles, nesi
8451.90.30	Drying chambers for the drying machines of subheading 8451.21 or 8451.29, and other parts of drying machines incorporating drying chambers
8451.90.60	Furniture designed to receive the drying machines of subheading 8451.21 or 8451.29
8451.90.90	Parts of machines for the handling of textile yarns, fabrics or made up textile articles, nesi
8452.29.90	Sewing machines, other than automatic, nesi
8454.20.00	Ingot molds and ladles, of a kind used in metallurgy or in metal foundries
8459.29.00	Drilling machines, other than numerically controlled, nesi

HTS Subheading	Product Description
8459.59.00	Milling machines, knee type, other than numerically controlled, nesi
8460.39.00	Sharpening (tool or cutter grinding) machines for working metal or cermets, other than numerically controlled
8461.50.80	Sawing or cutting-off machines for working by removing metal or cermets, other than numerically controlled
8465.20.10	Machine centers for sawing, planing, milling, molding, grinding, sanding, polishing, drilling or mortising
8465.20.50	Machine centers for bending or assembling
8465.20.80	Machine centers, nesoi
8465.91.00	Sawing machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8466.91.10	Cast iron parts not advanced beyond cleaning and specifically machined, for machines of heading 8464
8466.93.15	Certain specified cast-iron parts not advanced beyond cleaning and specifically machined, for metalworking machine tools for cutting, etc.
8467.19.50	Tools for working in the hand, pneumatic, other than rotary type, other than suitable for metal working
8467.99.01	Parts of tools for working in the hand, hydraulic or with self-contained nonelectric or electric motor, other than chain saws
8468.20.10	Gas-operated machinery, apparatus and appliances, hand-directed or -controlled, used for soldering, brazing, welding or tempering, nesi
8468.80.10	Machinery and apparatus, hand-directed or -controlled, used for soldering, brazing or welding, not gas-operated
8468.90.10	Parts of hand-directed or -controlled machinery, apparatus and appliances used for soldering, brazing, welding or tempering
8468.90.50	Parts for machinery, apparatus or appliances, not hand-directed or -controlled, used for soldering, brazing, welding or tempering
8470.10.00	Electronic calculator operate w/o external electric power & pocket-size data recording/reproducing/displaying machine w/calculating function
8470.21.00	Electronic calculating machines, incorporating a printing device, nesi
8470.29.00	Electronic calculating machines, not incorporating a printing device, nesi
8470.30.00	Calculating machines nesi, other than electronic
8470.90.01	Postage-franking, ticket-issuing and similar machines nesi, incorporating a calculating device; accounting machines
8471.50.01	Processing units other than those of subheading 8471.41 and 8471.49, nesoi
8471.60.10	Combined input/output units for automatic data processing machines not entered with the rest of a system
8471.60.70	Input or output units suitable for physical incorporation into ADP machine or unit thereof,nesoi, not entered with the rest of a system
8471.60.90	Other input or output units of digital ADP machines, nesoi, not entered with the rest of a system
8471.70.10	ADP magnetic disk drive storage units, disk dia. ov 21 cm,w/o read-write unit; read-write units; all not entered with the rest of a system
8471.70.20	ADP magnetic disk drive storage units, disk dia. ov 21 cm: for incorp. into ADP machines or units, not entered with the rest of a system
8471.70.50	ADP magnetic disk drive storage units, disk dia. n/ov 21 cm, nesoi, not entered with the rest of a system
8471.80.10	Control or adapter units for automatic data processing machines not entered with rest of a system
8471.80.40	Unit suitable for physical incorporation into automatic data processing machine or unit thereof,not entered with the rest of a system, nesoi
8471.80.90	Other units of automatic data processing machines, not entered with the rest of a system, nesoi
8471.90.00	Magnetic or optical readers, nesoi; machines for transcribing data on data media in coded form and machines for processing such data, nesoi
8472.10.00	Hectographic or stencil duplicating machines
8472.30.00	Machines for sorting, folding, opening, closing or sealing mail, and postage stamp affixing or canceling machines

HTS Subheading	Product Description
8472.90.05	Addressing machines and address plate embossing machines
8472.90.10	Automatic teller machines
8472.90.60	Numbering, dating and check-writing machines
8472.90.90	Other office machines, nesoi
8473.21.00	Parts and accessories of the electronic calculating machines of subheading 8470.10, 8470.21 or 8470.29
8473.29.00	Parts and accessories of machines of heading 8470, nesi
8473.30.11	Printed circuit assemblies, not incorporating a cathode ray tube, of the machines of 8471
8473.30.51	Parts and accessories of the ADP machines of heading 8471, not incorporating a CRT, nesi
8473.30.91	Parts and accessories of the ADP machines of heading 8471, incorporating a CRT, nesi
8473.40.21	Printed circuit assemblies of word processing machines of 8472.90.50
8473.40.41	Other parts and accessories of the machines of 8472.90.50
8476.21.00	Automatic beverage-vending machines incorporating heating or refrigerating devices
8476.29.00	Automatic beverage-vending machines other than machines that incorporate heating or refrigerating devices
8476.81.00	Automatic goods-vending machines (other than beverage-vending) incorporating heating or refrigerating devices
8476.90.00	Parts for automatic goods-vending and money-changing machines
8477.59.01	Machinery for molding or otherwise forming rubber or plastics other than for molding or retreading pneumatic tires, nesoi
8479.60.00	Evaporative air coolers
8479.71.00	Passenger boarding bridges of a kind used in airports
8479.89.10	Air humidifiers or dehumidifiers with self-contained electric motor, other than for domestic purposes
8479.89.20	Floor polishers with self-contained electric motor, other than for domestic purposes
8479.89.70	Carpet sweepers, not electromechanical having self-contained electric motor
8479.89.94	Other machines and mechanical appliances having individual functions, not specified or included elsewhere in chapter 84, nesoi
8480.10.00	Molding boxes for metal foundry
8480.79.10	Molds for rubber or plastics, other than injection or compression types, for shoe machinery
8480.79.90	Molds for rubber or plastics, other than injection or compression types, other than for shoe machinery
8481.30.10	Check valves of copper for pipes, boiler shells, tanks, vats or the like
8481.80.10	Taps, cocks, valves & similar appliances for pipes, boiler shells, tanks, vats or the like, hand operated, of copper, nesi
8481.80.30	Taps, cocks, valves & similar appliances for pipes, boiler shells, tanks, vats or the like, hand operated, of iron or steel, nesi
8481.80.50	Taps, cocks, valves & similar appliances for pipes, boiler shells, tanks, vats or the like, hand operated, not copper, iron or steel, nesi
8481.80.90	Taps, cocks, valves & similar appliances for pipes, boiler shells, tanks, vats or the like, other than hand operated, nesi
8482.10.10	Ball bearings with integral shafts
8483.10.10	Camshafts and crankshafts for use solely or principally with spark-ignition internal-combustion piston or rotary engines
8483.10.30	Camshafts and crankshafts nesi
8483.10.50	Transmission shafts and cranks other than camshafts and crankshafts
8483.20.40	Housed bearings of the flange, take-up, cartridge and hanger unit type (incorporating ball or roller bearings)
8483.20.80	Housed bearings (incorporating ball or roller bearings), nesi

HTS Subheading	Product Description
8483.40.50	Fixed, multiple and variable ratio speed changers, not imported for use with machines for making cellulosic pulp, paper or paperboard
8483.40.70	Speed changers other than fixed, multiple and variable ratio speed changers
8483.50.40	Gray-iron awning or tackle pulleys, not over 6.4 cm in wheel diameter
8483.60.80	Shaft couplings (other than universal joints)
8483.90.50	Parts of gearing, gear boxes and other speed changers
8501.40.20	AC motors nesi, single-phase, exceeding 37.5 W but not exceeding 74.6 W
8501.40.40	AC motors, nesi, single-phase, exceeding 74.6 W but not exceeding 735 W
8501.40.50	AC motors, nesi, single-phase, exceeding 735 W but under 746 W
8501.40.60	AC motors nesi, single-phase, of 746 W or more
8501.61.00	AC generators (alternators) of an output not exceeding 75 kVA
8502.20.00	Electric generating sets with spark-ignition internal-combustion piston engines
8504.31.20	Unrated electrical transformers other than liquid dielectric, having a power handling capacity not exceeding 1 kVA
8504.31.40	Electrical transformers other than liquid dielectric, having a power handling capacity less than 1 kVA
8504.31.60	Electrical transformers other than liquid dielectric, having a power handling capacity of l kVA
8504.40.60	Power supplies suitable for physical incorporation into automatic data processing machines or units thereof of heading 8471
8504.40.70	Power supplies for automatic data processing machines or units thereof of heading 8471, nesoi
8504.40.85	Static converters (for example, rectifiers) for telecommunication apparatus
8504.40.95	Static converters (for example, rectifiers), nesoi
8504.50.40	Other inductors for power supplies for ADP machines and units of heading 8471 or for telecommunication apparatus
8504.50.80	Other inductors, nesoi
8504.90.20	Printed circuit assemblies of power supplies for automatic data processing machines or units thereof of heading 8471
8505.19.20	Composite goods containing flexible permanent magnets, other than of metal
8505.19.30	Permanent magnets and articles intended to become permanent magnets after magnetization, other than of metal, nesoi
8506.10.00	Manganese dioxide primary cells and primary batteries
8506.30.10	Mercuric oxide primary cells and primary batteries having an external volume not exceeding 300 cubic cm
8506.30.50	Mercuric oxide primary cells and primary batteries having an external volume exceeding 300 cubic cm
8506.80.00	Primary cells and primary batteries, nesoi
8507.10.00	Lead-acid storage batteries of a kind used for starting piston engines
8507.20.40	Lead-acid storage batteries of a kind used as the primary source of electrical power for electrically powered vehicles of 8703.90
8507.20.80	Lead-acid storage batteries other than of a kind used for starting piston engines or as the primary source of power for electric vehicles
8507.30.40	Nickel-cadmium storage batteries, of a kind used as the primary source of electrical power for electrically powered vehicles of 8703.90
8507.40.40	Nickel-iron storage batteries, of a kind used as the primary source of electrical power for electrically powered vehicles of 8703.90
8507.40.80	Nickel-iron storage batteries, other than of a kind used as the primary source of power for electric vehicles
8507.50.00	Nickel-metal hydride batteries

HTS Subheading	Product Description
8508.11.00	Vacuum cleaners with self-contained electric motor, of a power not exceeding 1,500 W and having a dust bag or other receptacle capacity not
8508.19.00	Vacuum cleaners with self-contained electric motor, other than of a power not exceeding 1,500 W and having a dust bag or other receptacle ca
8508.60.00	Vacuum cleaners with other than a self-contained electric motor
8508.70.00	Parts of vacuum cleaners
8509.80.20	Electromechanical kitchen waste disposers (disposals), with self-contained electric motor, for domestic uses
8509.90.25	Parts of electromechanical domestic floor polishers, housings
8509.90.35	Parts of electromechanical domestic floor polishers, other than housings
8509.90.45	Parts of electromechanical domestic appliances nesi, housings
8509.90.55	Parts of electromechanical domestic appliances nesi, other than housings
8510.20.10	Hair clippers to be used for agricultural or horticultual purposes, with self-contained electric motor
8510.20.90	Hair clippers other than to be used for agricultural or horticultural purposes, with self-contained electric motor
8510.90.10	Blades and cutting heads of shavers with self-contained electric motor
8510.90.20	Parts of shavers with self-contained electric motor, other than blades and cutting heads
8510.90.30	Parts of hair clippers with self-contained electric motor
8510.90.40	Parts of hair clippers, nesoi, with self-contained electric motor
8510.90.55	Parts of hair-removing appliances of subheading 8510.30
8511.10.00	Spark plugs
8511.20.00	Ignition magnetos, magneto-dynamos and magnetic flywheels
8511.30.00	Distributors and ignition coils
8511.40.00	Starter motors and dual purpose starter-generators
8511.50.00	Generators nesi, of a kind used in conjunction with spark-ignition or compression-ignition internal-combustion engines
8511.80.60	Electrical ignition or starting equipment of a kind used for spark-ignition internal-combustion or compression-ignition engines, nesi
8511.90.60	Parts nesi of electrical ignition or starting equipment or generators used for spark- or compression-ignition internal-combustion engines
8512.20.20	Electrical lighting equipment of a kind used for motor vehicles or cycles other than bicycles
8512.20.40	Electrical visual signaling equipment of a kind used for motor vehicles or cycles other than bicycles
8512.30.00	Electrical sound signaling equipment of a kind used for cycles or motor vehicles
8512.40.20	Defrosters and demisters of a kind used for cycles or motor vehicles
8512.40.40	Windshield wipers of a kind used for cycles or motor vehicles
8512.90.20	Parts of electrical signaling equipment of a kind used for cycles or motor vehicles
8512.90.40	Parts of electrical lighting equipment of a kind used on bicycles
8512.90.60	Parts of electrical lighting equipment of a kind used for motor vehicles or cycles other than bicycles
8512.90.70	Parts of defrosters and demisters of a kind used for cycles or motor vehicles
8512.90.90	Parts of windshield wipers of a kind used for motor vehicles or cycles
8513.90.20	Parts of flashlights
8513.90.40	Parts of portable electric lamps designed to function by their own source of energy, other than flashlights
8514.20.40	Industrial or laboratory microwave ovens for making hot drinks or for cooking or heating food
8514.90.40	Parts of industrial or laboratory microwaves
8516.21.00	Electric storage heating radiators

HTS Subheading	Product Description
8516.29.00	Electric space heating apparatus and electric soil heating apparatus, other than storage heating radiators
8516.60.40	Electrothermic cooking stoves, ranges and ovens (excluding microwave ovens) of a kind used for domestic purposes
8516.80.40	Electric heating resistors assembled only with simple insulated former and electrical connectors, used for anti-icing or de-icing
8516.80.80	Electric heating resistors, nesi
8516.90.05	Parts of electric heaters or heating apparatus of subheading 8516.10, 8516.21 or 8516.29
8516.90.15	Housings for hand-drying apparatus of subheading 8516.33
8516.90.25	Housings and steel bases for electric flat irons of subheading 8516.40
8516.90.35	Parts of domestic microwave ovens, assemblies, having more than one of: cooking chamber; structural supporting chassis; door; outer case
8516.90.45	Parts of domestic microwave ovens, printed circuit assemblies
8516.90.50	Parts of domestic microwave ovens, other nesi
8516.90.55	Parts of domestic electrothermic cooking stoves, ranges and ovens of subheading 8516.60.40, cooking chambers whether or not assembled
8516.90.65	Parts of domestic electrothermic cooking stoves, ranges and ovens of subheading 8516.60.40, top surface panels w/orw/o elements or controls
8516.90.75	Parts of domestic electrothermic cooking stoves, ranges and ovens of subheading 8516.60.40, door assemblies
8516.90.80	Parts of domestic electrothermic cooking stoves, ranges and ovens of subheading 8516.60.40, other nesi
8516.90.85	Housings for domestic electrothermic toasters
8516.90.90	Parts of electric instantaneous or storage water heaters and immersion heaters and other domestic electrothermic appliance, nesi
8517.69.00	Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless n
8518.10.40	Microphones having a frequency range of 300Hz-3.4kHz with diameter not over 10 mm and height not over 3 mm, for telecommunication
8518.40.10	Audio-frequency electric amplifiers for use as repeaters in line telephony
8518.40.20	Audio-frequency electric amplifiers, other than for use as repeaters in line telephony
8518.50.00	Electric sound amplifier sets
8518.90.20	Printed circuit assemblies of line telephone handsets; parts of repeaters
8518.90.41	Other parts of telephone handsets other than printed circuit assemblies
8518.90.60	Printed circuit assemblies of the microphones of subheading 8518.10.40 or the loudspeakers of subheading 8518.29.40
8518.90.81	Other parts of microphones & stands, loudspeakers, headphones & earphones nesi, electric amplifiers, & electric sound amplifier sets, nesoi
8519.81.30	Sound reproducing apparatus nesi, not incorporating a sound recording device
8522.10.00	Pick-up cartridges for use with apparatus of heading 8519 to 8521
8522.90.25	Assemblies & subassemblies of articles of 8520.90, consisting of 2 or more pieces fastened together, printed circuit assemblies
8522.90.36	Other assemblies & subassemblies of articles of 8520.90, consisting of 2 or more pieces fastened together, other than printed circuit assemblies
8522.90.45	Other parts of telephone answering machines, printed circuit assemblies
8522.90.58	Other parts of telephone answering machines, other than printed circuit assemblies
8522.90.65	Parts and accessories of apparatus of headings 8519 to 8521, nesi, printed circuit assemblies
8522.90.80	Parts and accessories of apparatus of headings 8519 to 8521, nesi, other than printed circuit assemblies

HTS Subheading	Product Description
8523.21.00	Cards incorporating a magnetic stripe
8523.49.40	Recorded optical media,for reproducing representations of instructions, data, sound, & image, recorded machine readable binary form, for ADP
8523.52.00	Semiconductor media, "smart cards"
8523.59.00	Semiconductor media, nesoi
8525.50.30	Transmission apparatus for television, nesoi
8525.80.30	Television cameras, nesi
8525.80.50	Television cameras, digital cameras and video camera recorders, NESOI
8527.21.15	Radio-tape player combinations capable of receiving & decoding digital radio signals
8527.21.25	Other radio-tape player combinations
8527.21.40	Radiobroadcast receivers not operable w/o external power source, for motor veh., combined with sound recording/reproducing apparatus, nesi
8527.29.40	Radiobroadcast receivers, not operating w/o external power, for motor vehicles, w/o sound recording or reproducing apparatus, FM or AM/FM
8527.29.80	Radiobroadcast receivers, not operating w/o external power, for motor vehicles, w/o sound recording or reproducing apparatus, other
8528.42.00	Cathode-ray tube monitors capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471
8528.49.15	Non-high definition color video monitors, nonprojection type, w/CRT, video display diagonal not over 34.29 cm, incorporating VCR or player
8528.49.20	Non-high definition color video monitors, nonprojection, w/CRT, video display diag. ov 34.29 cm but n/ov 35.56 cm, incorp. VCR or player
8528.49.35	Non-high definition color video monitors, nonprojection type, w/CRT, video display diagonal over 35.56 cm, incorporating VCR or player
8528.49.45	Non-high definition color video monitors, projection type, with cathode-ray tube, incorporating VCR or player
8528.49.60	High definition color video monitors, nonprojection type, with cathode-ray tube, incorporating VCR or player
8528.49.80	Black and white or other monochrome video monitors, with cathode-ray tube
8528.59.05	Incomplete or unfinished color video monitors, w/o cathode-ray tube, flat panel screen or similar display device, incorp. VCR or player
8528.59.10	Incomplete or unfinished color video monitors, w/o cathode-ray tube, flat panel screen or similar display device, not incorp. VCR or player
8528.69.05	Incomplete or unfinished color video projectors, w/o cathode-ray tube, flat panel screen or similar display device, incorp. VCR or player
8528.69.10	Incomplete or unfinished color video projectors, w/o cathode-ray tube, flat panel screen or similar display, not incorp. VCR or player
8528.69.20	Non-high definition color video projectors, with a cathode-ray tube, not incorporating VCR or player
8528.69.30	High definition color video projectors, with a cathode-ray tube, not incorporating VCR or player
8528.72.04	Incomplete or unfinished color tv reception apparatus, presented w/o a display device, incorp. VCR or player
8528.72.12	Non-high definition color television reception apparatus, nonprojection, w/CRT, video display diag. not ov 34.29 cm, incorp. a VCR or player
8528.72.20	Non-high def. color television reception app., nonprojection, w/CRT, video display diag. not ov 34.29 cm, not incorporating VCR or player
8528.72.24	Non-high def. color television reception app., nonprojection, w/CRT, display diag. ov 34.29 cm but n/ov 35.56 cm, n/incorp. VCR or player
8528.72.28	Non-high definition color television reception app., nonprojection, w/CRT, video display diag. ov 35.56 cm, incorporating a VCR or player
8528.72.36	Non-high definition color television reception apparatus, projection type, with a cathode-ray tube, incorporating a VCR or player

HTS Subheading	Product Description
8528.72.40	Non-high definition color television reception apparatus, projection type, with a cathode-ray tube, not incorporating a VCR or player
8528.72.44	High definition color television reception apparatus, nonprojection, with cathode-ray tube, incorporating a VCR or player
8528.73.00	Black and white or other monochrome television reception apparatus
8529.10.21	Television antennas and antenna reflectors, and parts suitable for use therewith
8529.90.04	Tuners (printed circuit assemblies)
8529.90.36	Subassies w/2 or more PCBs or ceramic substrates, as spec'd in add. US note 9 ch. 85, for color TV, not w/components in add. US note 4, ch. 85
8529.90.39	Parts of television receivers specified in U.S. note 9 to chapter 85, other than printed circuit assemblies, nesi
8529.90.43	PCBs and ceramic substrates and subassemblies thereof for color TV, w/components listed in add. U.S. note 4, chap. 85
8529.90.49	Combinations of parts of television receivers specified in U.S. note 10 to chapter 85, other than printed circuit assemblies, nesi
8529.90.54	Flat panel screen assemblies for TV reception apparatus, color video monitors and video projectors
8529.90.75	Parts of printed circuit assemblies (including face plates and lock latches) for other apparatus of headings 8525 to 8528, nesi
8529.90.86	Parts suitable for use solely or principally with the apparatus of 8525 and 8527 (except television apparatus or cellular phones), nesi
8529.90.88	Subassies w/2 or more PCBs or ceramic substrates, exc. tuners or converg. ass'ies, for color TV, w/components in add. US note 4, ch. 85
8531.10.00	Electric burglar or fire alarms and similar apparatus
8531.20.00	Indicator panels incorporating liquid crystal devices (LCD's) or light emitting diodes (LED's)
8531.90.15	Printed circuit assemblies of the panels of subheading 8531.20
8531.90.30	Printed circuit assemblies of electric sound or visual signaling apparatus, nesoi
8531.90.75	Parts of the panels of subheading 8531.20, other than printed circuit assemblies
8531.90.90	Parts of electric sound or visual signaling apparatus, nesoi
8533.39.00	Electrical wirewound variable resistors, including rheostats and potentiometers, for a power handling capacity exceeding 20 W
8534.00.00	Printed circuits, without elements (other than connecting elements) fitted thereon
8535.40.00	Lightning arrestors, voltage limiters and surge suppressors, for a voltage exceeding 1,000 V
8536.61.00	Lampholders for a voltage not exceeding 1,000 V
8536.69.80	Plugs and sockets for making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8537.10.91	Other boards, panels, consoles, desks, cabinets, etc., equipped with apparatus for electric control, for a voltage not exceeding 1,000, nesi
8538.90.10	Printed circuit assemblies of an article of heading 8537 for one of the articles described in additional U.S. note 12 to chapter 85
8538.90.30	Printed circuit assemblies, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537, nesoi
8539.10.00	Sealed beam lamp units
8539.21.20	Tungsten halogen electrical filament lamps, designed for a voltage not exceeding 100 V
8539.21.40	Tungsten halogen electrical filament lamps, designed for a voltage exceeding 100 V
8539.31.00	Fluorescent, hot cathode discharge lamps, other than untraviolet lamps
8539.32.00	Mercury or sodium vapor discharge lamps or metal halide discharge lamps (other than ultraviolet lamps)
8539.39.10	CCFLS for backlighting of flat planel displays

HTS Subheading	Product Description
8539.39.90	Other electrical discharge lamps, other than fluorescent (hot cathode), mercury or sodium vapor, metal halide or ultraviolet lamps
8539.49.00	Ultraviolet or infrared lamps
8540.11.10	Cathode-ray television picture tubes incl. video monitor, color, non-high definition, non-projection, display > 35.56 cm
8540.11.24	Cathode-ray TV & video monitor tubes, color, non-high definition, non-projection, video display diagonal <or= 34.29 cm
8540.11.28	Cathode-ray TV & video monitor tubes, color, non-high definition, non-projection, video display diagonal > 34.29 cm & <or= 35.56 cm
8540.11.30	Cathode-ray television picture tubes incl. video monitor, color, high definition, display diagonal > 35.56 cm
8540.11.44	Cathode-ray TV & video monitor tubes, color, high definition, having video display display diagonal <or= 34.29 cm
8540.11.48	Cathode-ray TV & video monitor tubes, color, high definition, video display diagonal video display diagonal > 34.29 cm & <or= 35.56 cm
8540.11.50	Cathode-ray television picture tubes incl. video monitor, color, non-high definition, projection type
8540.12.10	Cathode-ray television picture tubes incl. video monitor, monochrome, non-high definition, w/faceplate diagonal > 29 cm and <or= 42 cm
8540.12.20	Cathode-ray television picture tubes incl. video monitor, monochrome, high definition, w/faceplate diagonal > 29 cm and <or= 42 cm
8540.12.50	Cathode-ray television picture tubes incl. video monitor, monochrome, non-high definition, nesi
8540.12.70	Cathode-ray television picture tubes incl. video monitor, monochrome, high definition, nesi
8540.20.20	Cathode-ray television camera tubes
8540.20.40	Television camera tubes, image converters and intensifiers, and other photocathode tubes, other than cathode-ray tubes
8540.40.10	Data/grphic display tubes, monochrome; data/graphic display tubes, color, with a phosphor dot screen pitch smaller than 0.4 mm
8540.60.00	Cathode-ray tubes nesoi
8540.71.20	Magnetron tubes, modified for use as parts of microwave ovens
8540.71.40	Magnetron tubes nesoi
8540.81.00	Receiver or amplifier tubes
8540.91.15	Front panel assemblies for cathode-ray tubes
8540.91.20	Deflection coils for cathode-ray tubes
8540.91.50	Parts of cathode-ray tubes other than deflection coils or front panel assemblies
8540.99.40	Electron guns; radio frequency (RF) interaction structures for microwave tubes of subheadings 8540.71 through 8540.79, inclusive
8540.99.80	Parts of thermionic, cold cathode or photocathode tubes, other than parts of cathode-ray tubes, electron guns, etc., nesi
8543.70.71	Electric luminescent lamps
8543.70.85	Electrical machines and apparatus for electrical nerve stimulation
8543.70.91	Digital signal processing apparatus capable of connecting to a wired or wireless network for sound mixing
8543.90.85	Parts, nesoi, of flat panel displays other than for reception apparatus for television of heading 8528
8543.90.88	Parts (other than printed circuit assemblies) of electrical machines and apparatus, having individual functions, nesoi
8544.20.00	Insulated (including enameled or anodized) coaxial cable and other coaxial conductors
8544.42.10	Insulated electric conductors nesi, for a voltage not exceeding 1,000 V, fitted with modular telephone connectors

HTS Subheading	Product Description
8544.42.20	Insulated electric conductors nesi, used for telecommuncations, for a voltage not exceeding 1,000 V, fitted with connectors
8544.42.90	Insulated electric conductors nesi, for a voltage not exceeding 1,000 V, fitted with connectors, nesoi
8545.11.00	Carbon electrodes of a kind used for furnaces
8545.19.20	Carbon electrodes of a kind used for electrolytic purposes
8545.19.40	Carbon electrodes of a kind used for electrical purposes, other than those used for furnaces or for electrolytic purposes
8545.20.00	Carbon brushes of a kind used for electrical purposes
8545.90.20	Arc light carbons of a kind used for electrical purposes
8545.90.40	Lamp carbons, battery carbons and articles of graphite or other carbon nesi, of a kind used for electrical purposes
8546.10.00	Electrical insulators of glass
8546.20.00	Electrical insulators of ceramics
8546.90.00	Electrical insulators of any material, other than glass or ceramics
8547.10.40	Ceramic insulators to be used in the production of spark plugs for natural gas fueled, stationary, internal-combustion engines
8547.10.80	Insulating fittings for electrical machines, appliances or equipment, of ceramics nesi
8547.20.00	Insulating fittings for electrical machines, appliances or equipment, of plastics
8547.90.00	Electrical conduit tubing and joints therefor, of base metal lined with insulating material; insulating fittings for electrical goods nesi
8548.90.01	Electrical parts of machinery or apparatus not specified or included elsewhere in chapter 85
8602.90.00	Rail locomotives (o/than diesel-electric), non-electric; locomotive tenders
8706.00.03	Chassis fitted w/engines, for mtr. vehicles for transport of goods of 8704.21 or 8704.31
8706.00.05	Chassis fitted w/engines, for mtr. vehicles of 8701.20, 8702, & 8704 (except 8704.21 or 8704.31)
8706.00.15	Chassis fitted w/engines, for mtr. vehicles for transport of persons of 8703
8706.00.50	Chassis fitted w/engines, for tractors (o/than for agric. use) and other motor vehicles nesoi
8707.10.00	Bodies (including cabs), for mtr. vehicles for transport of persons of heading 8703
8707.90.10	Bodies (including cabs), for tractors suitable for agricultural use
8707.90.50	Bodies (including cabs), for mtr. vehicles (o/than tract. for agri. use) of headings 8701-8705 (except 8703)
8708.10.30	Pts. & access. for mtr vehicles of headings 8701 to 8705, bumpers
8708.10.60	Pts. & access. of mtr. vehicles of headings 8701 to 8705, parts of bumpers
8708.21.00	Pts. & access. of bodies for mtr. vehicles of headings 8701 to 8705, safety seat belts
8708.29.15	Pts. & access. of bodies for mtr. vehicles of headings 8701 to 8705, door assemblies
8708.29.21	Body stampings for tractors suitable for agriculture
8708.29.25	Body stampings of motor vehicles, nesoi
8708.29.50	Pts. & access. of bodies for mtr. vehicles of headings 8701 to 8705, nesoi
8708.30.10	Pts. & access. of tractors suit. for agric. use, brakes and servo-brakes & pts thereof
8708.30.50	Pts. & access. of mtr. vehicles of 8701, nesoi, and 8702-8705, brakes and servo-brakes & pts thereof
8708.40.11	Pts. & access. of mtr. vehic. of 8701.20, 8702, 8703 or 8704, gear boxes
8708.40.30	Pts. & access. of tractors suitable for agricultural use, gear boxes
8708.40.50	Pts. & access. of mtr. vehic. of 8701, nesoi, and of 8705, gear boxes
8708.40.60	Pts. & access. of tractors suitable for agricultural use, pts. for gear boxes
8708.40.65	Pts. & access. of tractors (o/than road tractors or for agricultural use), pts. for gear boxes

HTS Subheading	Product Description
8708.40.70	Parts of gear boxes of the motor vehicles of 8701-8705, of cast iron
8708.40.75	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, pts. for gear boxes, nesoi
8708.50.11	Pts. & access. of tractors suitable for agricultural use, drive axles w/differential (whether or not w/other transm. components)
8708.50.31	Pts. & access. of tractors, other than road tractors or for agricultural use, drive axles w/differential (whether or not w/other transm. com
8708.50.51	Pts. & access. of motor vehicles of 8703, drive axles w/differential (whether or not w/other transm. components)
8708.50.61	Pts. & access. of mtr. vehic. of 8701, nesoi, 8702, and 8704-8705, drive axles w/different. (wheth or not w/oth transm components)
8708.50.65	Pts. & access. of mtr. vehic. of 8701, nesoi, of 8702, and of 8704-8705, non-driving axles
8708.50.70	Pts. & access. of tractors suitable for agricultural use, parts of drive axles w/different. (wheth or not w/oth transm components)
8708.50.75	Pts. & access. of tractors, other than road tractors or for agricultural use, parts of drive axles w/different. (wheth or not w/oth transm c
8708.50.79	Pts. & access. of mtr. vehic. for transp. of persons of 8703, parts of non-driving axles
8708.50.81	Pts. & access. of motor vehicles of 8703, of cast iron nesoi
8708.50.85	Pts. & access. of motor vehicles of 8703, half-shafts
8708.50.89	Pts. & access. of motor vehicles of 8703, parts, nesoi, of drive axles w/different. (wheth or not w/oth transm components)
8708.50.91	Pts. & access. of mtr. vehic. of 8701, nesoi, 8702 and 8704-8705, parts of non-driving axles
8708.50.93	Pts. & access. of mtr. vehic. of 8701, nesoi, 8702 and 8704-8705, of cast iron nesoi
8708.50.95	Pts. & access. of mtr. vehic. of 8701, nesoi, 8702 and 8704-8705, half-shafts
8708.50.99	Pts. & access. of mtr. vehic. of 8701, nesoi, 8702 and 8704-8705, parts, nesoi, of drive axles w/different. (wheth or not w/oth transm compo
8708.70.05	Pts. & access. of tractors suitable for agricultural use, road wheels
8708.70.15	Pts. & access. of tractors suitable for agricultural use, pts. & access. for road wheels
8708.70.25	Pts. & access. of tractors (o/than road tractors or for agric. use), road wheels
8708.70.35	Pts. & access. of tractors (o/than road tractors or for agric. use), pts. & access. for road wheels
8708.70.45	Pts. & access. of mtr. vehic. of 8701, nesoi, and of 8702-8705, road wheels
8708.70.60	Pts. & access. of mtr. vehicc of 8701, nesoi, and of 8702-8705, pts. & access. for road wheels
8708.80.03	Pts. & access. of tractors suitable for agricultural use, McPherson struts
8708.80.05	Pts. & access. of tractors suitable for agricultural use, suspension shock absorbers (o/than McPherson struts)
8708.80.13	Pts. & access. of mtr. vehic. of 8701, nesoi, and of 8702-8705, McPherson struts
8708.80.16	Pts. & access. of mtr. vehic. of 8701, nesoi, and of 8702-8705, suspension shock absorbers (o/than McPherson struts)
8708.80.51	Pts. & access. of tractors suitable for agricultural use, pts. for suspension systems nesoi
8708.80.55	Pts. & access. of tractors (o/than road tractors or for agricultural use), pts. for suspension systems nesoi
8708.80.60	Parts of suspension systems of the motor vehicles of 8701-8705, of cast iron
8708.80.65	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, pts. for suspension systems nesoi
8708.91.10	Pts. & access. of tractors suitable for agricultural use, radiators
8708.91.50	Pts. & access. of mtr. vehic. of 8701, nesoi, and 8702-8705, radiators
8708.91.60	Pts. & access., nesoi, of tractors suitable for agricultural use, parts of radiators
8708.91.65	Pts. & access., nesoi, of tractors (o/than road tractors or suitable for agricultural use), parts of radiators

HTS Subheading	Product Description
8708.91.70	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, parts of radiators, of cast iron nesoi
8708.91.75	Pts. & access., nesoi, of motor vehicles of 8701, nesoi, and 8702-8705, parts of radiators, nesoi
8708.92.10	Pts. & access. of tractors suitable for agricultural use, mufflers & exhaust pipes
8708.92.50	Pts. & access. of mtr. vehic. of 8701, nesoi, and 8702-8705, mufflers & exhaust pipes
8708.92.60	Pts. & access., nesoi, of tractors suitable for agricultural use, parts of mufflers
8708.92.65	Pts. & access., nesoi, of tractors (o/than road tractors or suitable for agricultural use), parts of mufflers
8708.92.70	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, parts of mufflers, of cast iron nesoi
8708.92.75	Pts. & access., nesoi, of motor vehicles of 8701, nesoi, and 8702-8705, parts of mufflers, nesoi
8708.93.15	Pts. & access. of tractors suitable for agricultural use, clutches
8708.93.30	Pts. & access. of tractors suitable for agricultural use, pts. of clutches
8708.93.60	Pts. & access. of mtr. vehic. of 8701, nesoi, and 8702-8705, clutches
8708.93.75	Pts. & access. of mtr. vehic. of 8701, nesoi, and 8702-8705, pts. of clutches
8708.94.10	Pts. & access. of tractors suitable for agricultural use, steering wheels, steering columns and steering boxes
8708.94.50	Pts. & access. of mtr. vehic. of 8701, nesoi, and 8702-8705, steering wheels, steering columns and steering boxes
8708.94.60	Pts. & access., nesoi, of tractors suitable for agricultural use, parts of steering wheels/columns/boxes
8708.94.65	Pts. & access., nesoi, of tractors (o/than road tractors or suitable for agricultural use), parts of steering wheels/columns/boxes
8708.94.70	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, parts of steering wheels/columns/boxes, of cast iron nesoi
8708.94.75	Pts. & access., nesoi, of motor vehicles of 8701, nesoi, and 8702-8705, parts of steering wheels/columns/boxes, nesoi
8708.95.05	Pts. & access. of bodies for mtr. vehicles of headings 8701 to 8705, inflators & modules for airbags
8708.95.10	Pts. & access., nesoi, of tractors suitable for agricultural use, parts of safety airbags with inflater system
8708.95.15	Pts. & access., nesoi, of tractors (o/than road tractors or suitable for agricultural use), parts of safety airbags with inflater system
8708.95.20	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, parts of safety airbags with inflater system
8708.99.03	Pts. & access. of tractors suitable for agricultural use, vibration control goods containing rubber
8708.99.06	Pts. & access. of tractors suitable for agricultural use, double flanged wheel hub units w/ball bearings
8708.99.16	Pts. & access. of tractors suitable for agricultural use, pts. for power trains nesoi
8708.99.23	Pts. & access., nesoi, of tractors suitable for agricultural use
8708.99.27	Pts. & access. of tractors (o/than road tractors or for agricultural use), vibration control goods containing rubber
8708.99.31	Pts. & access. of tractors (o/than road tractors or for agricultural use), double flanged wheel hub units w/ball bearings
8708.99.41	Pts. & access. of tractors (o/than road tractors or for agricultural use), pts. for power trains nesoi
8708.99.48	Pts. & access., nesoi, of tractors (o/than road tractors or suitable for agricultural use)
8708.99.53	Parts & accessories of motor vehicles of 8701-8705, nesoi, of cast iron
8708.99.55	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, vibration control goods containing rubber
8708.99.58	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, double flanged wheel hub units w/ball bearings
8708.99.68	Pts. & access. of motor vehicles of 8701, nesoi, and 8702-8705, pts. for power trains nesoi
8708.99.81	Pts. & access., nesoi, of motor vehicles of 8701, nesoi, and 8702-8705
8712.00.15	Bicycles, not motorized, w/both wheels not over 63.5 cm in diameter

HTS Subheading	Product Description
8712.00.25	Bicycles, not motorized, w/both wheels o/63.5 cm in diam., weighing under 16.3 kg & not design. for tires w/x-sect. diam. o/4.13cm
8712.00.35	Bicycles, not motorized, w/both wheels o/63.5 cm in diam., weighing 16.3 kg or more, and/or for use w/tires w/x-sect. diam. o/4.13 cm
8712.00.44	Bicycles, n/motor., w/front wheel diam. o/55 cm but n/o 63.5 cm & rear wheel diam. o/63.5 cm in diam., & wt <16.3 kg w/o acces., value $200+
8712.00.48	Bicycles, n/motor., w/front wheel w/diameter different than rear wheel diam., nesoi
8712.00.50	Cycles (o/than bicycles) (including delivery tricycles), not motorized
8714.91.20	Pts. & access. for bicycles & o/cycles, frames, valued over $600 each
8714.91.30	Pts. & access. for bicycles & o/cycles, frames, valued at $600 or less each
8714.91.50	Pts. & access. for bicycles, sets of steel tubing cut to exact length for the assembly (w/other pts) into the frame & fork of one bicycle
8714.91.90	Pts. & access. for bicycles & o/cycles, forks, nesoi and pts of frames, nesoi and pts. of forks
8714.92.10	Pts. & access. for bicycles & o/cycles, wheel rims
8714.92.50	Pts. & access. for bicycles & o/cycles, wheel spokes
8714.93.05	Pts. & access. for bicycles & o/cycles, aluminum alloy hubs, w/hollow axle and lever-operated quick release mechanism
8714.93.15	Pts. & access. for bicycles & o/cycles, 3-speed hubs nesoi
8714.93.24	Pts. & access. for bicycles & o/cycles, 2-speed hubs, w/internal gear changing mechanisms, nesoi
8714.93.28	Pts. & access. for bicycles & o/cycles, variable speed hubs, w/internal gear changing mechanisms, nesoi
8714.93.35	Pts. & access. for bicycles & o/cycles, non-variable speed hubs, nesoi
8714.93.70	Pts. & access. for bicycles & o/cycles, free-wheel sprocket-wheels
8714.94.30	Pts. & access. for bicycles & o/cycles, brakes (o/than hub brakes) and parts thereof
8714.94.90	Pts. & access. for bicycles & o/cycles, brakes and parts thereof, nesoi
8714.95.00	Pts. & access. for bicycles & o/cycles, saddles
8714.96.10	Pts. & access. for bicycles & o/cycles, pedals and parts thereof
8714.96.50	Pts. & access. for bicycles & o/cycles, cotterless-type crank sets and parts thereof
8714.96.90	Pts. & access. for bicycles & o/cycles, crank-gear nesoi and parts thereof
8716.10.00	Trailers & semi-trailers, not mech. propelled, for housing or camping
8716.20.00	Self-loading or self-unloading trailers and semi-trailers, not mech. propelled, for agricultural purposes
8716.31.00	Tanker trailers and tanker semi-trailers, not mech. propelled, for the transport of goods
8716.39.00	Trailers and semi-trailers, not mech. propelled, nesoi, for the transport of goods
8716.40.00	Trailers and semi-trailers, not mechanically propelled, nesoi
8716.80.10	Farm wagons and carts, not mechanically propelled
8716.80.50	Vehicles, not mechanically propelled, nesoi
8716.90.10	Parts of farm wagons and carts
8716.90.30	Parts of vehicles, not mechanically propelled, castors (o/than castors of heading 8302)
8716.90.50	Parts of trailers and semi-trailers and vehicles, not mechanically propelled, nesoi
8804.00.00	Parachutes (including dirigible parachutes) and rotochutes; parts & access. thereof
8903.10.00	Vessels, inflatable, for pleasure or sports
8903.91.00	Vessels, sailboats, with or without auxiliary motor, for pleasure or sports
8903.92.00	Vessels, motorboats (o/than outboard motorboats), for pleasure or sports
8903.99.05	Vessels, canoes, not of a type designed to be principally used with motor or sails

HTS Subheading	Product Description
8903.99.15	Vessels, row boats, not of a type to be principally used with motors or sails
8903.99.20	Vessels, outboard motorboats, for pleasure or sports
8903.99.90	Vessels, yachts and other vessels for pleasure or sports, nesoi
8907.10.00	Inflatable rafts (o/than used for pleasure or sports of 8901.10)
9001.90.40	Lenses nesi, unmounted
9001.90.50	Prisms, unmounted
9001.90.60	Mirrors, unmounted
9001.90.80	Half-tone screens designed for use in engraving or photographic processes, unmounted
9001.90.90	Optical elements nesi, unmounted
9002.11.40	Projection lenses, mounted, and parts and accessories therefor, for cameras, projectors or photographic enlargers or reducers
9002.11.60	Mounted objective lenses for use in closed circuit television cameras, seperately imported, w/ or w/o attached elec. connectors or motors
9002.11.90	Objective lenses and parts & access. thereof, for cameras, projectors, or photographic enlargers or reducers, except projection, nesi
9002.19.00	Objective lenses, mounted, and parts and accessories therefor, other than for cameras, projectors or photographic enlargers or reducers
9002.20.40	Photographic filters, mounted, and parts and accessories therefor
9002.20.80	Filters, mounted, and parts and accessories therefor, for optical uses other than photographic
9002.90.85	Mounted lenses, n/obj., for use in closed circuit television cameras, seperately imported, w/ or w/o attached elec. connectors or motors
9006.30.00	Photographic cameras for underwater, aerial, medical, surgical, forensic or criminological purposes, not cinematographic
9007.10.00	Cinematographic cameras
9007.20.20	Cinematographic projectors for film < 16 mm, w/sound recording and reproducing systems and those for projecting only sound motion pictures
9007.20.40	Cinematographic projectors for film of less than 16 mm, nesoi
9007.20.60	Cinematographic projectors for film = or > 16 mm, w/sound recording & reproducing systems & those for projecting only sound motion pictures
9007.20.80	Cinematographic projectors for film of 16 mm or greater, nesoi
9007.92.00	Parts and accessories for cinematographic projectors
9008.50.50	Photographic (other than cinematographic) enlargers and reducers
9008.90.40	Parts and accessories of image projectors, other than cinematographic
9008.90.80	Parts and accessories of photographic (other than cinematographic) enlargers and reducers
9010.10.00	Apparatus & equipment for auto. developing photographic film/paper in rolls or exposing developed film to rolls of photographic paper
9010.50.10	Contact printers for photographic laboratories
9010.50.20	Developing tanks for photographic laboratories
9010.50.30	Editors and combination editor-splicers, for cinematographic film, containing an optical lens or designed to contain such a lens
9010.50.40	Photographic film viewers, titlers, splicers and editors, and combinations thereof, containing or designed to contain an optical lens, nesoi
9010.50.50	Photographic film viewers, titlers, splicers and editors, and combinations thereof, not containing or designed to contain an optical lens
9010.50.60	Apparatus and equipment for photographic (including cinematographic) laboratories, nesoi; negatoscopes
9010.60.00	Projection screens

HTS Subheading	Product Description
9010.90.85	Parts and accessories of articles of subheading 9010.50 & 9010.60
9010.90.95	Other parts & accessories for apparatus & equipment for photographic (incl. cinematographic) labs, nesoi, negatoscopes, & projection screens
9011.20.80	Microscopes for microphotography, microcinematography or microprojection, not provided with a means for photographing the image
9011.80.00	Compound optical microscopes other than stereoscopic or those for microphotography, microcinematography or microprojection
9013.10.30	Telescopic sights for rifles designed for use with infrared light
9013.80.20	Hand magnifiers, magnifying glasses, loupes, thread counters and similar apparatus nesi
9013.80.40	Door viewers (door eyes)
9013.90.50	Parts and accessories of flat panel displays other than for articles of heading 8528
9013.90.70	Parts and accessories other than for telescopic sights for fitting to arms or for periscopes
9013.90.80	Parts and accessories of liquid crystal devices nesoi, and optical appliances and instruments, nesoi
9014.10.10	Optical direction finding compasses
9015.10.40	Electrical rangefinders
9015.30.40	Electrical levels
9015.30.80	Levels, other than electrical
9015.90.01	Parts and accessories of 9015
9016.00.20	Electrical balances of a sensitivity of 5 cg or better, with or without weights, and parts and accessories thereof
9016.00.40	Jewelers' balances (nonelectrical) of a sensitivity of 5 cg or better, with or without weights, and parts and accessories thereof
9016.00.60	Balances (nonelectrical) of a sensitivity of 5 cg or better, other than jewelers', balances, and parts and accessories thereof
9017.10.40	Drafting plotters, whether or not automatic
9017.10.80	Drafting tables and machines, whether or not automatic, nesoi
9017.20.40	Disc calculators, slide rules and other mathematical calculating instruments
9017.20.70	Other drawing, marking-out or mathematical plotters, nesoi
9017.20.80	Other drawing, marking-out or mathematical calculating instruments, nesoi
9017.30.40	Micrometers and calipers, for use in the hand
9017.30.80	Gauges for measuring length, for use in the hand
9017.80.00	Instruments for measuring length, for use in the hand, nesi (for example, measuring rods and tapes)
9017.90.01	Parts and accessories for drawing, marking-out or mathematical calculating instruments, and for hand-held instruments for measuring length
9025.80.20	Hydrometers and similar floating instruments, whether or not incorporating a thermometer, non-recording, other than electrical
9025.90.06	Other parts & accessories of hydrometers & like floating instruments, thermometers,pyrometers,barometers,hygrometers,psychrometers & combinations
9026.80.40	Nonelectrical heat meters incorporating liquid supply meters, and anemometers
9027.10.40	Nonelectrical optical instruments and apparatus for gas or smoke analysis
9027.10.60	Nonelectrical gas or smoke analysis apparatus, other than optical instruments and apparatus
9027.90.68	Parts and accessories of nonelectrical optical instruments and apparatus of heading 9027, nesoi
9029.10.40	Taximeters
9029.10.80	Revolution counters, production counters, odometers, pedometers and the like, other than taximeters
9029.20.20	Bicycle speedometers

HTS Subheading	Product Description
9029.20.60	Stroboscopes
9029.90.20	Parts and accessories of taximeters
9029.90.40	Parts and accessories of bicycle speedometers
9030.20.10	Oscilloscopes and oscillographs, NESOI
9031.90.45	Bases and frames for the optical coordinate-measuring machines of subheading 9031.49.40
9104.00.05	Instrument panel clocks for vehicles, air/spacecraft, vessels, clock movement over 50 mm wide, opto-electronic display only, n/o $10 each
9104.00.10	Instrument panel clocks for veh., air/spacecraft, vessels, clock mvmt over 50 mm wide, electric, nt optoelectronic display, n/o $10 each
9104.00.20	Instrument panel clocks for vehicles, air/spacecraft, vessels, w/clock movement over 50 mm wide, valued n/o $10 each, nonelectric
9104.00.25	Instrument panel clocks for vehicles, air/spacecraft, vessels, w/clock movement ov 50 mm wide, opto-electronic display only, ov $10 each
9104.00.30	Instrument panel clocks for vehicles, air/spacecraft,vessels, w/clock mvmt ov 50 mm wide, electric, nt optoelectronic display, ov $10 each
9104.00.40	Instrument panel clocks for vehicles, air/spacecraft,vessels, w/clock movement ov 50 mm wide, valued ov $10 each, non-electric
9104.00.45	Instrument panel clocks for vehicles, air/spacecraft,vessels, w/watch or clock movement < 50 mm wide, opto-electronic display only
9104.00.50	Instrument panel clocks for vehicles, air/spacecraft, vessels, w/watch or clock movement < 50 mm wide, electric, not opto-electronic display
9106.10.00	Time registers; time recorders
9106.90.20	Parking meters
9106.90.40	Time locks valued over $10 each
9106.90.55	Apparatus for meas., recording or indicating time intervals, w/watch or clock mvmt., battery powered, w/opto-electronic display only
9106.90.65	Other apparatus for meas., recording or otherwise indicating time intervals, w/watch or clock mvmt., battery powered, nesi
9106.90.75	Apparatus for meas., recording or indicating time intervals, w/watch or clock mvmt., AC powered, w/opto-electronic display only
9106.90.85	Time of day recording apparatus & apparatus for measuring, detecting, recording or otherwise indicating intervals of time nesi
9107.00.40	Time switches with clock or watch movements or with synchronous motor, valued not over $5 each
9107.00.80	Time switches with clock or watch movements or with synchronous motor, valued over $5 each
9401.20.00	Seats, of a kind used for motor vehicles
9401.30.40	Seats nesoi, swivel w/variable height adjustment & w/wooden frame (o/than of heading 9402)
9401.30.80	Seats nesoi, swivel w/variable height adjustment & other than w/wooden frame (o/than of heading 9402)
9401.40.00	Seats nesoi, convertible into beds (o/than garden seats or camping equip.)
9401.52.00	Bamboo seats
9401.53.00	Rattan seats
9401.59.00	Seats nesoi, of cane, osier, similar materials o/than bamboo or rattan
9401.61.20	Chairs nesoi, w/teak frames, upholstered
9401.61.60	Seats (o/than chairs) nesoi, w/wooden frames, upholstered
9401.69.20	Seats nesoi, of bent-wood
9401.69.40	Chairs nesoi, w/teak frames, not upholstered
9401.69.80	Seats (o/than chairs) nesoi, w/wooden frames, not upholstered

HTS Subheading	Product Description
9401.90.35	Parts of seats (o/than of 9402) nesoi, of rubber or plastics (o/than of heading 9402)
9401.90.40	Parts of seats (o/than of 9402) nesoi, of wood
9401.90.50	Parts of seats (o/than of 9402) nesoi, o/than of cane etc, rubber or plastics or of wood
9403.10.00	Furniture (o/than seats) of metal nesoi, of a kind used in offices
9403.20.00	Furniture (o/than seats) of metal nesoi, o/than of a kind used in offices
9403.30.40	Furniture (o/than seats) of bentwood nesoi, of a kind used in offices
9403.30.80	Furniture (o/than seats) of wood (o/than bentwood) nesoi, of a kind used in offices
9403.40.40	Furniture (o/than seats) of bent-wood nesoi, of a kind used in the kitchen
9403.40.60	Furniture (o/than seats) of wood (o/than bentwood) nesoi, of a kind used in the kitchen & design. for motor vehicle use
9403.40.90	Furniture (o/than seats) of wood (o/than bentwood) nesoi, of a kind used in the kitchen & not design. for motor vehicl. use
9403.50.40	Furniture (o/than seats) of bentwood nesoi, of a kind used in the bedroom
9403.50.60	Furniture (o/than seats) of wood (o/than bentwood), of a kind used in the bedroom & designed for motor vehicle use
9403.50.90	Furniture (o/than seats) of wood (o/than bentwood), of a kind used in the bedroom & not designed for motor vehicle use
9403.60.40	Furniture (o/than seats & o/than of 9402) of bentwood nesoi
9403.60.80	Furniture (o/than seats & o/than of 9402) of wooden (o/than bentwood) nesoi
9403.82.00	Bamboo furniture and parts
9403.83.00	Rattan furniture and parts
9403.89.30	Furniture (o/than seats) of cane, osier, or similar materials o/than bamboo or rattan
9403.89.60	Furniture (o/than seats & o/than of 9402) of materials nesoi
9403.90.10	Parts of furniture (o/than seats), for furniture of a kind used for motor vehicles
9403.90.25	Parts of furniture (o/than seats), of cane, osier, bamboo or similar materials
9403.90.40	Parts of furniture (o/than seats or o/than of 9402), of reinforced or laminated plastics
9403.90.50	Parts of furniture (o/than seats or o/than of 9402), of rubber or plastics (o/than reinforced or laminated plastics)
9403.90.60	Parts of furniture (o/than seats or o/than of 9402), of textile material (o/than cotton)
9403.90.70	Parts of furniture (o/than seats or o/than of 9402), of wood
9403.90.80	Parts of furniture (o/than seats or o/than of 9402) nesoi
9404.10.00	Mattress supports
9404.21.00	Mattresses, of cellular rubber or plastics, whether or not covered
9404.29.10	Mattresses, of cotton
9404.29.90	Mattresses (o/than of cellular rubber or plastics or of cotton)
9405.10.40	Chandeliers and other electric ceiling or wall lighting fittings (o/than used for public spaces), of brass
9405.10.60	Chandeliers and other electric ceiling or wall lighting fixtures (o/than used for public spaces), of base metal (o/than brass)
9405.10.80	Chandeliers and other electric ceiling or wall lighting fixtures (o/than used for public spaces), not of base metal
9405.20.40	Electric table, desk, bedside or floor-standing lamps, of brass
9405.20.60	Electric table, desk, bedside or floor-standing lamps, of base metal (o/than brass)
9405.20.80	Electric table, desk, bedside or floor-standing lamps, not of base metal
9405.30.00	Lighting sets of a kind used for Christmas trees

HTS Subheading	Product Description
9405.40.40	Electric lamps and lighting fixtures nesoi, of brass
9405.40.60	Electric lamps and lighting fixtures nesoi, of base metal (o/than brass)
9405.40.82	LEDs for backlighting of LCDs
9405.40.84	Electric lamps and lighting fixtures nesoi, not of base metal
9405.50.20	Non-electrical incandescent lamps designed to be operated by propane or other gas, or by compressed air and kerosene or gasoline
9405.50.30	Non-electrical lamps and lighting fixtures nesoi, of brass
9405.50.40	Non-electrical lamps and lighting fixtures nesoi, not of brass
9405.60.20	Illuminated signs, illuminated name plates and the like, of brass
9405.60.40	Illuminated signs, illuminated name plates and the like, of base metal (o/than brass)
9405.60.60	Illuminated signs, illuminated name plates and the like, not of base metal
9405.91.10	Parts of lamps, lighting fittings, illuminated signs & the like, globes and shades, of lead crystal glass
9405.91.30	Parts of lamps, lighting fittings, illuminated signs & the like, globes and shades, of glass (o/than lead crystal)
9405.91.40	Parts of lamps, lighting fittings, illuminated signs & the like, chimneys, of glass
9405.91.60	Parts of lamps, lighting fixtures, illuminated signs & the like, of glass nesoi
9405.92.00	Parts of lamps, lighting fixtures, illuminated signs & the like, of plastics
9405.99.20	Parts of lamps, lighting fixtures, illuminated signs & the like, of brass
9405.99.40	Parts of lamps, lighting fixtures, illuminated signs & the like, not of glass, plastics or brass
9406.10.00	Prefabricated buildings of wood
9406.90.00	Prefabricated buildings not of wood
9606.10.40	Press-fasteners, snap-fasteners and press-studs and pts thereof, valued n/o 20 cents/dozen pieces or parts
9606.10.80	Press-fasteners, snap-fasteners and press-studs and pts thereof, valued o/20 cents/dozen pieces or parts
9606.21.20	Buttons, of casein, not covered with textile material
9606.21.40	Buttons, of acrylic resin or polyester resin, or both resins, not covered with textile material
9606.21.60	Buttons, of plastics (o/than casein, acrylic or polyester resins), not covered with textile materials
9606.22.00	Buttons, of base metal, not covered with textile material
9606.29.20	Buttons, of acrylic resin or polyester resin, or both resins, covered with textile material
9606.29.40	Buttons, of pearl or shell
9606.29.60	Buttons, nesoi
9606.30.40	Button blanks, of casein
9606.30.80	Button molds & parts of buttons; button blanks (o/than casein)
9607.11.00	Slide fasteners, fitted with chain scoops of base metal
9607.19.00	Slide fasteners, not fitted with chain scoops of base metal
9607.20.00	Parts of slide fasteners
9620.00.10	Monopods, bipods, tripods and similar articles, accessories of heading 8519 or 8521
9620.00.15	Monopods, bipods, tripods and similar articles, accessories of heading 9005
9620.00.20	Monopods, bipods, tripods and similar articles, accessories of heading 9006, other than cinematographic
9620.00.25	Monopods, bipods, tripods and similar articles, accessories of heading 9007
9620.00.30	Monopods, bipods, tripods and similar articles, accessories of heading 9015, including rangefinders
9620.00.50	Monopods, bipods, tripods and similar articles of plastics, nesoi
9620.00.55	Monopods, bipods, tripods and similar articles of wood, nesoi

HTS Subheading	Product Description
9620.00.60	Monopods, bipods, tripods and similar articles of graphite and other carbon, nesoi
9620.00.65	Monopods, bipods, tripods and similar articles of iron and steel, nesoi
9620.00.70	Monopods, bipods, tripods and similar articles of aluminum, nesoi

Annex C – [List 3 - $200 Billion Action]

Part 2

Note: All products that are classified in the 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTS) that are listed in Part 2 of Annex C are partially covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of particular HTSUS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviations "nesoi" and "nesi" mean "not elsewhere specified or included".

Item	HTS Subheading	Description
1.	2931.90.90	Other non-aromatic organo-inorganic compounds
		Except for: 2931.90.9051 – NON-AROMATIC ORGANO-INORGANIC COMPOUNDS, NESOI
2.	8517.62.00	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
		Except for: 8517.62.0090 – OTHER
3.	9401.61.40	Chairs nesoi, w/wooden frames (o/than teak), upholstered
		Except for: 9401.61.4001 – CHAIRS FOR CHILDREN, INCLUDING HIGHCHAIRS, UPHOLSTERED, WITH WOODEN FRAMES, NESOI
4.	9401.69.60	Chairs nesoi, w/wooden frames (o/than teak), not upholstered
		Except for: 9401.69.6001 – CHAIRS FOR CHILDREN, INCLUDING HIGHCHAIRS, WITH WOODEN FRAMES, NESOI
5.	9401.71.00	Seats nesoi, w/metal frame (o/than of heading 9402), upholstered
		Except for: 9401.71.0001 – HIGHCHAIRS AND BOOSTER SEATS, UPHOLSTERED, WITH METAL FRAMES 9401.71.0005 – INFANT WALKERS, UPHOLSTERED, WITH METAL FRAMES 9401.71.0006 – BOUNCERS WITH SEATS, UPHOLSTERED, WITH METALFRAMES 9401.71.0007 – SWINGS FOR CHILDREN, UPHOLSTERED, WITH METALFRAMES
6.	9401.79.00	Seats nesoi, w/metal frame (o/than of heading 9402), not upholstered
		Except for: 9401.79.0001 – HIGHCHAIRS AND BOOSTER SEATS WITH METAL FRAMES, NESOI 9401.79.0002 – INFANT WALKERS WITH METAL FRAMES, NESOI 9401.79.0003 – BOUNCERS WITH SEATS, WITH METAL FRAMES, NESOI 9401.79.0004 – SWINGS FOR CHILDREN, WITH METAL FRAMES, NESOI
7.	9401.80.20	Seats nesoi, of reinforced or laminated plastics (o/than of heading 9402)

		Except for: 9401.80.2001 – HIGHCHAIRS, BOOSTER SEATS EXC FOR MOTOR VEHICLES, BATH SEATS, INFANT WALKERS, BOUNCERS W/ SEATS, SWINGS FOR CHILDREN, OF REINFORCED/LAMINATED PLASTICS
8.	9401.80.40	Seats nesoi, of rubber or plastics (o/than of reinforced or laminated plastics & o/than of heading 9402)
		Except for: 9401.80.4001 – HIGHCHAIRS, BOOSTER SEATS EXCEPT FOR MOTOR VEHICLES, BATH SEATS, INFANT WALKERS, BOUNCERS WITH SEATS, SWINGS FOR CHILDREN, OF RUBBER OR PLASTICS NESOI
9.	9401.80.60	Seats nesoi, o/than of wood, or w/metal frame or of rubber or plastics (o/than of heading 9402)
		Except for: 9401.80.6021 – CHILD SAFETY SEATS WITH DETACHABLE HARD-SHELL SEAT 9401.80.6023 – CHILD SAFETY SEATS, NESOI
10.	9403.70.40	Furniture (o/than seats & o/than of 9402) of reinforced or laminated plastics nesoi
		Except for: 9403.70.4003 – PLAY YARDS AND OTHER ENCLOSURES FOR CONFINING CHILDREN, OF REINFORCED OR LAMINATED PLASTICS
11.	9403.70.80	Furniture (o/than seats & o/than of 9402) of plastics (o/than reinforced or laminated) nesoi
		Except for: 9403.70.8003 – PLAY YARDS AND OTHER ENCLOSURES FOR CONFINING CHILDREN, OF PLASTICS, NESOI

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