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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. OCC–2020–0009]

RIN 1557–AE81

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulations Q; Docket No. R–1703]

RIN 7100–AF77

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AF40

Regulatory Capital Rule: Eligible Retained Income

AGENCY: Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim final rule with request for comments.

SUMMARY: In light of recent disruptions in economic conditions caused by the coronavirus disease 2019 (COVID–19) and current strains in U.S. financial markets, the Board, OCC and FDIC (together, the agencies) are issuing an interim final rule that revises the definition of eligible retained income for all depository institutions, bank holding companies, and savings and loan holding companies subject to the agencies' capital rule (together, a banking organization or banking organizations). The revised definition of eligible retained income will make any automatic limitations on capital distributions that could apply under the agencies' capital rules more gradual.

DATES: The interim final rule is effective March 20, 2020. Comments on the interim final rule must be received no later than May 4, 2020.

ADDRESSES:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Regulatory Capital Rule: Eligible Retained Income'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov Classic* or *Regulations.gov Beta: Regulations.gov Classic:* Go to *https://www.regulations.gov/*. Enter ''Docket ID OCC–2020–0009'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. For help with submitting effective comments please click on ''View Commenter's Checklist.'' Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments. *Regulations.gov Beta:* Go to *https://beta.regulations.gov/* or click ''Visit New *Regulations.gov Site*'' from the *Regulations.gov* Classic homepage. Enter ''Docket ID OCC–2020–0009'' in the Search Box and click ''Search.'' Public comments can be submitted via the ''Comment'' box below the displayed document information or by clicking on the document title and then clicking the ''Comment'' box on the top-left side of the screen. For help with submitting effective comments please click on ''Commenter's Checklist.'' For assistance with the *Regulations.gov Beta* site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, suite 3E–218, Washington, DC 20219.
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- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2020–0009'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically—Regulations.gov Classic or Regulations.gov Beta: Regulations.gov Classic:* Go to *https://www.regulations.gov/*. Enter ''Docket ID OCC–2020–0009'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period. *Regulations.gov Beta:* Go to *https://beta.regulations.gov/* or click ''Visit New *Regulations.gov Site*'' from the *Regulations.gov* Classic homepage. Enter ''Docket ID OCC–2020–0009'' in the Search Box and click ''Search.'' Click on the ''Comments'' tab. Comments can be viewed and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen. Supporting materials can be viewed by clicking on the ''Documents'' tab and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen.'' For assistance with the *Regulations.gov* Beta site, please call (877) 378–5457 (toll free) or (703) 454–

9859 Monday-Friday, 9am-5pm ET or email *regulations@erulemakinghelpdesk.com.* The docket may be viewed after the close of the comment period in the same manner as during the comment period.

• *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

Board: You may submit comments, identified by Docket No. R–1703; RIN 7100–AF77, by any of the following methods:

• *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Email: regs.comments@federalreserve.gov.* Include docket and RIN numbers 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 *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact 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 security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684.

FDIC: You may submit comments, identified by RIN [3064–AF40], by any of the following methods:

• *Agency website: http://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency website.

• *Email: Comments@FDIC.gov.* Include ''RIN 3064–AF40'' on the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/RIN 3064–AF40, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery/Courier:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. All comments received must include the agency name (FDIC) and RIN 3064–AF40 and will be posted without change to *http://www.fdic.gov/regulations/laws/federal,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Director, or Benjamin Pegg, Risk Expert, Capital and Regulatory Policy, (202) 649–6370; or Carl Kaminski, Special Counsel, or Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

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I. Background

Under the capital rule, a banking organization [1] must maintain a minimum amount of regulatory capital.[2] In addition, a banking organization must maintain a buffer of regulatory capital above its minimum capital requirements to avoid restrictions on capital distributions and discretionary bonus payments.[3] The agencies established the buffer requirements to encourage better capital conservation by banking organizations and to enhance the resilience of the banking system during stress periods.[4] In particular, the agencies intend for the buffer requirements to limit the ability of banking organizations to distribute capital in the form of dividends and discretionary bonus payments and therefore strengthen the ability of banking organizations to continue lending and conducting other financial intermediation activities during stress periods. The agencies are concerned, however, that the buffer requirements do not limit capital distributions in the gradual manner intended when the buffer requirements were developed. Rather, the limitations on capital distributions could be sudden and severe if such banking organizations were to experience even a modest reduction in their capital ratios, undermining the ability of banking organizations to use their capital buffers.

The agencies are adopting an interim final rule that revises the definition of eligible retained income. The interim final rule also addresses the impact of recent dislocations in the U.S. economy as a result of COVID–19. By modifying the definition of eligible retained income and thereby allowing banking organizations to more freely use their

[1] Banking organizations subject to the capital rule include national banks, state member banks, state nonmember banks, savings associations, and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Board's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C), but exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities or that are estate trusts, and bank holding companies and savings and loan holding companies that are employee stock ownership plans.

[2] *See* 12 CFR 3.10 (OCC), 12 CFR 217.10 (Board), and 12 CFR 324.10 (FDIC).

[3] *See* 12 CFR 3.11 (OCC); 12 CFR 217.11 (Board); 12 CFR 324.11 (FDIC).

[4] 78 FR 62018, 62034 (Oct. 11, 2013).

capital buffers, this interim final rule should help to promote lending activity and other financial intermediation activities by banking organizations and avoid compounding negative impacts on the financial markets.[5]

During this stress period, the agencies encourage banking organizations to make prudent decisions regarding capital distributions. In addition, this interim final rule does not make changes to any other rule or regulation that may limit capital distributions or discretionary bonus payments. For instance, under the prompt corrective action framework, an insured depository institution that becomes less than adequately capitalized will be subject to dividend restrictions.[6]

In addition, S-corporation banks do not pay Federal income taxes. Income and losses are attributed to shareholders, potentially increasing their personal tax liability when the S-corporation has income and potentially reducing their personal tax liability if the S-corporation has losses. In a situation where the S-corporation has income but does not pay dividends, its shareholders are responsible for meeting the increased tax liability from their own resources. A situation in which S-corporation shareholders' dividends would be insufficient to pay their share of taxes on the banks' income because of the capital conservation buffer is most likely to occur when the bank is adequately capitalized but one or more of its risk-based capital ratios breach the capital conservation buffer requirements.[7] The revised definition of eligible retained income would assist in the ability of S-corporation banks to provide dividends to shareholders in order to meet their pass-through tax liabilities.

II. The Interim Final Rule

The capital rule requires a banking organization to maintain minimum risk-based capital and leverage ratios.[8] The capital rule also requires a banking organization to maintain certain buffers above its risk-based capital and leverage ratios, as applicable, to avoid increasingly stringent restrictions on capital distributions and discretionary bonus payments.[9] All banking organizations are currently subject to a fixed capital conservation buffer equal to 2.5 percent of risk-weighted assets. Banking organizations subject to Category I, II, and III standards also are subject to a countercyclical capital buffer requirement, and the largest and most systemically important banking organizations—global systemically important bank holding companies, or U.S. GSIBs—are subject to an additional capital buffer based on a measure of their systemic risk, the GSIB surcharge.[10] In addition, a minimum supplementary leverage ratio of 3 percent applies to banking organizations subject to Category I, II, and III standards. U.S. GSIBs also are subject to enhanced supplementary leverage ratio standards. U.S. GSIB bank holding companies must hold a leverage buffer of tier 1 capital to avoid limitations on distributions and discretionary bonus payments. The depository institution subsidiaries of U.S. GSIB holding companies generally must maintain a similarly higher supplementary leverage ratio to be considered well capitalized under the agencies' respective prompt corrective action frameworks. On March 4, 2020, the Board adopted a final rule that simplified the Board's capital framework for large banking organizations with the introduction of a stress capital buffer requirement (SCB final rule).[11] Under the SCB final rule, a banking organization will receive a new stress capital buffer requirement on an annual basis, which replaces the static 2.5 percent capital conservation buffer requirement.

Under the capital rule, if a banking organization's capital ratios fall within its buffer requirements, the maximum amount of capital distributions and discretionary bonus payments it can make is a function of its eligible retained income. For example, a banking organization in the bottom quartile of its capital conservation buffer may not make any capital distributions without prior approval from the Board, OCC, or FDIC, as applicable. The countercyclical capital buffer, the GSIB surcharge, and enhanced supplementary leverage ratio standards use the same definition of eligible retained income. As adopted, eligible retained income was defined as four quarters of net income, *net* of distributions and associated tax effects not already reflected in net income.

Under a benign business environment when banking organizations have significant capital cushions above their capital requirements, some banking organizations decide to distribute all or nearly all of their net income. Because the measure of eligible retained income subtracts capital distributions made during the previous year, a period of sudden stress following a period of relatively benign conditions could result in very low or zero eligible retained income. Similarly, if a banking organization with eligible retained income that is very low or negative experiences an increase in its stress capital buffer requirement, because, for example, the banking organization's risk profile changed, then the banking organization's capital levels might not be sufficient to meet the stress capital buffer requirement. In either scenario, the banking organization could face sudden and severe distribution limitations even if its capital ratios only marginally fall below applicable buffer requirements.

To address this concern, the SCB final rule revised the definition of eligible retained income for the stress loss portion of a covered holding company's capital conservation buffer requirement. Under the SCB final rule, if a covered holding company's capital ratios are above minimum requirements plus the fixed 2.5 percent portion of the capital conservation buffer plus any applicable GSIB surcharge and countercyclical capital buffer, the covered holding company's eligible retained income is defined as the average of its previous four quarters of net income. Under the SCB final rule, if a covered holding company's capital ratios are below its minimum requirements plus the fixed 2.5 percent portion of the capital conservation buffer plus any applicable GSIB surcharge and countercyclical capital buffer, the covered holding company's eligible retained income is defined as net income for the four preceding calendar quarters, net of any distributions.

Recent events have suddenly and significantly impacted financial markets. The spread of the COVID–19 virus has disrupted economic activity in many countries. In addition, financial markets have experienced significant volatility. The magnitude and

[5] The interim final rule also would apply to the U.S. intermediate holding companies of foreign banking organizations required to be established or designated under 12 CFR 252.153.

[6] 12 CFR 6.6 (OCC); 12 CFR 208.40 (Board); 12 CFR 324.405 (FDIC).

[7] FDIC, FIL–40–2014 (July 21, 2014).

[8] 12 CFR 3.10 (OCC); 12 CFR 217.10 (Board); 12 CFR 324.10 (FDIC).

[9] *See* 12 CFR 3.11 (OCC); 12 CFR 217.11 (Board); 12 CFR 324.11 (FDIC).

[10] In October 2019, the agencies finalized the tailoring rule, which more closely matches the regulations applicable to large banking organizations with their risk profile. The tailoring rule groups large U.S. and foreign banking organizations into four categories of standards (Category I through IV), with the most stringent standards applying to banking organizations subject to Category I standards. 84 FR 59230 (November 1, 2019).

[11] Amendments to the Regulatory Capital, Capital Plan, and Stress Test Rules, March 4, 2020, available at *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200304a2.pdf.* The SCB final rule applies to bank holding companies and U.S. intermediate holding companies of foreign banking organizations subject to the capital plan rule (covered holding company). 12 CFR 225.8.

persistence of the overall effects on the economy remain highly uncertain. In light of these developments, banking organizations may realize a sudden, unanticipated drop in capital ratios. This could create a strong incentive for these banking organizations to limit their lending and other financial intermediation activities in order to avoid facing abrupt limitations on capital distributions. Thus, the current definition of eligible retained income, particularly in light of present market uncertainty, could serve as a deterrent for banking organizations to continue lending to creditworthy businesses and households.

To better allow a banking organization to continue lending during times of stress, the agencies are issuing the interim final rule to revise the definition of eligible retained income to the greater of (1) a banking organization's net income for the four preceding calendar quarters, net of any distributions and associated tax effects not already reflected in net income, and (2) the average of a banking organization's net income over the preceding four quarters. This definition will apply with respect to all of a banking organization's buffer requirements, including the fixed 2.5 percent capital conservation buffer, and, if applicable, the countercyclical capital buffer, the GSIB surcharge, and enhanced supplementary leverage ratio standards. Once the SCB final rule is effective, this definition will also apply to all parts of a covered holding company's buffer requirements, including the stress loss portion of a covered holding company's capital conservation requirement. The agencies believe that having one definition for all banking organizations as described in this interim final rule simplifies the regulatory capital framework and ensures fairness across banking organizations of all sizes.

This interim final rule is intended to strengthen the incentives for a banking organization to use its capital buffers as intended in adverse conditions and serve as a financial intermediary and source of credit to the economy. This revision would reduce the likelihood that a banking organization is suddenly subject to abrupt and restrictive distribution limitations in a scenario of lower than expected capital levels.

Question 1: What would be the advantages and disadvantages of defining eligible retained income as the average of a banking organization's net income over the preceding four quarters instead of the greater of (i) a banking organization's net income for the four preceding calendar quarters, net of any distributions and associated tax effects not already reflected in net income, and (ii) the average of a banking organization's net income over the preceding four quarters?

Question 2: What are the advantages and disadvantages of applying the revised definition of eligible retained income to depository institution subsidiaries? Would, and if so how would, applying the revised definition of eligible retained income to depository institutions be consistent with the purposes of the buffer requirements discussed above? How, if at all, do, the incentives for using a capital buffer differ for depository institutions compared to bank holding companies and savings and loan holding companies? Similarly, would, and if so how would, applying the revised definition of eligible retained income to U.S. intermediate holding companies be consistent with the purposes of the buffer requirements discussed above? How, if at all, do the incentives for using a capital buffer differ for U.S. intermediate holding companies?

Question 3: Under what circumstances, if any, should a banking organization be restricted from making any capital distributions?

III. Impact Assessment

In ordinary economic circumstances, many banking organizations will pay out a significant portion of their net income, and retain the rest to support growth. As banking organizations enter stress periods, the restrictions in the capital buffers limit distributions and help to preserve capital and support lending. However, if the limits to distributions are too restrictive, banking organizations can face a sharp increase in their distribution limitations when they enter the buffer due to stress. This may create an incentive for banking organizations to reduce lending or take other actions to avoid falling into the buffer. The revised definition of eligible net income in the interim final rule allows banking organizations to more gradually reduce distributions as they enter stress, and provides banking organizations with stronger incentives to continue to lend in such a scenario. On the other hand, by enabling banking organizations to gradually decrease capital distributions in stress (rather than mandating a sharp decrease), the rule could incrementally reduce the banking organization's loss-absorption capacity in stress.

The definition of eligible retained income affects the distributions of banking organizations within their capital conservation or stress capital buffers. It does not have an impact on minimum capital requirements, *per se.* As such, the revised definition of eligible retained income in the interim final rule is not likely to have any noticeable effect on the capital requirements of banking organizations. Furthermore, banking organizations currently maintain robust capital levels, with only a small number of banking organizations having capital levels within the capital conservation buffer.

IV. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing the interim final rules without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA)).[12] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [13]

The agencies believe that the public interest is best served by implementing the interim final rule immediately upon publication in the **Federal Register**. As discussed above, the spread of COVID–19 has disrupted economic activity in the United States. In addition, U.S. financial markets have featured extreme levels of volatility. The magnitude and persistence of COVID–19 on the economy remain uncertain. In light of the current market uncertainty, banking organizations may have a strong incentive to limit their lending activity in order to avoid facing abrupt restrictions on distributions. By making the automatic limitations on a banking organization's distributions more gradual as the banking organization's capital ratios decline, the interim final rule would allow banking organizations to focus on continuing to lend to creditworthy households and businesses rather than on managing their capital buffers and reducing the potential of exacerbating negative impacts on the financial markets. For these reasons, the agencies find that there is good cause consistent with the public interest to issue the rule without advance notice and comment.[14]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and

[12] 5 U.S.C. 553.

[14] 5 U.S.C. 553(b)(B); 553(d)(3).

statements of policy; or (3) as otherwise provided by the agency for good cause.[15] Because the rules relieve a restriction, the interim final rule is exempt from the APA's delayed effective date requirement.[16]

While the agencies believe that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the agencies are interested in the views of the public and requests comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[17] If a rule is deemed a ''major rule'' by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[18]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[19]

For the same reasons set forth above, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[20] In light of current market uncertainty, the agencies believe that delaying the effective date of the rule would be contrary to the public interest. In addition, as discussed above, the revised definition of eligible retained income in the interim final rule is not likely to have any significant effect on the capital requirements of banking organizations.

As required by the Congressional Review Act, the agencies will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. The interim final rule affects the agencies' current information collections for the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051). The OMB control numbers for the agencies are: OCC OMB No. 1557–0081; Board OMB No. 7100–0036; and FDIC OMB No. 3064–0052. The Board has reviewed this interim final rule pursuant to authority delegated by the OMB.

Although there is a substantive change to the actual calculation of retained income for purposes of the Call Reports, the change should be minimal and result in a zero net change in hourly burden under the agencies' information collections. Submissions will, however, be made by the agencies to OMB. The changes to the Call Reports and their related instructions will be addressed in a separate **Federal Register** notice. Also, the Board has temporarily revised the Consolidated Financial Statements for Holding Companies (FR Y–9; OMB No. 7100–0128) to reflect the changes made in this interim final rule. On June 15, 1984, OMB delegated to the Board authority under the PRA to temporarily approve a revision to a collection of information without providing opportunity for public comment if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation.

The Board's delegated authority requires that the Board, after temporarily approving a collection, solicit public comment on a proposal to extend the temporary collection for a period not to exceed three years. Therefore, the Board is inviting comment on a proposal to extend the FR Y–9 reports for three years, with revision. The Board invites public comment on the FR Y–9 reports, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Comments must be submitted on or before May 19, 2020. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Adopted Revision, With Extension for Three Years, of the Following Information Collection:

Report title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C; FR Y–9LP; FR Y–9SP; FR Y–9ES; FR Y–9CS.

OMB control number: 7100–0128.

Effective date: December 31, 2020.

Frequency: Quarterly, semiannually, and annually.

Affected public: Businesses or other for-profit.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs),[21] securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs) (collectively, holding companies (HCs)).

Estimated number of respondents:

FR Y–9C (non AA HCs) with less than $5 billion in total assets—155,

FR Y–9C (non AA HCs) with $5 billion or more in total assets—189,

FR Y–9C (AA HCs)—19,

FR Y–9LP—434,

FR Y–9SP—3,960,

FR Y–9ES—83,

[15] 5 U.S.C. 553(d).

[16] 5 U.S.C. 553(d)(1).

[17] 5 U.S.C. 801 *et seq.*

[18] 5 U.S.C. 801(a)(3).

[19] 5 U.S.C. 804(2).

[20] 5 U.S.C. 808.

[21] A savings and loan holding company (SLHC) must file one or more of the FR Y–9 family of reports unless it is: (1) A grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than 5 percent of its consolidated assets; or (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

FR Y–9CS—236.

Estimated average hours per response:

Reporting

FR Y–9C (non AA HCs) with less than $5 billion in total assets—40.48,

FR Y–9C (non AA HCs) with $5 billion or more in total assets—46.34,

FR Y–9C (AA HCs)—47.59,

FR Y–9LP—5.27,

FR Y–9SP—5.40,

FR Y–9ES—0.50,

FR Y–9CS—0.50.

Recordkeeping

FR Y–9C (non AA HCs) with less than $5 billion in total assets—1,

FR Y–9C (non AA HCs) with $5 billion or more in total assets—1,

FR Y–9C (AA HCs)—1,

FR Y–9LP—1,

FR Y–9SP—0.50,

FR Y–9ES—0.50,

FR Y–9CS—0.50.

Estimated annual burden hours:

Reporting

FR Y–9C (non AA HCs) with less than $5 billion in total assets—25,098,

FR Y–9C (non AA HCs) with $5 billion or more in total assets—35,033,

FR Y–9C (AA HCs)—3,617,

FR Y–9LP—9,149,

FR Y–9SP—42,768,

FR Y–9ES—42,

FR Y–9CS—472.

Recordkeeping

FR Y–9C (non AA HCs) with less than $5 billion in total assets—620,

FR Y–9C (non AA HCs) with $5 billion or more in total assets—756,

FR Y–9C (AA HCs)—76,

FR Y–9LP—1,736,

FR Y–9SP—3,960,

FR Y–9ES—42,

FR Y–9CS—472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the consolidated holding company. The Board requires HCs to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. The FR Y–9ES is a financial statement for HCs that are Employee Stock Ownership Plans. The Board uses the FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. HCs file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Legal authorization and confidentiality: The Board has the authority to impose the reporting and recordkeeping requirements associated with the FR Y–9 family of reports on BHCs pursuant to section 5 of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844); on SLHCs pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) and (3)), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act); on U.S. IHCs pursuant to section 5 of the BHC Act (12 U.S.C 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act (12 U.S.C. 511(a)(1) and 5365); and on securities holding companies pursuant to section 618 of the Dodd-Frank Act (12 U.S.C. 1850a(c)(1)(A)). The obligation to submit the FR Y–9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory.

With respect to the FR Y–9C report, Schedule HI's memoranda data item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's data item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's data item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential commercial and financial information. Such treatment is appropriate under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information would also be withheld pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y–9C report and the FR Y–9SP report, Schedule HC's memorandum item 2.b., the name and email address of the external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) if the identity of the engagement partner is treated as private information by HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Aside from the data items described above, the remaining data items on the FR Y–9C report and the FR Y–9SP report are generally not accorded confidential treatment. The data items collected on FR Y–9LP, FR Y–9ES, and FR Y–9CS reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent the instructions to the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES reports each respectively direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information is considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

Current actions: The Board has temporarily revised the instructions for the FR Y–9C to reflect the modification to the definition of eligible retained income contained in this interim final rule. Specifically, the Board has temporarily revised the instructions for the item capturing eligible retained income for HCs not subject to the capital plan rule on FR Y–9C, Schedule HC–R. The Board has determined that the revisions to the FR Y–9C must be instituted quickly and that public participation in the approval process would defeat the purpose of the

collection of information, as delaying the revisions would result in the collection of inaccurate information and would interfere with the Board's ability to perform its statutory duties. The Board also proposes to revise the instructions for a forthcoming item, which will be added to Schedule HC–R for the December 31, 2020 as-of date, that captures eligible retained income for HCs subject to the capital plan rule.

The Board also proposes to extend the FR Y–9 reports for three years, with the revisions discussed above.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[22] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[23] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the agencies are not issuing a notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the agencies seek comment on whether, and the extent to which, the interim final rule would affect a significant number of small entities.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[24] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[25] For the reasons described above, the agencies find good cause exists under section 302 of RCDRIA to publish this interim final rule with an immediate effective date.

As such, the final rule will be effective on March 20, 2020. Nevertheless, the agencies seek comment on RCDRIA.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[26] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the interim final rule in a simple and straightforward manner. The agencies invite comments on whether there are additional steps it could take to make the rule easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?

What else could we do to make the regulation easier to understand?

G. Unfunded Mandates

As a general matter, the Unfunded Mandates Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.,* requires the preparation of a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published. See 2 U.S.C. 1532(a). Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, Federal savings associations, National banks, Risk.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Risk, Securities.

12 CFR Part 324

Administrative practice and procedure, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

Office of the Comptroller of the Currency

For the reasons set out in the joint preamble, the OCC amends part 3 of chapter I, title 12 of the CFR as follows:

PART 3—CAPITAL ADEQUACY STANDARDS

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

■ 2. Section 3.11 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 3.11 Capital conservation buffer and countercyclical capital buffer amount.

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of a national bank or Federal savings association is the greater of:

(A) The national bank's or Federal savings association's net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the national bank's or Federal savings association's net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter.

* * * * *

[22] 5 U.S.C. 601 *et seq.*

[23] Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with total assets of $41.5 million or less. *See* 13 CFR 121.201.

[24] 12 U.S.C. 4802(a).

[25] 12 U.S.C. 4802.

[26] 12 U.S.C. 4809.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

For the reasons stated in the joint preamble, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 3. The authority citation for part 217 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371, and 5371 note.

■ 4. Section 217.11 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the greater of:

(A) The Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the Board-regulated institution's net income, calculated in accordance with the instructions to the FR Y–9C or Call Report, as applicable, for the four calendar quarters preceding the current calendar quarter.

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 324—CAPITAL ADEQUACY OF FDIC–SUPERVISED INSTITUTIONS

■ 5. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

■ 6. Section 324.11 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 324.11 Capital conservation buffer and countercyclical capital buffer amount.

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of an FDIC-supervised institution is the greater of:

(A) The FDIC-supervised institution's net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income; and

(B) The average of the FDIC-supervised institution's net income, calculated in accordance with the instructions to Call Report, for the four calendar quarters preceding the current calendar quarter.

* * * * *

Dated: March 17, 2020.

Morris R. Morgan,

First Deputy Comptroller, Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 16, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–06051 Filed 3–19–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 365

RIN 3064–AE91

Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Correcting amendment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is correcting an interagency final rule that appeared in the **Federal Register** on November 13, 2019, regarding the final rule titled ''Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations.'' These corrections are necessary to conform a footnote citation in the FDIC's amendment to its codified appendix for the Interagency Guidelines for Real Estate Lending Policies with the footnote citation in the regulations of the other federal banking agencies that issued that final rule.

DATES: Effective March 20, 2020.

FOR FURTHER INFORMATION CONTACT: *FDIC:* Beverlea S. Gardner, Senior Examination Specialist, *bgardner@fdic.gov,* 202–898–3640; Policy and Program Development Section, Division of Risk Management Supervision; or Michael Phillips, Counsel, *mphillips@fdic.gov;* Catherine Wood, Counsel, *cawood@fdic.gov;* Francis Kuo, Counsel, *fkuo@fdic.gov,* Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On November 13, 2019, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and the FDIC (collectively, the agencies) published a final rule ''Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations'' (CBLR final rule).[1] The CBLR final rule provides for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Under the CBLR final rule, depository institutions and depository institution holding companies that have less than $10 billion in total consolidated assets and meet other qualifying criteria, including a leverage ratio of greater than 9 percent, will be eligible to opt into the community bank leverage ratio framework (CBLR banks). In addition, under the CBLR final rule, the community bank leverage ratio framework incorporates tier I capital in the numerator of that leverage ratio. The CBLR final rule also amends standards referencing total capital so that an electing CBLR bank uses tier I capital in the numerator of that leverage ratio instead of total capital, which includes tier 2 capital.[2]

This correcting amendment will conform appendix A to subpart A of

[1] 84 FR 61776 (Nov. 13, 2019).

[2] *See* the definition of ''total capital'' in the FDIC's capital rules in 12 CFR 324.2.

part 365 of the FDIC's Real Estate Lending Standards regulation to that of the other Federal banking agencies.

List of Subjects in 12 CFR Part 365

Banks, Banking, Mortgages.

For the reasons stated in the preamble, the FDIC corrects 12 CFR part 365 by making the following correcting amendment:

PART 365—REAL ESTATE LENDING STANDARDS

■ 1. The authority citation for part 365 is revised to read as follows:

Authority: 12 U.S.C. 1828(o) and 5101 *et seq.*

■ 2. Amend appendix A to subpart A of part 365 by revising footnote 4 to read as follows:

Appendix A to Subpart A of Part 365—Interagency Guidelines for Real Estate Lending Policies

* * * * *

[4] For state non-member banks and state savings associations, ''total capital'' refers to that term described in § 324.2 of this chapter.

* * * * *

Federal Deposit Insurance Corporation.

Dated in Washington, DC, on March 12, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–05441 Filed 3–19–20; 8:45 am]

BILLING CODE 6714–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Responsible Business Conduct: Self-Assessing, Self-Reporting, Remediating, and Cooperating (CFPB BULLETIN 2020–01)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Bulletin.

SUMMARY: In 2013, the Bureau of Consumer Financial Protection (Bureau) issued a Bulletin that identified several activities that businesses could engage in that could prevent and minimize harm to consumers, referring to these activities as ''responsible conduct.'' The Bureau is issuing this updated Bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct.

DATES: This Bulletin is applicable on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Colin Reardon, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–9668. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: In executing its statutory responsibilities, the Bureau places primary emphasis on preventing harm to consumers. Preventing harm to consumers is among the most effective and efficient ways of ensuring consumer access to a fair, transparent, and competitive financial market. In 2013, the Bureau issued a Bulletin that identified several activities that individuals or businesses, collectively ''entities,'' could engage in that could prevent and minimize harm to consumers, referring to these activities as ''responsible conduct.'' The Bureau is issuing this updated Bulletin to clarify its approach to responsible conduct and to reiterate the importance of such conduct.

In the first instance, the Bureau's focus is on building a culture of compliance among entities, including covered persons and service providers, in order to minimize the likelihood of a violation of Federal consumer financial law, and thereby prevent harm to consumers. When a violation of law does occur, swift and effective actions taken by an entity to address the violation can minimize resulting harm to consumers. Specifically, an entity may self-assess its compliance with Federal consumer financial law, self-report to the Bureau when it identifies likely violations, remediate the harm resulting from these likely violations, and cooperate above and beyond what is required by law with any Bureau review or investigation.

Such activities are in the public interest. Depending on its form and substance, responsible conduct can improve the Bureau's ability to promptly detect violations of Federal consumer financial law, increase the effectiveness and efficiency of its supervisory and enforcement work, enable the Bureau to focus its finite resources on their best use for the mission, and help more consumers in more matters promptly receive financial redress and additional meaningful remedies for any harm they experienced.

Because responsible conduct is in the public interest, the Bureau seeks to encourage it. Accordingly, if an entity meaningfully engages in responsible conduct, the Bureau intends to favorably consider such conduct, along with other relevant factors, in addressing violations of Federal consumer financial law in supervisory and enforcement matters.[1] Depending on the nature and extent of an entity's actions, the Bureau has a wide range of options available to properly account for responsible conduct. For example, in light of an entity's responsible conduct, the Bureau could exercise its discretion to close an enforcement investigation with no action or decide not to include Matters Requiring Attention in an exam report or supervisory letter. Even if the Bureau does take action, those who engage in responsible conduct may receive other types of credit for engaging in such behavior. For entities within the Bureau's supervisory authority, the Bureau's Division of Supervision, Enforcement, and Fair Lending makes determinations of whether violations should be resolved through non-public supervisory action or a possible public enforcement action through its Action Review Committee (ARC) process. The ARC process includes factors that are closely aligned with the elements of responsible conduct. Thus, for entities under the Bureau's supervisory authority, responsible conduct could result in resolving violations non-publicly through the supervisory process. Responsible conduct also could result in the Bureau's reducing the number of violations pursued or reducing the sanctions or penalties sought by the Bureau in any public enforcement action. The Bureau intends to consider the extent and significance of an entity's responsible conduct, with more extensive and important responsible conduct leading to more substantial consideration.

This guidance, and its description of factors that may warrant favorable consideration, is not adopting any rule or formula to be applied in all matters. The importance of each factor in a given matter, and the way in which the Bureau evaluates each factor, will depend on the circumstances. The Bureau is not in any way limiting its discretion and responsibility to evaluate each matter individually on its own facts and circumstances. In short, the fact that an entity may argue it has satisfied some or even all of the factors set forth in this guidance will not necessarily foreclose the Bureau from bringing any enforcement action or

[1] Other factors the Bureau considers in determining how to resolve violations of Federal consumer financial law include, without limitation, (1) the nature, extent, and severity of the violations identified and any associated consumer harm; (2) an entity's demonstrated effectiveness and willingness to address the violations; and (3) the importance of deterrence, considering the significance and pervasiveness of the potential consumer harm.

seeking any remedy if it believes such a course is necessary and appropriate.

Factors Used To Evaluate and Acknowledge Responsible Conduct

As noted previously, the Bureau principally considers four categories of conduct when evaluating whether some form of credit is warranted in an enforcement investigation or supervisory matter: Self-assessing, self-reporting, remediating, and cooperating. However, if an entity engages in another type of activity particular to its situation that is both substantial and meaningful, the Bureau may take that activity into consideration.

Listed below are some of the factors the Bureau intends to consider in determining whether and how much to take into account responsible conduct. This list is not exhaustive, and some of the factors identified may relate to more than one category of responsible conduct.

Self-Assessing

This factor, which can also be described as self-monitoring or self-auditing, reflects a proactive commitment by an entity to use resources for the prevention and early detection of violations of Federal consumer financial law. The Bureau recognizes that a robust compliance management system appropriate for the size and complexity of an entity's business will not prevent all violations, but it will reduce the risk of violations, and it will often facilitate early detection of likely violations, which can limit the size and scope of consumer harm. Questions the Bureau intends to consider in determining whether to provide favorable consideration for self-assessing activity include:

1. What resources does the entity devote to compliance? How robust and effective is its compliance management system? Is it appropriate for the size and complexity of the entity's business?

2. Has the entity taken steps to improve its compliance management system when deficiencies have been identified either by itself or external regulators? Did the entity ignore obvious deficiencies in compliance procedures? Does the entity have a culture of compliance?

3. Considering the nature of the violation, did the entity identify the issue? What is the nature of the violation or likely violation and how did it arise? Was the conduct pervasive or an isolated act? How long did it last? Did senior personnel participate in, or turn a blind eye toward, obvious indicia of misconduct?

4. How was the violation detected and who uncovered it? If identified by the entity, how did the entity identify the issue (*e.g.,* from customer complaints, audits or monitoring based on routine risk assessments, or whistleblower activity)? Was the identification the result of a robust and effective compliance management system including adequate internal audit, monitoring, and complaint review processes? Was identification prompted by an impending exam or an investigation by a regulator?

5. What self-assessment mechanisms were in place to effectively prevent, identify, or limit the conduct that occurred, elevate it appropriately, and preserve relevant information? In what ways, if any, were the entity's self-assessing mechanisms particularly noteworthy and effective?

Self-Reporting

This factor substantially advances the Bureau's protection of consumers and enhances its mission by reducing the resources it must expend to identify violations and making those resources available for other significant matters. Prompt self-reporting of likely violations also represents concrete evidence of an entity's commitment to responsibly address the conduct at issue. Conversely, efforts to conceal a likely violation from the Bureau represent concrete evidence of the entity's lack of commitment to responsibly address the conduct at issue. For these reasons, the Bureau considers this factor in its evaluation of an entity's overall conduct. Of note, however, an entity's self-reporting of a potential issue does not require it to concede that it has violated the law. Questions the Bureau intends to examine in determining whether to provide favorable consideration for self-reporting of likely violations of Federal consumer financial law include:

1. Did the entity completely and effectively disclose the existence of the conduct to the Bureau, to other regulators, and, if applicable, to self-regulatory organizations? Did the entity report any additional related misconduct likely to have occurred?

2. Did the entity report the conduct to the Bureau without unreasonable delay? If it delayed, what justification, if any, existed for the delay? How did the delay affect the preservation of relevant information, the ability of the Bureau to conduct its review or investigation, or the interests of affected consumers?

3. Did the entity proactively self-report, or wait until discovery or disclosure was likely to happen anyway, for example due to impending supervisory activity, public company reporting requirements, the emergence of a whistleblower, consumer complaints or actions, or the conduct of a Bureau investigation?

Remediating

When violations of Federal consumer financial law have occurred, the Bureau's remedial priorities include obtaining full redress for those injured by the violations, ensuring that the entity who violated the law implements measures designed to prevent the violations from recurring, and, when appropriate, effectuating changes in the entity's future conduct for the protection and/or benefit of consumers. Questions the Bureau intends to examine in determining whether to provide favorable consideration for remediation activity regarding likely violations of Federal consumer financial law include:

1. What steps did the entity take upon learning of the violation? Did it immediately stop the violation? How long after the violation was uncovered did it take to implement an effective response?

2. What steps did the entity take to discipline the individuals responsible for the violation and to prevent the individuals from repeating the same or similar conduct?

3. Did the entity conduct an analysis to determine the number of affected consumers and the extent to which they were harmed? Were consumers made whole through compensation and other appropriate relief, as applicable? Did affected consumers receive appropriate information related to the violations within a reasonable period of time?

4. What assurances are there that the violation (or a similar violation) is unlikely to recur? Did the entity take measures, such as a root-cause analysis, to ensure that the issues were addressed and resolved in a manner likely to prevent and minimize future violations? Similarly, have the entity's business practices, policies, and procedures changed to remove harmful incentives and encourage proper compliance?

Cooperating

Unlike self-assessing and remediating, which may occur with or without Bureau involvement, cooperating relates to the quality of an entity's interactions with the Bureau after the Bureau becomes aware of a likely violation of Federal consumer financial law, either through an entity's self-reporting or the Bureau's own efforts. Credit for cooperating in this context depends on the extent to which an entity takes steps above and beyond what the law requires

in its interactions with the Bureau. Simply meeting those legal obligations is not a factor that the Bureau intends to give any special consideration in a supervisory review or enforcement investigation. Of note, the Bureau does not consider an entity's good faith assertion of privilege in an enforcement investigation to be a lack of cooperation; an entity asserting privileges in good faith remains eligible for potential favorable consideration for cooperating. Questions the Bureau intends to examine in determining whether to provide favorable consideration for cooperating in a Bureau matter include:

1. Did the entity cooperate promptly and completely with the Bureau and other appropriate regulatory and law enforcement bodies? Was that cooperation present throughout the course of the review and/or investigation?

2. Did the entity take proper steps to develop the facts quickly and completely and to fully share its findings with the Bureau? Did it undertake a thorough review of the nature, extent, origins, and consequences of the violation and related behavior? Who conducted the review and did they have a vested interest or bias in the outcome? Were scope limitations placed on the review? If so, why and what were they?

3. Did the entity promptly make available to the Bureau the results of its review and provide sufficient documentation reflecting its response to the situation? Did it provide evidence with sufficient precision and completeness to facilitate, among other things, appropriate actions against others who violated the law? Did the entity produce a complete and thorough written report detailing the findings of its review? Did it voluntarily disclose material information not directly requested by the Bureau or that otherwise might not have been uncovered? Did the entity provide all relevant, non-privileged information and make assertions of privilege in good faith?

4. Did the entity direct its employees to cooperate with the Bureau and make reasonable efforts to secure such cooperation? Did it make the most appropriate person(s) available for interviews, consultation, and/or sworn statements?

The Bureau intends for this guidance to encourage entities subject to the Bureau's supervisory and enforcement authority to engage in more ''responsible conduct,'' as defined herein. Such an outcome, the Bureau believes, would benefit both consumers and providers of consumer financial products and services, is in the public interest, and supports the Bureau's efforts to prevent consumer harm.

Regulatory Requirements

This Bulletin is a non-binding general statement of policy articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Bulletin does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* the Bureau will submit a report containing this policy statement and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to its applicability date. The Office of Information and Regulatory Affairs has designated this policy statement as not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: March 6, 2020.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2020–05505 Filed 3–19–20; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0863; Product Identifier 2019–NM–157–AD; Amendment 39–19867; AD 2020–05–17]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A318–112, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–216, A320–231, A320–232, A320–233, A320–251N, and A320–271N airplanes. This AD was prompted by a report of marginal clearance between certain fuel sensor covers on both left-hand (LH) and right-hand (RH) wings. This AD requires the replacement of certain fuel level sensor brackets, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0863.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0863; 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: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0197, dated August 14, 2019 (''EASA AD 2019–0197'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–112, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–215, A320–216, A320–231, A320–232, A320–233, A320–251N, and A320–271N airplanes. Model A320–215 airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A318–112, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–215, A320–216, A320–231, A320–232, A320–233, A320–251N, and A320–271N airplanes. The NPRM published in the **Federal Register** on November 7, 2019 (84 FR 60001). The NPRM was prompted by a report of marginal clearance between certain fuel sensor covers on both LH and RH wings. The NPRM proposed to require the replacement of certain fuel level sensor brackets.

The FAA is issuing this AD to address marginal clearance between certain fuel sensor covers on rib 24 and the crown of stringer 15 on both LH and RH wings. A possible contact between the shield and the stringer, and/or possible motion between the stringer and the shield, can make the gap more susceptible to sparking in case of lightning strike. This condition could create a source of ignition in a fuel tank vapor space, possibly resulting in a fire or explosion and consequent loss of the airplane. See the MCAI for additional background information.

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) agreed with the intent of the NPRM.

Request To Clarify Affected Airplanes and Instructions

American Airlines (AAL) requested that the NPRM be revised to clarify the affected airplanes. AAL stated that clarification is needed on which airplanes fall outside of Group 1, 2, or 3, but still have not embodied Airbus modification (mod) 158133 and are therefore affected by EASA AD 2019–0197. AAL requested instructions on how to comply with the actions specified in the proposed AD for those airplanes in ''Group 4'' (EASA AD 2019–0197 defines Group 1, 2, and 3 only). Alternatively, AAL recommended that the proposed AD applicability reflect Group 1, 2, and 3 airplanes only.

The FAA agrees to clarify. This AD applies to Airbus airplanes referenced in paragraph (c) of this AD as identified in EASA AD 2019–0197, *i.e.,* those that have not embodied Airbus modification 158133. If modification 158133 is not installed on an airplane, and none of the criteria associated with the definitions of Group 1, 2, or 3 airplanes is met, then those airplanes (referred to as group 4 by the commenter) are subject only to paragraph (4) of EASA AD 2019–0197, which contains parts installation requirements. Paragraph (4) of EASA AD 2019–0197 also applies to Group 1, 2, and 3 airplanes. The FAA has not changed this AD in this regard.

Request To Clarify Actions for Certain Airplanes

United Airlines (UAL) stated its fleet will be identified as Group 3 as specified in EASA AD 2019–0197 because Airbus Service Bulletin A320–28–1216 is being implemented on its entire fleet. UAL noted that if it were to incorporate Airbus Service Bulletin A320–57–1193 on its fleet, Airbus would need to be contacted for instructions. The FAA infers UAL is requesting that the FAA clarify the actions for Group 2 and Group 3 airplanes.

The FAA agrees to clarify. Group 3 airplanes are those having embodied Airbus Service Bulletin A320–28–1216 but not Airbus Service Bulletin A320–57–1193. However, once operators incorporate Airbus Service Bulletin A320–28–1216 and Airbus Service Bulletin A320–57–1193 on an airplane, that airplane is a Group 2 airplane as defined in EASA AD 2019–0197; operators then must comply with the requirements of this AD that correspond to the actions specified in paragraph (2) of EASA AD 2019–0197. The FAA also acknowledges UAL's comment regarding operators needing to contact Airbus prior to incorporating Airbus Service Bulletin A320–57–1193, as specified in paragraph (3) of EASA AD 2019–0197. The FAA has not changed this AD in this regard.

Request To Exclude Airplanes

Spirit Airlines requested that airplanes without factory modification 160001 be excluded from the requirements of the proposed AD. Spirit Airlines stated that if the proposed AD is applicable to aircraft without the production modification 160001, then EASA AD 2019–0197 gives no method of compliance. Spirit Airlines stated its airplanes do not fall within Group 1, Group 2, or Group 3, as specified in EASA AD 2019–0197. Spirit Airlines noted that the applicability section of EASA AD 2019–0197 excludes only aircraft with factory modification 158133.

The FAA disagrees with the commenter's request. If Airbus modification 158133 is not installed, and none of the criteria associated with the definitions for Group 1, 2, and 3 airplanes is met, then those airplanes are still subject to the parts installation requirements of this AD, as specified in paragraph (4) of EASA AD 2019–0197. Paragraph (4) of EASA AD 2019–0197 applies to all airplanes identified in paragraph (c), ''Applicability,'' of this AD, which includes all manufacturer serial numbers (MSN) of the referenced models, except those having Airbus modification 158133 embodied in production. The FAA has not changed this AD in this regard.

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 as proposed, except for 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.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0197 describes procedures for the replacement of certain fuel level sensor brackets. This material 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 776 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 7 work-hour × $85 per hour = Up to $595	Up to $609	Up to $1,204	Up to $934,304.

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.

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):

2020–05–17 Airbus SAS: Amendment 39–19867; Docket No. FAA–2019–0863; Product Identifier 2019–NM–157–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A318–112, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–211, A320–212, A320–214, A320–216, A320–231, A320–232, A320–233, A320–251N, and A320–271N airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0197, dated August 14, 2019 (''EASA AD 2019–0197'').

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a report of marginal clearance between certain fuel sensor covers on rib 24 and the crown of stringer 15 on both left-hand (LH) and right-hand (RH) wings. A possible contact between the shield and the stringer, and/or possible motion between the stringer and the shield, can make the gap more susceptible to sparking in case of lightning strike. The FAA is issuing this AD to address this condition, which could create a source of ignition in a fuel tank vapor space, possibly resulting in a fire or explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0197.

(h) Exceptions to EASA AD 2019–0197

(1) Where EASA AD 2019–0197 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0197 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2019–0197 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer,

International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0197, dated August 14, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0197, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0863.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 7, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05707 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0873; Product Identifier 2019–NM–164–AD; Amendment 39–19869; AD 2020–05–19]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A319–112, –115, and –132 airplanes; and Model A320–214, –216, –232, and –233 airplanes. This AD was prompted by a report that a possible interference was identified between 1M and 2M wiring harnesses and the tapping units, and that the interference could adversely affect the lavatory smoke detection system and/or the passenger oxygen system. This AD requires modifying the 1M and 2M harness routing, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0873.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0873; 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: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0227, dated September 11, 2019 (''EASA AD 2019–0227'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A319–112, –115, and –132 airplanes; and Model A320–214, –216, –232 and –233 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A319–112, –115, and –132 airplanes; and Model A320–214, –216, –232, and –233 airplanes. The NPRM published in the **Federal Register** on November 22, 2019 (84 FR 64443). The NPRM was prompted by a report that a possible interference was identified between 1M and 2M wiring harnesses and the tapping units, and that the interference could adversely affect the lavatory smoke detection system and/or the passenger oxygen system. The NPRM proposed to require modifying the 1M and 2M harness routing, as specified in an EASA AD.

The FAA is issuing this AD to address possible loss of lavatory smoke detection and/or passenger oxygen system commands, which could prevent the delivery of passenger oxygen during an emergency and possibly result in injury to airplane occupants. See the MCAI for additional background information.

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. The FAA received one comment outside the scope of this rulemaking.

Support for the NPRM

Two anonymous commenters stated their support for the NPRM.

Request for Clarification on Affected Airplane Models

Megan Meyet requested clarification on other Airbus airplanes that may be affected by the unsafe condition identified in the proposed AD. The commenter asked what will the FAA do if there are other Airbus airplanes that are found to have the same issue. The commenter stated that the proposed AD lists a specific batch of Airbus airplanes that have a defective part, but does not mention what would happen if other

airplane models are found to have the same issue.

The FAA agrees to clarify. The unsafe condition in this AD is caused by interference due to installation of optional tapping units, which reduced the clearance between the wire harnesses and tapping units. EASA and Airbus know the population of airplanes affected by this unsafe condition. Therefore, the Airbus airplanes specified in EASA AD 2019–0227 are the affected population. If additional airplanes are found to be affected by this unsafe condition, the FAA will consider additional rulemaking. The FAA has not changed this AD in this regard.

Request for Clarification of the Unsafe Condition

An anonymous commenter requested clarification of the unsafe condition. The commenter stated that the proposed AD was prompted by a report that a possible interference was identified between the 1M and 2M wiring harnesses and tapping units, and that this interference could have negative effects on the lavatory smoke detection system and possibly the passenger oxygen system. The commenter asked if this interference actually caused an error in the smoke alarm or in the oxygen system, or is this a proposed consequence of the interference? The commenter suggested that if it is only a proposed consequence, it would be more cost effective to run more tests before incurring the costs of the 6 airplanes affected by the proposed AD. The commenter also stated that if this issue has been confirmed, then the proposed AD is extremely important to adopt, and could affect countless lives if the passenger oxygen system commands failed in an emergency.

The FAA agrees to clarify. EASA, as the State of Design Authority for Airbus SAS airplanes, issued AD 2019–0227 based on its risk assessment, which takes into account the effects of system level failures on the airplane's safety. This risk assessment showed that a change in the installation of the tapping units creates the potential for contact between wire harnesses and the tapping units, because the tapping units are installed higher than they previously were. If this potential interference between the wiring harnesses and tapping units is not addressed, an unsafe condition may occur, resulting in failure of audio and/or visual warnings to the flight crew related to smoke detection in the lavatory and the loss of delivery of passenger oxygen in the event of an emergency. The FAA has determined that further testing and analysis are not needed, and the agency is issuing this AD to prevent this unsafe condition from occurring. The FAA has not revised this AD in this regard.

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 as proposed, except for 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.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0227 describes procedures for modifying the 1M and 2M wiring harness routing. This material 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 6 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$180	$690	$4,140

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.

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):

2020–05–19 Airbus SAS: Amendment 39–19869; Docket No. FAA–2019–0873; Product Identifier 2019–NM–164–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A319–112, –115, and –132 airplanes; and Model A320–214, –216, –232 and –233 airplanes; certificated in any category; as identified in European Union Aviation Safety Agency (EASA) AD 2019–0227, dated September 11, 2019 (''EASA AD 2019–0227'').

(d) Subject

Air Transport Association (ATA) of America Code 92, Electric and Electronic Common Installation.

(e) Reason

This AD was prompted by a report that a possible interference was identified between 1M and 2M wiring harnesses and the tapping units, and that the interference could adversely affect the lavatory smoke detection system and/or the passenger oxygen system. The FAA is issuing this AD to address possible loss of lavatory smoke detection and/or passenger oxygen system commands, which could prevent the delivery of passenger oxygen during an emergency and possibly result in injury to airplane occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0227.

(h) Exceptions to EASA AD 2019–0227

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0227 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0227 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0227 that contains RC procedures and tests, except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0227, dated September 11, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0227, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0873.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 4, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05763 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0970; Product Identifier 2018–SW–089–AD; Amendment 39–19870; AD 2020–05–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, and AS332L2 helicopters. This AD requires removing the drain plugs from the fuel tank compartments located under the bottom structure. This AD was prompted by the discovery that a modification to the fuel tank could lead to fuel accumulating in an area containing electrical equipment and subsequent ignition of fuel vapors. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of April 24, 2020.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0970.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No.

FAA–2019–0970; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: James Blyn, Aviation Safety Engineer, Regulations and Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *james.blyn@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On December 3, 2019, at 84 FR 66080, the **Federal Register** published the FAA's notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, and AS332L2 helicopters, except those with modification 0726383 installed. The NPRM proposed to require removing drain plugs from the fuel tank compartments. The proposed requirements were intended to prevent fuel accumulating in an area containing electrical equipment and ignition of fuel vapors, which could result in a fire and subsequent damage to the helicopter or injury to the occupants.

The NPRM was prompted by EASA AD No. 2018–0209, dated September 21, 2018 (EASA AD 2018–0209), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale) Model AS332C, AS332C1, AS332L, AS332L1, and AS332L2 helicopters, except those with modification 0726383. EASA advises that during production of AS332 helicopters, closure of the fuel tank drains with plugs was implemented. EASA states that this closure disregards compliance with an airworthiness certification requirement and in the event of fuel leakage in flight, a closed fuel drain creates the risk of fuel accumulation and/or migration to an adjacent area. EASA advises this area may contain electrical equipment that could be susceptible to creating a source of ignition. Accordingly, EASA AD 2018–0209 requires modification of the draining system of the fuel tank compartments by removing the drain plugs from the fuel tank compartments located under the bottom structure.

Comments

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

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS332–53.01.62, Revision 1, dated May 28, 2019 (ASB AS332–53.01.62, Revision 1), which specifies procedures for removing the drain plugs from the fuel tank compartments located under the bottom structure of the helicopter. This service information also specifies that the number of drain plugs varies depending on the version of the helicopter.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Airbus Helicopters ASB No. AS332–53.01.62, Revision 0, dated June 7, 2018 (AS332–53.01.62, Revision 0). AS332–53.01.62, Revision 0, contains the same procedures as AS332–53.01.62, Revision 1. However, AS332–53.01.62, Revision 1, also addresses military versions.

Costs of Compliance

The FAA estimates that this AD affects 11 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Removing the 6 drain plugs installed on Model AS332C and AS332C1 helicopters takes about 2 work-hours for an estimated cost of $170 per helicopter and $170 for the U.S. fleet size of 1 helicopter.

Removing the 7 drain plugs installed on Model AS332L, AS332L1, and AS332L2 helicopters takes about 2 work-hours for an estimated cost of $170 per helicopter and $1,700 for the U.S. fleet size of 10 helicopters.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

2. Will not affect intrastate aviation in Alaska, and

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

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):

2020–05–20 Airbus Helicopters: Amendment 39–19870; Docket No. FAA–2019–0970; Product Identifier 2018–SW–089–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, and AS332L2 helicopters, certificated in any category, except those with modification 0726383 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as closure of fuel tank drains. This condition could result in fuel accumulating in an area containing electrical equipment and ignition of fuel vapors. This condition could result in a fire and subsequent damage to the helicopter or injury to the occupants.

(c) Effective Date

This AD becomes effective April 24, 2020.

(d) Compliance

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

(e) Required Actions

Within 110 hours time-in-service or during the next scheduled maintenance, whichever occurs first:

(1) For Model AS332C and AS332C1 helicopters, remove the 6 fuel tank drain plugs by following the Accomplishment Instructions, paragraph 3.B.2. of Airbus Helicopters Alert Service Bulletin No. AS332–53.01.62, Revision 1, dated May 28, 2019 (ASB AS332–53.01.62), except you are not required to place the drain plugs in stock.

(2) For Model AS332L, AS332L1, and AS332L2 helicopters, remove the 7 fuel tank drain plugs by following the Accomplishment Instructions, paragraph 3.B.2. of ASB AS332–53.01.62, except you are not required to place the drain plugs in stock.

(f) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in Airbus Helicopters Alert Service Bulletin No. AS332–53.01.62, Revision 0, dated June 7, 2018, are considered acceptable for compliance with the corresponding actions specified in paragraph (e) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. AS332–53.01.62, Revision 0, dated June 7, 2018, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD No. 2018–0209, dated September 21, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–0970.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2810, Fuel Storage.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Airbus Helicopters Alert Service Bulletin No. AS332–53.01.62, Revision 1, dated May 28, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

(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, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 11, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05667 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0195; Product Identifier 2019–CE–052–AD; Amendment 39–21031; AD 2020–04–14]

RIN 2120–AA64

Airworthiness Directives; Honda Aircraft Company LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Honda Aircraft Company LLC (Honda) Model HA–420 airplanes. This AD requires inspecting the wheel speed transducer (WST) wiring harness, replacing the wiring harness if necessary, installing wiring hardware, and rerouting the WST wiring harness on both the left and right brake assemblies. This AD also requires revising the Abnormal Procedures section of the airplane flight manual (AFM) and quick reference handbook (QRH). This AD was prompted by reports of damage to the wiring harness due to excessive slack in the wiring harness assembly that allows contact with the main landing gear tire and by the determination that the AFMs and QRHs contain incorrect procedures for anti-skid braking system failures. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 6, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 6, 2020.

The FAA must receive comments on this AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

• *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Honda Aircraft Company LLC, 6430 Ballinger Road, Greensboro, North Carolina 27410; telephone (336) 662–0246; internet: *https://www.hondajet.com.* You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0195; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Samuel Kovitch, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5570; fax: (404) 474–5605; email: *samuel.kovitch@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA received a report of a Honda Model HA–420 airplane losing normal braking during ground operations. Inspections revealed damage to a brake wiring harness for the WST, which was most likely caused by contact with the main landing gear tire. A review of manufacturer type design data and production line assembly instructions revealed that the wiring harness is installed with excessive slack that allows contact with the tire when pulled. Thus, the damage found may occur on all in service Honda Model HA–420 airplanes.

Further investigation revealed that damage to the wiring harness results in loss of the WST signal, which is interpreted by the digital antiskid control unit (DACU) as either a WST failure or locked wheel condition. The DACU provides locked wheel protection, which commands a full release of normal brakes at speeds greater than 25 knots until the right and left wheel speeds are within 70 percent of each other. Thus, when a WST signal is lost, the DACU commands a full normal brake release until the airplane speed falls below 25 knots. In this scenario, unavailability of the normal brakes is not annunciated to the pilot, because WST signal loss does not trigger the NORMAL BRAKE FAIL red crew alerting system (CAS) message. The pilot is notified via an ANTI–SKID FAIL amber CAS message. Existing AFM procedures for ANTI–SKID FAIL instruct the pilot to apply normal brakes gradually to stop the airplane when the anti-skid system has failed. The current AFM procedures are incorrect and do not caution the pilot that normal braking may be unavailable when the ANTI–SKID FAIL amber CAS message posts or instruct the pilot to use emergency braking.

This condition, if not addressed, could result in unannunciated loss of normal brakes, reduced directional control during landing deceleration and ground operations, and loss of control of the airplane when applying the brakes. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, HondaJet, Effectivity: 42000012 through 42000125, Model HA–420, Part No.: HJ1–29000–003–001, Revision D, dated December 12, 2019; and Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, HondaJet ELITE, Effectivity: 42000011, 42000126 and after, HondaJet APMG, Effectivity: 42000012 through 42000125 with SB–420–55–001, Model HA–420, Part No.: HJ1–29001–003–001, Revision B1, dated December 12, 2019. For the specific airplane serial numbers specified on each document, these pages are revised pages to the AFMs that provide procedures for the flight crew when the braking anti-skid system fails.

The FAA also reviewed Page A–126 and Page A–127 from HondaJet, Model HA–420, HJ1–29000–007–001, Volume 1 of 2, Effectivity 42000012 through 42000125, Quick Reference Handbook, Normal Procedures, Revision D, dated December 12, 2019; Page A–124 and Page A–125 from HondaJet, Model HA–420, HJ1–29001–007–001, HondaJet ELITE, Effectivity: 42000011, 42000126 and after, HondaJet APMG, Effectivity: 42000012 through 42000125 with SB–420–55–001, Quick Reference Handbook, Revision B, dated December 12, 2019. For the specific airplane serial numbers specified on each document, these pages are revised pages to the QRHs that provide procedures for the flight crew when the braking anti-skid system fails.

The FAA also reviewed Honda Aircraft Company Service Bulletin Alert SB–420–32–008, Revision B, dated November 16, 2019 (Honda SB–420–32–008, Revision B). This service document contains procedures for inspecting the condition of the WST wiring harness, replacing the wiring harness if necessary, installing wiring hardware, and rerouting the WST wiring harness on both the left and right brake assemblies.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires replacing the revised pages in the AFMs and QRHs applicable to your airplane. This AD also requires accomplishing the actions specified in Honda SB–420–32–008, Revision B described previously.

Interim Action

The FAA considers this AD, which addresses anti-skid braking system failures, an interim action. Honda is developing software changes to revise the WST logic from the ANTI–SKID FAIL CAS to the NORMAL BRAKES FAIL CAS. Once this action is developed, approved, and available, the FAA may consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity

for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the damage to WST wiring harness is possible on all affected airplanes due to slack in the harness by type design and may worsen rapidly after each landing cycle and result in loss of normal braking if left uncorrected. Additionally, incorrect AFM and QRH procedures instruct the pilot to use normal braking when it is unavailable instead of using emergency braking. The FAA has determined that certain corrective action is necessary before further flight to address the wiring harness damage that results in loss of normal braking and to provide pilot notification and guidance on what to expect and how to react to the ANTI–SKID FAIL CAS message coupled with the loss of normal brakes. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the Docket Number FAA–2020–0195 and Product Identifier 2019–CE–052–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the FAA receives about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 116 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the Abnormal Procedures section of the AFM.	1 work-hour × $85 per hour = $85	Not applicable	$85	$9,860
Revise the QRH	1 work-hour × $85 per hour = $85	Not applicable	85	9,860
Inspect WST wiring harness, install hardware and reroute the WST wiring harness.	7.5 work-hours × $85 per hour = $637.50.	Not applicable	637.50	73,950

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the WST wiring harness	*See note below	$389	$389

* **Note:** Since all operators are required to install wiring hardware and reroute the WST wiring harness, there is no additional labor cost associated with replacing the WST wiring harness.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

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, and

(2) Will not affect intrastate aviation in Alaska.

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):

2020–04–14 Honda Aircraft Company LLC: Amendment 39–21031; Docket No. FAA–2020–0195; Product Identifier 2019–CE–052–AD.

(a) Effective Date

This AD is effective April 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Honda Aircraft Company LLC Model HA–420 airplanes, serial numbers (S/Ns) 42000011 through 42000184, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by reports of damage to the wheel speed transducer wiring harness due to excessive slack in the wiring harness assembly that allows contact with the main landing gear tire and the determination that the airplane flight manuals (AFMs) and quick reference handbooks (QRHs) contain incorrect procedures for anti-skid braking system failures. The FAA is issuing this AD to prevent un-annunciated loss of normal brakes and reduced directional control during landing deceleration and ground operations, which could lead to a runway excursion.

(f) Compliance

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

(g) Revise the Airplane Flight Manuals and Quick Reference Handbooks

Before further flight after April 6, 2020 (the effective date of this AD), revise your AFM and your QRH as specified below.

(1) *For airplanes with S/Ns 42000012 through 42000125 without SB–420–55–001:* Remove the Abnormal Procedure pages for ANTI–SKID Fail and replace with Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, Model HA–420, Part No.: HJ1–29000–003–001, Revision D, dated December 12, 2019.

(2) *For airplanes with S/Ns 42000012 through 42000125 without SB–420–55–001:* Remove the Abnormal Procedure pages for ANTI–SKID FAIL and replace with Page A–126 and Page A–127 from Model HA–420, HJ1–29000–007–001, Volume 1 of 2, Quick Reference Handbook, Normal Procedures, Revision D, dated December 12, 2019.

(3) *For airplanes with S/Ns 42000011, 42000012 through 42000125 with SB–420–55–001, and 42000126 through 42000184:* Remove the Abnormal Procedure pages for ANTI–SKID FAIL and replace with Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, Model HA–420, Part No.: HJ1–29001–003–001, Revision B1, dated December 12, 2019.

(4) *For airplanes with S/Ns 42000011, 42000012 through 42000125 with SB–420–55–001, and 42000126 through 42000184:* Remove the Abnormal Procedure pages for ANTI–SKID FAIL and replace with Page A–124 and Page A–125 from Model HA–420, HJ1–29001–007–001, Quick Reference Handbook, Revision B, dated December 12, 2019.

(h) Corrective Actions for the Wheel Speed Transducer Wiring Harness

Within 90 days after April 6, 2020 (the effective date of this AD), do the actions specified in steps 1 through 7 of the Accomplishment Instructions in Honda Aircraft Company Service Bulletin Alert SB–420–32–008, Revision B, dated November 16, 2019.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD.

(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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(3)(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 this AD. 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.

(j) Related Information

For more information about this AD, contact Samuel Kovitch, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5570; fax: (404) 474–5605; email: *samuel.kovitch@faa.gov.*

(k) 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) Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, HondaJet, Effectivity: 42000012 through 42000125, Model HA–420, Part No.: HJ1–29000–003–001, Revision D, dated December 12, 2019.

(ii) Page A–126 and Page A–127 from HondaJet, Model HA–420, HJ1–29000–007–001, Volume 1 of 2, Effectivity 42000012 through 42000125, Quick Reference Handbook, Normal Procedures, Revision D, dated December 12, 2019.

(iii) Pages 3A–178 through 3A–180 from Section 3A—Abnormal Procedures in Honda Aircraft Company Airplane Flight Manual, HondaJet ELITE, Effectivity: 42000011, 42000126 and after, HondaJet APMG, Effectivity: 42000012 through 42000125 with SB–420–55–001, Model HA–420, Part No.: HJ1–29001–003–001, Revision B1, dated December 12, 2019.

(iv) Page A–124 and Page A–125 from HondaJet, Model HA–420, HJ1–29001–007–001, HondaJet ELITE, Effectivity: 42000011, 42000126 and after, HondaJet APMG, Effectivity: 42000012 through 42000125 with SB–420–55–001, Quick Reference Handbook, Revision B, dated December 12, 2019.

(v) Honda Aircraft Company Service Bulletin Alert SB–420–32–008, Revision B, dated November 16, 2019.

(3) For service information identified in this AD, contact Honda Aircraft Company LLC, 6430 Ballinger Road, Greensboro, North

Carolina 27410; telephone (336) 662–0246; internet: *https://www.hondajet.com.*

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view the 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, email: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on March 16, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05891 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0602; Product Identifier 2019–NM–016–AD; Amendment 39–19874; AD 2020–05–24]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2010–26–01, which applied to certain The Boeing Company Model 777–200 series airplanes. AD 2010–26–01 required installing a new insulation blanket on the latch beam firewall of each thrust reverser (T/R) half. This AD requires retaining the requirements of 2010–26–01. This AD also adds airplanes to the applicability. For those airplanes, this AD requires an inspection to determine if the installed T/R has an affected part number and, if an affected part number is found, installation of a new insulation blanket. This AD was prompted by a report of an in-flight shutdown due to an engine fire indication and a determination that additional airplanes are affected. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of January 20, 2011 (75 FR 78594, December 16, 2010).

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 *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0602.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov*by searching for and locating Docket No. FAA–2019–0602; 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: James Laubaugh, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3622; email: *james.laubaugh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–26–01, Amendment 39–16540 (75 FR 78594, December 16, 2010) (''AD 2010–26–01''). AD 2010–26–01 applied to certain Model 777–200 series airplanes. The NPRM published in the **Federal Register** on August 9, 2019 (84 FR 39241). The NPRM was prompted by a report of an in-flight shutdown due to an engine fire indication; an under-cowl engine fire was extinguished after landing. The NPRM was also prompted by a determination that additional airplanes are affected. The NPRM proposed to continue to require installing a new insulation blanket on the latch beam firewall of each T/R half. The NPRM also proposed to add airplanes to the applicability. For those airplanes, the NPRM proposed to require an inspection to determine if the installed T/R has an affected part number and, if an affected part number is found, installation of a new insulation blanket. The FAA is issuing this AD to address the potential for a fire from entering the cowl or strut area, which could weaken T/R parts and result in reduced structural integrity of the T/R, possible separation of T/R parts during flight, and consequent damage to the airplane, injury to people, and damage to property on the ground.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) and United Airlines stated their support for the NPRM.

Request To Revise the Cost of Compliance

Boeing requested that the FAA revise the Cost of Compliance paragraph in the NPRM. Boeing stated that the proposed AD would affect 4 additional airplanes for a total of 29 airplanes of U.S. registry. Boeing stated that the 4 additional airplanes are equipped with Model GE 90–90B engines with line numbers greater than 413 and are therefore not identified in Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010, and not affected by AD 2010–26–01.

The FAA concurs with the request and has revised the Cost of Compliance paragraph of this final rule to include 29 airplanes of U.S. registry. The four additional airplanes are Model 777–200 series with the specified engines already included in the applicability of the proposed AD. Although the effectivity of Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010, does not include those four additional airplanes, the FAA determined that the actions in that service information are applicable to the additional airplanes.

Request To Revise the Applicability

Boeing requested that the applicability paragraph in the proposed AD also include Model 777–200 series airplanes equipped with General Electric Company (GE) GE90–92B engines. Boeing stated that there are two

airplanes equipped with GE90–92B engines that are affected by AD 2010–26–01 and are not included in the applicability of the proposed AD.

The FAA disagrees with the commenter's request. The FAA has investigated the circumstances surrounding the comment and determined that the Model GE90–92B engine is not identified on the existing U.S. type certificate data sheet (TCDS). At the engine manufacturer's request, the Model GE90–92B engine was removed from the Engine TCDS No. E00049EN at Revision 8, dated October 12, 2000. The FAA has also confirmed with the engine manufacturer that there are no Model GE90–92B engines in service or certified for installation on Boeing Model 777 airplanes, as specified in Airplane TCDS No. T00001SE, Revision 43, dated August 28, 2019. The FAA has not changed this AD in this regard.

Request To Clarify T/R Interchangeability

Boeing requested that the FAA revise the section ''Actions Since AD 2010–26–01 Was Issued'' of the NPRM to state that the installation of a T/R specified in AD 2010–26–01 onto an airplane outside of the applicability of that AD is possible, but it is not allowed. Boeing commented that the interchangeability of the T/Rs delivered on Model 777–200 series airplanes equipped with GE90–76B, –85B, –90B, –92B, or –94B engines is controlled by the ''released engineering'' that defines the type design, which includes the 315W1295 Interchangeability Drawings (Sheets 1–9). Boeing also commented that there is a one-way interchangeability restriction that does not allow the earlier, affected T/Rs specified in AD 2010–26–01 to be installed on an airplane that is not subject to that AD.

The FAA partially agrees. The FAA agrees that the T/R configuration referenced in AD 2010–26–01 is not part of the manufacturer's type design, based on the drawings the manufacturer provided. However, the FAA disagrees with adding a clarification statement about the manufacturer's type design to this AD because it is not relevant to the purpose of this AD. The purpose of the AD is to address the safety concern in the design of those parts. The manufacturer's type design does not preclude an owner or operator from installing the affected parts. The FAA has not changed this AD in this regard.

Request for Clarification of the Inspection

Japan Airlines (JAL) requested clarification of the inspection in paragraph (h) of the proposed AD. JAL asked whether it is acceptable to determine the T/R part number with the airplane delivery document from Boeing if the following conditions are met: the T/R has never been replaced since the airplane delivery from Boeing; and no modification requiring change of the part number has been done on the T/R.

The FAA agrees to provide clarification. The FAA expects that the inspection will contain a thorough review of all relevant airplane configuration documentation and it is possible documentation alone may be used to show compliance with this requirement. The principal maintenance inspector responsible for accepting the documentation will determine the adequacy of the supplied documentation in showing if the affected parts are in service. The FAA has not revised this AD in this regard.

Request for Collaboration To Address Rotable Parts

Boeing requested that the FAA and Boeing collaborate with its airline partners, other original equipment manufacturers, and the national Civil Aviation Authorities (CAA) to develop an action to implement safe, fair, and consistent policy to address concerns on rotable parts for the industry. Boeing stated that it acknowledges there is a difference between the Boeing service information and the FAA's rulemaking in capturing the airplane effectivity. Boeing commented that there may be some instances where operators are rotating parts outside of type design, beyond effectivity limits or having T/Rs installed onto airplane configurations in which service information and design changes have already been incorporated. Boeing stated it understands the FAA's concerns with the possibility of parts being rotated outside the effectivity contained in the Boeing service information and would like to seek an alternative solution to address these concerns.

The FAA supports the commenter's proposal to address rotable parts under the collaborative efforts of the FAA, other civil aviation authorities, airplane manufacturers, and airplane operators. Any future collaborative efforts to address rotable parts will be coordinated outside of this AD. The FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed, except for 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.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011. This service information describes procedures for installing a new insulation blanket on the latch beam firewall of each T/R half. The installation includes, for certain airplanes, inspecting to determine if fitting part number 315W1436–4 is installed on the aft latch beam of the right side T/R and, for affected fittings, cutting the clevis from the affected fitting.

This AD would also require Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010, which the Director of the Federal Register approved for incorporation by reference as of January 20, 2011 (75 FR 78594, December 16, 2010).

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Blanket installation (retained actions from AD 2010–26–01) (21 airplanes).	7 work-hours × $85 per hour = $595.	Up to $5,253	Up to $5,848	Up to $122,808.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and blanket installation (new proposed action) (8 airplanes).	Up to 13 work-hours × $85 per hour = Up to $1,105.	Up to $7,529	Up to $8,634	Up to $69,072.

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.

Regulatory Findings

The FAA has determined that 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 removing Airworthiness Directive (AD) 2010–26–01, Amendment 39–16540 (75 FR 78594, December 16, 2010), and adding the following new AD:

2020–05–24 The Boeing Company: Amendment 39–19874; Docket No. FAA–2019–0602; Product Identifier 2019–NM–016–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

This AD replaces AD 2010–26–01, Amendment 39–16540 (75 FR 78594, December 16, 2010) (''AD 2010–26–01'').

(c) Applicability

This AD applies to The Boeing Company Model 777–200 series airplanes, certificated in any category, equipped with General Electric Company (GE) GE90–76B, –85B, –90B, or –94B engines.

(d) Subject

Air Transport Association (ATA) of America Code 78, Engine exhaust.

(e) Unsafe Condition

This AD was prompted by a report of an in-flight shutdown due to an engine fire indication; an under-cowl engine fire was extinguished after landing. This AD was also prompted by a determination that additional airplanes are affected. The FAA is issuing this AD to address the potential for a fire from entering the cowl or strut area, which could weaken thrust reverser (T/R) parts and result in reduced structural integrity of the T/R, possible separation of T/R parts during flight, and consequent damage to the airplane, injury to people, and damage to property on the ground.

(f) Compliance

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

(g) Retained Installation of Insulation Blanket, with Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2010–26–01, with revised service information. For airplanes identified in Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010: Within 60 months or 4,500 flight cycles after January 20, 2011 (the effective date of AD 2010–26–01), whichever is first, install a new insulation blanket on the latch beam firewall of each T/R half by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011.

(h) New Requirement: Installation of Insulation Blanket for Additional Airplanes

For airplanes not identified in paragraph (g) of this AD: Within 60 months or 4,500 flight cycles after the effective date of this AD, whichever is first, inspect to determine if the installed T/R has any affected part number as identified in paragraphs (h)(1) through (5) of this AD. If an affected T/R is found or if it cannot be determined which T/R is installed, within 60 months or 4,500 flight cycles after the effective date of this AD, whichever is first, install a new insulation blanket on the latch beam firewall of each T/R half by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, except as specified in paragraph (i) of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if it can be conclusively determined from that review that the installed T/R is not an affected T/R. A review of airplane maintenance records is also acceptable in lieu of this inspection if it can be conclusively determined from that review that an affected T/R is installed and the actions specified in Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, have already been done on that T/R.

(1) 315W1001–XX (all—where ''XX'' is any combination of numbers and letters that follow the dash).

(2) 315W1295–1 through 315W1295–222 inclusive.

(3) 315W1295–5001 through 315W1295–5222 inclusive.

(4) 315W1295–5501 through 315W1295–5722 inclusive.

(5) 315W1295–6101 through 315W1295–6322 inclusive.

(i) Exceptions to Service Information Specification

(1) Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, defines Group 1 as ''all 777–200 airplanes with GE90 engines through line number 413 with a forward insulation blanket''; however, for paragraph (h) of this AD, Group 1 is defined as ''all 777–200 airplanes with GE90 engines with a forward insulation blanket.''

(2) Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, defines

Group 2 as ''all 777–200 airplanes with GE90 engines through line number 413 without a forward insulation blanket''; however, for paragraph (h) of this AD, Group 2 is defined as ''all 777–200 airplanes with GE90 engines without a forward insulation blanket.''

(3) Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, defines Group 2 Configuration 1 as ''all 777–200 airplanes with GE90 engines through line number 413 without a forward insulation blanket and without the fitting assembly at the aft insulation blanket location''; however, for paragraph (h) of this AD, Group 2 Configuration 1 is defined as ''all 777–200 airplanes with GE90 engines without a forward insulation blanket and without the fitting assembly at the aft insulation blanket location.''

(4) Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011, defines Group 2 Configuration 2 as ''all 777–200 airplanes with GE90 engines through line number 413 without a forward insulation blanket and with the fitting assembly at the aft insulation blanket location''; however, for paragraph (h) of this AD, Group 2 Configuration 2 is defined as ''all 777–200 airplanes with GE90 engines without a forward insulation blanket and with the fitting assembly at the aft insulation blanket location.''

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using one of the service bulletins specified in paragraphs (j)(1) through (3) of this AD.

(1) Boeing Alert Service Bulletin 777–78A0066, dated June 5, 2008.

(2) Boeing Service Bulletin 777–78A0066, Revision 1, dated March 12, 2009.

(3) Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010.

(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)(1) 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) AMOCs approved previously for AD 2010–26–01 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(l) Related Information

(1) For more information about this AD, contact James Laubaugh, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3622; email: *james.laubaugh@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(5) and (6) of this AD.

(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 this AD specifies otherwise.

(3) The following service information was approved for IBR on April 24, 2020.

(i) Boeing Service Bulletin 777–78A0066, Revision 3, dated April 28, 2011.

(ii) [Reserved]

(4) The following service information was approved for IBR on January 20, 2011 (75 FR 78594, December 16, 2010).

(i) Boeing Alert Service Bulletin 777–78A0066, Revision 2, dated April 8, 2010.

(ii) [Reserved]

(5) 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.

(6) 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.

(7) 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, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05709 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0882; Product Identifier 2018–SW–113–AD; Amendment 39–19873; AD 2020–05–23]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. This AD requires inspecting the attachment screws of each main gearbox (MGB) suspension bar rear attachment fitting, and depending on the outcome, applying a sealing compound, performing further inspections, and replacing affected parts. This AD was prompted by reports of an elongated attachment screw and loss of tightening torque of the nut. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of April 24, 2020.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0882.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–0882; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD, any service information that is

incorporated by reference, any comments received, and other information. The street address for Docket Operations is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

On November 8, 2019, at 84 FR 60349, the **Federal Register** published the FAA's notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, delivered to the first owner or customer before September 1, 2018, and with attachment screws part number (P/N) 330A22013520 installed with MGB right hand (RH) side rear attachment fitting P/N 330A22270207 and left hand (LH) side rear attachment fitting P/N 330A22270206 of the MGB suspension bars. The NPRM proposed to require inspecting each screw on the RH and LH rear attachment by identifying the number of threads ''F'' that extend beyond the nut. If there are 2 or less threads on each affected part, or if there are 3 or more threads on any affected part with a thread height less than 5 mm (0.196 in), the NPRM proposed to require applying a sealing compound on the nuts, and convex and concave washers. If there are 3 or more threads on any affected part with a thread height of 5 mm (0.196 in) or more, the NPRM proposed to require removing the nut and inspecting the convex and concave washers for bent parts and corrosion. If any washers are bent or corroded, the NPRM proposed to require removing the washers from service. If the length ''L'' measurement of any attachment screw is greater than 59.3 mm (2.334 in), the NPRM proposed to require replacing the attachment fitting and the set of four screws. The proposed requirements were intended to prevent structural failure of an MGB attachment fitting, detachment of an MGB suspension bar, and subsequent loss of control of the helicopter.

The NPRM was prompted by EASA AD No. 2018–0282, dated December 19, 2018 (EASA AD 2018–0282), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. EASA advises that occurrences were reported of elongated attachment screws and loss of tightening torque of the nut installed on the affected part. EASA also advises that an investigation is ongoing to determine the root cause of this event. EASA states this condition could lead to structural failure of an MGB rear attachment fitting and possibly result in detachment of an MGB suspension bar. Accordingly, EASA AD 2018–0282 requires a one-time inspection of each attachment screw for the number of threads that protrude beyond its bolt and depending on the outcome, applying a sealing compound on the nuts, and convex and concave washers; measuring the height of the protruding threads; inspecting the tightening torque of the nuts; inspecting the upper and lower convex and concave washers; measuring and inspecting removed attachment screws; and replacing affected parts. EASA AD 2018–0282 also requires reporting information to Airbus Helicopters. EASA states EASA AD 2018–0282 is considered to be an interim action and further AD action may follow.

Comments

The FAA gave the public the opportunity to participate in developing this AD. Benjamin Pico and Patrick Imperatrice commented that they support the NPRM.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Interim Action

The FAA considers this AD interim action. The design approval holder is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

Differences Between This AD and the EASA AD

The EASA AD requires the operator to perform a torque check and report the value to Airbus, whereas this AD does not.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Alert Service Bulletin No. AS332–53.02.04, Revision 0, dated November 21, 2018, which specifies checking the number of threads that protrude beyond the bolt of the attachment screws on the RH and LH rear attachment fittings of the MGB. This service information also specifies a one-time inspection of the affected parts and depending on findings, accomplishment of applicable corrective actions.

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 affects14 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Inspecting the number of threads and applying a sealing compound takes about 3 work-hours for an estimated cost of $255 per helicopter and $3,570 for the U.S. fleet.

Replacing an attachment fitting and the set of four screws takes about 16 work-hours and parts cost $6,330 for an estimated replacement cost of $7,690.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

2. Will not affect intrastate aviation in Alaska, and

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

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):

2020–05–23 Airbus Helicopters: Amendment 39–19873; Docket No. FAA–2019–0882; Product Identifier 2018–SW–113–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category, delivered to the first owner or customer before September 1, 2018, and with attachment screws part number (P/N) 330A22013520 installed with main gearbox (MGB) right hand (RH) side rear attachment fitting P/N 330A22270207 and left hand (LH) side rear attachment fitting P/N 330A22270206 of the MGB suspension bars.

(b) Unsafe Condition

This AD defines the unsafe condition as elongation of the attachment screws and loss of tightening torque of the nut. This condition could result in structural failure of an MGB attachment fitting, detachment of an MGB suspension bar, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective April 24, 2020.

(d) Compliance

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

(e) Required Actions

Within 110 hours time-in-service, remove the sealing compound and inspect each screw on the RH and LH rear attachment fitting by identifying the number of threads ''F'' that extend beyond the nut as shown in Detail ''B'' of Figure 2 of Airbus Helicopter Alert Service Bulletin No. AS332–53.02.04, Revision 0, dated November 21, 2018 (ASB AS332–53.02.04).

(1) If there are 2 or less threads on each of the four screws; or there are 3 or more threads on any screw with a thread height ''H'' less than 5 mm (0.196 in), before further flight, apply a sealing compound on the nuts, and convex and concave washers.

(2) If there are 3 or more threads on any screw with a thread height ''H'' of 5 mm (0.196 in) or more, before further flight, do the following, and for more than one screw, do one at a time while working in a cross pattern: Remove from service the nut; and remove the screw from the helicopter and measure the length ''L'' of the screw as shown in Detail ''D'' of Figure 2 of ASB AS332–53.02.04.

(i) If any washers are bent or corroded, before further flight, remove from service the washers.

(ii) If the length ''L'' measurement is less than or equal to 59.3 mm (2.334 in) for each screw removed as required by paragraph (e)(2) of this AD, visually inspect the screw for corrosion and cracks.

(A) For each screw with corrosion or a crack, before further flight, replace the screw with an airworthy screw.

(B) For any screw with no corrosion or cracks, before further flight, re-install the screw and washers. Install a new nut and apply sealant.

(iii) If the length ''L'' measurement is greater than 59.3 mm (2.334 in) for any screw removed as required by paragraph (e)(2) of this AD, before further flight, replace the rear attachment fitting that the screw was removed from and its set of four screws, washers, and nuts, and apply sealant as shown in Figures 2 and 3 of ASB AS332–53.02.04.

(f) Alternative Methods of Compliance (AMOCs)

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

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

(g) Additional Information

The subject of this AD is addressed in European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD No. 2018–0282, dated December 19, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2019–0882.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Airbus Helicopters Alert Service Bulletin No. AS332–53.02.04, Revision 0, dated November 21, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

(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, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 16, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05848 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0975; Product Identifier 2019–NM–176–AD; Amendment 39–19872; AD 2020–05–22]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170 airplanes. This AD was prompted by a report of erroneous indications of certain engine parameters and reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight. This AD requires installing updated PRIMUS EPIC LOAD software, as specified in an Agência Nacional de Aviação Civil (ANAC) Brazilian AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n°209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0975.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0975; 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: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *Krista.Greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The ANAC, which is the aviation authority for Brazil, has issued Brazilian AD 2019–10–02, effective October 21, 2019 (''Brazilian AD 2019–10–02'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170 airplanes. The NPRM published in the **Federal Register** on December 17, 2019 (84 FR 68819). The NPRM was prompted by a report of erroneous indications of certain engine parameters and reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight. The NPRM proposed to require installing updated PRIMUS EPIC LOAD software.

The FAA is issuing this AD to address erroneous indications of certain engine parameters and reports of uncommanded attitudes with autopilot engaged in cruise flight, which could interfere with the decisions taken by the flight crew during takeoff and landing and possibly result in reduced controllability of the airplane. See the MCAI for additional background information.

Explanation of Change to Manufacturer's Name

This AD identifies the manufacturer's name as published in the most recent type certificate data sheet for the affected models.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change 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 IBR Material Under 1 CFR Part 51

Brazilian AD 2019–10–02 describes procedures for installing updated PRIMUS EPIC LOAD software. This material 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 540 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
9 work-hours × $85 per hour = $765	$0	$765	$413,100

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.

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):

2020–05–22 Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.): Amendment 39–19872; Docket No. FAA–2019–0975; Product Identifier 2019–NM–176–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Yaborã Indústria Aeronáutica S.A. (Type certificate previously held by Embraer S.A.) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes; certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) Brazilian AD 2019–10–02, effective October 21, 2019 (''Brazilian AD 2019–10–02'').

(d) Subject

Air Transport Association (ATA) of America Code 31, Indicating/recording systems.

(e) Reason

This AD was prompted by a report of erroneous indications of the engine parameters N1, N2, and ITT from both engines due to the design of data communication of the full authority digital engine control (FADEC) 1 and 2 with the engine indicating and crew alerting system (EICAS) display, which could result in interference with decisions that must be taken by the flight crew during takeoff. This AD was also prompted by reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight, which could occur in ''Autoland'' mode during landing. The FAA is proposing this AD to address these conditions, which could interfere with the decisions taken by the flight crew during takeoff and landing and possibly result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Brazilian AD 2019–10–02.

(h) Exceptions to Brazilian AD 2019–10–02

(1) Where Brazilian AD 2019–10–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative method of compliance (AMOC)'' section of Brazilian AD 2019–10–02 does not apply to this AD.

(3) Where paragraph (d) of Brazilian AD 2019–10–02 specifies you must use certain service information for software installation, this AD specifies to use that service information as applicable, except as provided in paragraphs (a)(1) through (3) of Brazilian AD 2019–10–02.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(j) Related Information

For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *Krista.Greer@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) Agência Nacional de Aviação Civil ANAC Brazilian AD 2019–10–02, effective October 21, 2019.

(ii) [Reserved]

(3) For information about ANAC Brazilian AD 2019–10–02, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n°209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0975.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 6, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05708 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0982; Product Identifier 2019–NM–170–AD; Amendment 39–19866; AD 2020–05–16]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A319–115 airplanes; Model A320–214, –216, –232, –251N, and –271N airplanes; and Model A321–211, –231, –251N, –251NX, –253N, –271N, –271NX, and –272N airplanes. This AD was prompted by reports of incomplete installations of the over wing panel lug attachments in the production assembly line. This AD requires a one-time detailed inspection of certain attaching points on the left-hand and right-hand wings for the correct installation of certain hardware, and, depending on findings, accomplishment of applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020. The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0982.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0982; 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: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0233, dated September 18, 2019; corrected September 19, 2019 (''EASA AD 2019–0233'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A319–115 airplanes; Model A320–214, –216, –232, –251N, and –271N airplanes; and Model A321–211, –231, –251N, –251NX, –253N, –271N, –271NX, and –272N airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A319–115 airplanes; Model A320–214, –216, –232, –251N, and –271N airplanes; and Model A321–211, –231, –251N, –251NX, –253N, –271N, –271NX, and –272N airplanes. The NPRM published in the **Federal Register** on December 16, 2019 (84 FR 68365). The NPRM was prompted by reports of incomplete installations of the over wing panel lug attachments in the production assembly line. The NPRM proposed to require a one-time detailed inspection of certain attaching points on the left-hand and right-hand wings for the correct installation of certain hardware, and, depending on findings, accomplishment of applicable corrective actions, as specified in an EASA AD.

The FAA is issuing this AD to address this condition, which, if not detected and corrected, could reduce the structural integrity of the wing. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for 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.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0233 describes procedures for a one-time detailed inspection of certain attaching points on the left-hand and right-hand wings for the correct installation of certain hardware (bolt, nut, washer, and cotter pin), and, depending on findings, accomplishment of applicable corrective actions. Corrective actions include

installing missing hardware, doing a detailed inspection of the attaching point and attaching straps for distortion or missing parts, and repair. This material 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 110 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$18,700

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $9,350, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 20 work-hours × $85 per hour = $1,700	Up to $77,850	Up to $79,550.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to 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 current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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.

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):

2020–05–16 Airbus SAS: Amendment 39–19866; Docket No. FAA–2019–0982; Product Identifier 2019–NM–170–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0233, dated September 18, 2019; corrected September 19, 2019 (''EASA AD 2019–0233'').

(1) Model A319–115 airplanes.

(2) Model A320–214, –216, –232, –251N, and –271N airplanes.

(3) Model A321–211, –231, –251N, –251NX, –253N, –271N, –271NX, and –272N airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports of incomplete installations of the over wing panel lug attachments in the production assembly line. The FAA is issuing this AD to address this condition, which, if not detected and corrected, could reduce the structural integrity of the wing.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0233.

(h) Exceptions to EASA AD 2019–0233

(1) Where EASA AD 2019–0233 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0233 does not apply to this AD.

(3) Where any service information referenced in EASA AD 2019–0233 specifies reporting, this AD requires reporting all inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD. If operators have reported findings as part of obtaining any corrective actions approved by Airbus SAS's EASA Design Organization Approval (DOA), operators are not required to report those findings as specified in this paragraph.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2019–0233 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not 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 current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD; the nature and extent of confidentiality to be provided, if any. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0233, dated September 18, 2019; corrected September 19, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0233, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0982.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 4, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05764 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0976; Product Identifier 2019–NM–177–AD; Amendment 39–19871; AD 2020–05–21]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This AD was prompted by a report of erroneous indications of certain engine parameters and reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight. This AD requires installing updated PRIMUS EPIC LOAD software, as specified in an Agência Nacional de Aviação Civil (ANAC) Brazilian AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, nº209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0976.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0976; 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: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *Krista.Greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The ANAC, which is the aviation authority for Brazil, has issued Brazilian AD 2019–10–01, effective October 21, 2019 (''Brazilian AD 2019–10–01'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –100 SR, –200 STD, –200 LR, and –200 IGW airplanes. Model ERJ 190–100 SR airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –100 SR, –200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on December 17, 2019 (84 FR 68824). The NPRM was prompted by a report of erroneous indications of certain engine parameters and reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight. The NPRM proposed to require installing updated PRIMUS EPIC LOAD software, as specified in an ANAC Brazilian AD.

The FAA is issuing this AD to address erroneous indications of certain engine parameters and reports of uncommanded attitudes with autopilot engaged in cruise flight, which could interfere with the decisions taken by the flight crew during takeoff and landing and possibly result in reduced controllability of the airplane. See the MCAI for additional background information.

Explanation of Change to Manufacturer's Name

This AD identifies the manufacturer's name as published in the most recent type certificate data sheet for the affected models.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change 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 IBR Material Under 1 CFR Part 51

Brazilian AD 2019–10–01 describes procedures for installing updated PRIMUS EPIC LOAD software. This material 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 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
9 work-hours × $85 per hour = $765	$0	$765	$81,855

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.

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):

2020–05–21 Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.). Amendment 39–19871; Docket No. FAA–2019–0976; Product Identifier 2019–NM–177–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes, as identified in Agência Nacional de Aviação Civil (ANAC) Brazilian AD 2019–10–01, effective October 21, 2019 (''Brazilian AD 2019–10–01'').

(d) Subject

Air Transport Association (ATA) of America Code 31, Indicating/recording systems.

(e) Reason

This AD was prompted by a case of erroneous indications of the engine parameters N1, N2, and ITT from both engines due to the design of data communication of the full authority digital engine control (FADEC) 1 and 2 with the engine indicating and crew alerting system (EICAS) display, which could result in interference with decisions that must be taken by the flight crew during takeoff. This AD was also prompted by reports of ''pitch up'' and ''pitch down'' uncommanded attitudes with autopilot engaged in cruise flight, which could occur in ''Autoland'' mode during landing. The FAA is proposing this AD to address these conditions, which could interfere with the decisions taken by the flight crew during takeoff and landing and possibly result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Brazilian AD 2019–10–01.

(h) Exceptions to Brazilian AD 2019–10–01

(1) Where Brazilian AD 2019–10–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative method of compliance (AMOC)'' section of Brazilian AD 2019–10–01 does not apply to this AD.

(3) Where paragraph (d) of Brazilian AD 2019–10–01 specifies you must use certain service information for software installation, this AD specifies to use that service information as applicable, except as provided in paragraphs (a)(1) through (6) of Brazilian AD 2019–10–01.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(j) Related Information

For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *Krista.Greer@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) Agência Nacional de Aviação Civil (ANAC) Brazilian AD 2019–10–01, effective October 21, 2019.

(ii) [Reserved]

(3) For information about ANAC Brazilian AD 2019–10–01, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n°209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0976.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 4, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05766 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0184; Project Identifier AD–2020–00187–E; Amendment 39–21104; AD 2020–06–02]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines, LLC Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all International Aero Engines, LLC (IAE) PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127GA–JM, PW1127G1–JM, PW1127G–JM, PW1133G–JM, PW1133GA–JM, PW1130G–JM, and PW1129G–JM model turbofan engines with a certain low-pressure turbine (LPT) 3rd-stage blade installed. This AD requires initial and repetitive borescope inspections (BSI) of the turbine stator intermediate outer rear air seal (turbine piston seal) and, depending on the results of the inspection, replacement with a part eligible for installation. This AD was prompted by reports of failure of turbine piston seals leading to fracture of the LPT 3rd-stage blades. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 6, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 6, 2020.

The FAA must receive comments on this AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118, United States; phone: 800–565–0140; email: *help24@pw.utc.com;* website: *https://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0184.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0184; 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, any comments received, and other information. The street address for the Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received reports of 57 instances of fractures occurring on LPT 3rd-stage blades during operation since 2017.

In response to the LPT 3rd-stage blade fractures that occurred from 2017 until November 2019, and in response to on-going investigations of these fractures, the FAA proposed an AD, Product Identifier 2019–NE–31–AD (84 FR 64441, November 22, 2019), to replace the LPT 3rd-stage blades with more impact-resistant LPT blades. The FAA also issued AD 2019–25–01 (84 FR 65666, November 29, 2019) to accelerate replacement of certain LPT 3rd-stage blades on the affected engines. Since November 2019, 12 additional LPT 3rd-stage blade fractures have occurred.

The FAA investigation determined that 28 of the 57 LPT 3rd-stage blade fractures resulted from wear and fracture of the turbine piston seal releasing debris that impacted the LPT 3rd-stage blades. The FAA is therefore issuing this AD to prevent failure of the turbine piston seals and fracture of the LPT 3rd-stage blades.

This condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pratt & Whitney (P&W) Service Bulletin (SB) PW1000G–C–72–00–0154–00A–930A–D, Issue No. 004, dated February 14, 2020. The service information describes procedures for performing initial and repetitive BSIs of the LPT 3rd-stage turbine pistol seal. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed Airbus Aircraft Maintenance Manual (AMM) TASK 72–53–00–200–801–A. The AMM describes procedures for BSI of the LPT assembly.

FAA's Determination

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

AD Requirements

This AD requires initial and repetitive BSI of the turbine piston seal and, depending on the results of the inspection, replacement with a part eligible for installation.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking. Similarly, Section 553(d) of the APA authorizes agencies to make rules effective in less than 30 days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule. The affected IAE model turbofan

engines, with a certain LPT 3rd-stage blade installed, have experienced 57 LPT 3rd-stage blade fractures during operation since 2017, with 12 LPT 3rd-stage blade fractures occurring between December 2019 and February 2020. Twenty-eight of the 57 LPT 3rd-stage blade fractures resulted from wear and fracture of the turbine piston seal releasing debris that impacted the LPT 3rd-stage blades. The turbine piston seal must be inspected within 15 days on engines operating on extended operations (ETOPS) flights and within 45 days on engines that do not operate on ETOPS flights. This unsafe condition may result in loss of the airplane.

The FAA considers the inspection of the turbine piston seals to be an urgent safety issue. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2020–0184 and Project Identifier AD–2020–00187–E at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this AD.

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 comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 40 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSI turbine piston seal	2 work-hours × $85 per hour = $170	$0	$170	$6,800

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of engines that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace turbine piston seal	30 work-hours × $85 per hour = $2,550	$30,000	$32,550
Replace set of LPT 3rd-stage blades	408 work-hours × $85 per hour = $34,680	$750,000 per blade set	784,680

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.

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, and

(2) Will not affect intrastate aviation in Alaska.

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):

2020–06–02 International Aero Engines LLC: Amendment 39–21104; Docket No. FAA–2020–0184; Project Identifier AD–2020–00187–E.

(a) Effective Date

This AD is effective April 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines, LLC (IAE) PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127GA–JM, PW1127G1–JM, PW1127G–JM, PW1133G–JM, PW1133GA–JM, PW1130G–JM, and PW1129G–JM model turbofan engines with low-pressure turbine (LPT) 3rd-stage blade, part number (P/N) 5387343, 5387493, 5387473 or 5387503, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by reports of failure of turbine stator intermediate outer rear air seals (turbine piston seals) leading to fracture of the LPT 3rd-stage blades. The FAA is issuing this AD to prevent failure of the turbine piston seals and fracture of LPT 3rd-stage blades. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Perform a borescope inspection (BSI) of the turbine piston seal shiplap in accordance with the Accomplishment Instructions, For Engines Installed On Aircraft, paragraph B of Pratt & Whitney (P&W) Service Bulletin (SB) PW1000G–C–72–00–0154–00A–930A–D, Issue No. 004, dated February 14, 2020 (''P&W SB PW1000G–C–72–00–0154–00A–930A–D''), or the Accomplishment Instructions, For Engines Not Installed on Aircraft, paragraph A of P&W SB PW1000G–C–72–00–0154–00A–930A–D, as applicable, as follows:

(i) For engines operating on extended operations (ETOPS) flights, perform the BSI of the turbine piston seal shiplap within 15 days after the effective date of this AD.

(ii) For engines that do not operate on ETOPS flights, perform the BSI of the turbine piston seal shiplap within 45 days after the effective date of this AD.

(iii) Before further flight, remove from service any turbine piston seal found to exceed serviceable limits, as described in the Accomplishment Instructions, For Engines Installed On Aircraft, paragraph C.(1) and C.(2), of P&W SB PW1000G–C–72–00–0154–00A–930A–D.

(iv) If any turbine piston seal shiplap is found fractured and missing, before further flight, BSI the LPT 3rd-stage blades, and remove any LPT 3rd-stage blade found to exceed serviceable limits.

Note 1 to paragraph (g)(1)(iv): Guidance on determining LPT 3rd-stage blade serviceable limits can be found in Airbus Aircraft Maintenance Manual (AMM) TASK 72–53–00–200–801–A.

(2) Thereafter, repeat the BSI required by paragraph (g)(1) of the turbine piston seal as follows:

(i) For any turbine piston seal found intact (not fractured) during the last BSI, repeat the BSI within the intervals in Table 2, of P&W SB PW1000G–C–72–00–0154–00A–930A–D.

(ii) For any turbine piston seal found fractured during the last BSI, repeat the BSI every 200 flight cycles from the previous BSI to ensure proper engagement per the Accomplishment Instructions, For Engines Installed On Aircraft, paragraph C.(1) of P&W SB PW1000G–C–72–00–0154–00A–930A–D.

(h) Terminating Action

Removal of the LPT 3rd-stage blades, P/N 5387343, 5387493, 5387473, and 5387503, is a terminating action to the initial and repetitive BSI requirements of this AD.

(i) Credit for Previous Actions

You may take credit for the initial BSI of the turbine piston seal required by paragraph (g)(1) of this AD if done in accordance with the Accomplishment Instructions, For Engines Installed On Aircraft, paragraph B, of P&W SB PW1000G–C–72–00–0154–00A–930A–D, Issue 003, dated February 5, 2020, or earlier versions.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

(l) 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) Pratt & Whitney Service Bulletin PW1000G–C–72–00–0154–00A–930A–D, Issue No. 004, dated February 14, 2020.

(ii) [Reserved]

(3) For Pratt & Whitney service information identified in this AD, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118, United States; phone: 800–565–0140; email: *help24@pw.utc.com;* website: *https://fleetcare.pw.utc.com.*

(4) You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 6, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05711 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0977; Product Identifier 2019–NM–166–AD; Amendment 39–19865; AD 2020–05–15]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A319–131, –132, and –133 airplanes, Model A320–231, –232, and –233 airplanes, and Model A321–131, –231, and –232 airplanes. This AD was prompted by a report of rupture of a hydraulic reservoir air pressurization hose on an in-service airplane, leading to air leakage that was undetectable during normal operation, and found during subsequent zonal inspection. This AD requires modifying the airplane by replacing the affected bleed air hoses with a modification of hydraulic pressurization lines, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0977.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0977; 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: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0232, dated September 16, 2019 (''EASA AD 2019–0232'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A319–131, –132, and –133 airplanes, Model A320–231, –232, and –233 airplanes, and Model A321–131, –231, and –232 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A319–131, –132, and –133 airplanes, Model A320–231, –232, and –233 airplanes, and Model A321–131, –231, and –232 airplanes. The NPRM published in the **Federal Register** on December 16, 2019 (84 FR 68368). The NPRM was prompted by a report of rupture of a hydraulic reservoir air pressurization hose on an in-service airplane, leading to air leakage that was undetectable during normal operation, and found during subsequent zonal inspection. The NPRM proposed to require modifying the airplane by replacing the affected bleed air hoses with a modification of hydraulic pressurization lines, as specified in an EASA AD.

The FAA is issuing this AD to address this condition, which, if not detected and corrected, could lead to exposure of the wing structure to high temperatures (possibly above 200 degrees Celsius (392 degrees Fahrenheit)), possibly resulting in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comments received. The Air Line Pilots Association, International (ALPA) and United Airlines indicated support for the NPRM.

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 as proposed, except for 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.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0232 describes procedures for modifying the airplane by replacing the affected bleed air hoses with a modification kit that includes improved bleed air hoses. This material 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 802 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$4,300	$4,810	$3,857,620

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.

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):

2020–05–15 Airbus SAS: Amendment 39–19865; Docket No. FAA–2019–0977; Product Identifier 2019–NM–166–AD.

(a) Effective Date

This AD is effective April 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model A319–131, –132, and –133 airplanes.

(2) Model A320–231, –232, and –233 airplanes.

(3) Model A321–131, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic power.

(e) Reason

This AD was prompted by a report of rupture of a hydraulic reservoir air pressurization hose on an in-service airplane, leading to air leakage that was undetectable during normal operation, and found during subsequent zonal inspection. The FAA is issuing this AD to address this condition, which, if not detected and corrected, could lead to exposure of the wing structure to high temperatures (possibly above 200 degrees Celsius (392 degrees Fahrenheit)), possibly resulting in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0232, dated September 16, 2019 (''EASA AD 2019–0232'').

(h) Exceptions to EASA AD 2019–0232

(1) Where EASA AD 2019–0232 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0232 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2019–0232 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

(k) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0232, dated September 16, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0232, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0977.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability

of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 4, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05765 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 216

[Docket No. 200312–0077]

RIN 0648–BH25

Subsistence Taking of Northern Fur Seals on the Pribilof Islands; Correction

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

ACTION: Final rule; correcting amendment; effective date for collection-of-information requirements.

SUMMARY: NMFS is correcting a final rule published on October 2, 2019, that revised the subsistence use regulations for the Eastern Pacific stock of northern fur seals (*Callorhinus ursinus*). NMFS also is announcing approval by the Office of Management and Budget (OMB) of collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and associated with the regulations revised in the final rule. The final rule incorrectly stated that the collection-of-information requirements subject to the PRA had been approved by the OMB at the time the final rule was published. On January 7, 2020, OMB approved the collection-of-information requirements subject to the PRA. The intent of this final rule is to correct this information and to inform the public of the effectiveness of the collection-of-information requirements associated with the subsistence use regulations revised in the October 2, 2019, final rule.

DATES: This rule is effective March 20, 2020.

The date of approval of the information collection requirements in 50 CFR 216.72 and 50 CFR 216.74 published October 2, 2019 at 84 FR 52372 is corrected to January 7, 2020 as of March 20, 2020.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668; by email to *OIRA_Submission@omb.eop.gov;* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907–271–5117, *michael.williams@noaa.gov.*

SUPPLEMENTARY INFORMATION: The taking of northern fur seals is prohibited by the Fur Seal Act (FSA, 16 U.S.C. 1151–1175), unless expressly authorized by the Secretary of Commerce through regulation. Section 105(a) of the FSA authorizes the promulgation of regulations with respect to the taking of fur seals on the Pribilof Islands as the Secretary of Commerce deems necessary and appropriate for the conservation, management, and protection of the fur seal population (16 U.S.C. 1155(a)). Regulations governing the subsistence use of northern fur seals are located at 50 CFR 216.71–216.74 and authorize Pribilovians to take fur seals on the Pribilof Islands if such taking is for subsistence uses and not accomplished in a wasteful manner (50 CFR 216.71).

Background

NMFS published a proposed rule on August 14, 2018 (83 FR 40192), to revise the subsistence use regulations for northern fur seals on the Pribilof Islands based on the petition from the Aleut Community of St. Paul Island, Tribal Government (ACSPI) (77 FR 41168; July 12, 2012). The final rule revising the subsistence use regulations at 50 CFR 216.71–216.74 published in the **Federal Register** on October 2, 2019 (84 FR 52372). The requirements of the final rule (84 FR 52372), other than the collection-of-information requirements associated with the subsistence use regulations (hunt and harvest reporting for St. Paul and St. George Islands), were effective on September 27, 2019. The final rule incorrectly stated that the collection-of-information requirements subject to the PRA had been approved by the OMB under OMB Control Number 0648–0699 (Annual Northern Fur Seal Subsistence Harvest Reporting) at the time the final rule was published. On January 7, 2020, OMB approved these collection-of-information requirements under OMB Control Number 0648–0699 (Annual Northern Fur Seal Subsistence Harvest Reporting). Accordingly, this rule announces the approval and effective date of the collection-of-information requirements associated with the subsistence use regulations found at 50 CFR 216.72 and 50 CFR 216.74.

OMB Revisions to PRA References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director of OMB, for each agency's information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises collection-of-information requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule.

Classification

Administrative Procedure Act

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 unnecessary and contrary to the public interest. This action simply provides notice of OMB's approval of the collection-of-information requirements at issue, which has already occurred, and renders those collection-of-information requirements effective. Thus this action does not involve any further exercise of agency discretion by NMFS or OMB. Moreover, the public was already provided with notice and opportunity to comment during the public comment period for the proposed rule, which began on August 14, 2018, and ended on September 13, 2018, and during the public comment period for the 2019 Final SEIS for Management of the Subsistence Harvest of Northern Fur Seals on St. Paul Island, Alaska. Additional opportunity for public comment at this point would not be meaningful and would be duplicative. Any further delay to allow for public comment is therefore unnecessary and would result in public confusion.

For the same reasons, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this rule effective immediately upon publication.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This final rule contains collection-of-information requirements subject to the PRA, and which OMB approved on

January 7, 2020, under OMB Control Number 0648–0699. NMFS obtained OMB Control Number 0648–0699 for hunt and harvest reports associated with the regulations at 50 CFR 216.72 and 50 CFR 216.74, which apply to both St. Paul and St. George Islands. For St. Paul Island, public reporting burden for hunt and harvest reporting is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. There are no significant changes to the collection-of-information requirements for St. Paul or St. George.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS Alaska Region (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 216

Alaska, Marine Mammals, Pribilof Islands, Reporting and Recordkeeping Requirements.

Dated: March 12, 2020.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', add entry ''216.72'' in alphanumeric order to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
216.72	–0699
* * * * *	

* * * * *

[FR Doc. 2020–05668 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Regulations Enabling Elections for Certain Transactions Under Section 336(e)

CFR Correction

■ In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.301 to 1.400), revised as of April 1, 2019, on page 8, in the Authority, the following citation is added in numerical order to read as follows:

Authority: 26 U.S.C.7805 * * *

* * * * *

Section 1.336–1 is also issued under 26 U.S.C. 336.

* * * * *

[FR Doc. 2020–05997 Filed 3–19–20; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

RIN 2135–AA48

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes update the following sections of the Regulations and Rules: Interpretations and Condition of Vessels. These changes are to clarify existing requirements in the regulations.

DATES: This rule is effective on March 31, 2020.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov*; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes update the following sections of the Regulations and Rules: Interpretations and Condition of Vessels. These changes are to clarify existing requirements in the regulations.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.Regulations.gov.*

The joint regulations will become effective in Canada on March 31, 2020. For consistency, because these are joint

regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of who are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and have determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is proposing to amend 33 CFR part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

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

Authority: 33 U.S.C. 983(a) and 984(a) (4), as amended; 49 CFR 1.101, unless otherwise noted.

■ 2. In § 401.2, redesignate paragraphs (d) through (s) as paragraphs (e) through (t), add a new paragraph (d), and revise newly redesignated paragraph (g) to read as follows:

§ 401.2 Interpretation.

* * * * *

(d) *Hands Free Mooring (HFM)* means a system that uses vacuum pads that are mounted on vertical rails inside the lock chamber wall to secure a vessel during the lockage process.

* * * * *

(g) *E-business* means web applications on the St. Lawrence Seaway Management Corporation website which provides direct electronic transmission of data to complete and submit application forms and transit data;

* * * * *

■ 3. In § 401.7, revise paragraph (c) to read as follows:

§ 401.7 Fenders.

* * * * *

(c) On special application, vessels of unusual design may be permitted to utilize permanent fenders not greater than 30 cm in thickness.

§ 401.9 [Amended]

■ 4. In § 401.9, remove paragraph (c) and redesignate paragraph (d) as paragraph (c).

■ 5. In § 401.14, revise paragraph (b) to read as follows:

§ 401.14 Anchor marking buoys.

* * * * *

(b) Every vessel shall deploy the anchor marking buoy when dropping an anchor in Seaway waters (designated Seaway anchorages exempt).

■ 6. In schedule II to subpart A of part 401, under ''Table of Speeds,'' revise section numbers 1 and 10 to read as follows:

SCHEDULE II TO SUBPART A OF PART 401—TABLE OF SPEEDS [1]

From—	To—	Maximum speed over the bottom, knots	
		Col. III	Col. IV
1. Upper Entrance South Shore Canal Buoy 1	Lake St. Louis, Buoy A13	10.5	10.5
* * *	* * *	*	*
10. Bartlett Point, Lt. 227	Tibbetts Point Traffic Lighted Buoy Mo (A)	13	10.5

[1] Maximum speeds at which a vessel may travel in the identified area in both normal and high water conditions are set out in this schedule. The Manager and the Corporation will, from time to time, designate the set of speed limits that is in effect.

* * * * *

Issued at Washington, DC, under authority deleted at 49 CFR part 1.101 Saint Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2020–05454 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

[Docket No. SLSDC–2016–0005]

RIN 2135–AA47

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada starting in the 2020 navigation season, which are effective only in Canada. An amendment to increase the minimum charge per lock for those vessels that are not pleasure craft or subject in Canada to tolls under items 1 and 2 of the Tariff for full or partial transit of the Seaway will apply in the U.S. The Tariff of Tolls are in effect in Canada.

DATES: This rule is effective March 20, 2020.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov*; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising 33 CFR 402.12, ''Schedule of tolls'', to reflect the fees and charges levied by the SLSMC in Canada beginning in the 2020 navigation season. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the SLSDC on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)).

The SLSDC is amending 33 CFR 402.12, ''Schedule of tolls'', to increase the minimum charge per vessel per lock for full or partial transit of the Seaway from $28.57 to $29.14. This charge is for vessels that are not pleasure craft or subject in Canada to the tolls under items 1 and 2 of the Tariff. This increase is due to higher operating costs at the locks.

Regulatory Notices

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et reg.) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends 33 CFR part 402 as follows:

PART 402—TARIFF OF TOLLS

■ 1. The authority citation for part 402 continues to read as follows:

Authority: 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.52.

■ 2. Revise § 402.12 to read as follows:

§ 402.12 Schedule of tolls.

Column 1	Column 2	Column 3
Item/description of charges	Rate ($) Montreal to or from Lake Ontario (5 locks)	Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1. Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
(1) a charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time [1]	0.1126	0.1801.
(2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
(*a*) bulk cargo	1.1671	0.7966.
(*b*) general cargo	2.8122	1.2750.
(*c*) steel slab	2.5452	0.9128.
(*d*) containerized cargo	1.1671	0.7966.
(*e*) government aid cargo	n/a	n/a.
(*f*) grain	0.7171	0.7966.
(*g*) coal	0.7171	0.7966.
(3) a charge per passenger per lock	1.7487	1.7487.
(4) a lockage charge per Gross Registered Ton of the vessel, as defined in tem 1(1), applicable whether the ship is wholly or partially laden, or is in ballast, for transit of the Welland Canal in either direction by cargo ships.	n/a	0.3001.
Up to a maximum charge per vessel	n/a	4,197.
2. Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).	13 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).
3. Minimum charge per vessel per lock transited for full or partial transit of the Seaway.	29.14 [2]	29.14.
4. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes. [3]	30.00 [4]	30.00.
5. Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period.	20%	20%
6. Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume.	10%	10%
7. Under the New Service Incentive Program, for New Business cargo moving under an approved new service, an additional percentage refund on applicable cargo tolls above the New Business rebate.	20%	20%

[1] Or under the US GRT for vessels prescribed prior to 2002.
[2] The applicable charged under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33U.S.C. 988a(a)). The other charges are in Canadian dollars and are for the Canadian share of tolls.
[3] $5.00 discount per lock applicable on ticket purchased for Canadian locks via PayPal.
[4] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $30 U.S. or $30 Canadian per lock.

Issued at Washington, DC.

Saint Lawrence Seaway Development Corporation

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2020–05452 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2018–0772; FRL–10005–30]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (19–1.B)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for the chemical substances identified in Unit IV. which were the subject of premanufacture notices (PMNs). This action requires persons to notify EPA least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this rule. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has

taken such actions as are required as a result of that determination.

DATES: This rule is effective on May 19, 2020. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (EST) on April 3, 2020.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. 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:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after April 20, 2020 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. How can I access the docket?

The docket includes information considered by the Agency in developing the proposed and final rules. The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0772, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

A. What action is the agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) for chemical substances which were the subject of PMNs P–14–482, P–16–422, P–17–152, P–17–239, P–17–245, P–18–48, P–18–73, P–18–122, P–18–162, P–18–222, and P–19–10. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** of April 19, 2019 (84 FR 16432) (FRL–9992–42), EPA proposed a SNUR for these chemical substances in 40 CFR part 721, subpart E. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents proposing the SNUR. The record for the SNUR was established in the docket under docket ID number EPA–HQ–OPPT–2018–0772. That docket includes information considered by the Agency in developing the proposed and final rules, public comments submitted for the rule, and EPA's responses to public comments received on the proposed rule.

B. What is the Agency's authority for taking this action?

TSCA section 5(a)(2), 15 U.S.C. 2604(a)(2), authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of general provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. Pursuant to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors. In determining what would constitute a significant new use for the chemical substances that are

the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the conditions of use of the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Public Comments on Proposed Rule and EPA Responses

EPA received public comments from two identifying entities on the proposed rule. The Agency's responses are described in a separate Response to Public Comments document contained in the public docket for this rule, EPA–HQ–OPPT–2018–0772.

In addition, the Agency is correcting the proposed regulatory text that appeared in the proposed SNUR at 40 CFR 721.11253. Paragraph (a)(1) of the proposed regulatory text erroneously describes the chemical substance as organic salt, rather than sulfuric acid, ammonium salt (1:?), which is listed correctly in both the title of the proposed SNUR and in Unit IV. of the proposed SNUR. This oversight has been corrected in the final regulatory text for the SNUR.

V. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In Unit IV of the April 19, 2019 proposed rule, EPA provided the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Potentially Useful Information. Information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substances if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.
- CFR citation assigned in the regulatory text section of these rules.

The regulatory text section of these rules specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the rules, may be claimed as CBI.

The chemical substances that are the subject of these SNURs completed premanufacture review. In addition to those conditions of use intended by the submitter, EPA has identified certain other reasonably foreseen conditions of use. EPA has preliminarily determined that the chemicals under their intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use for these chemicals. EPA is designating these reasonably foreseen and other potential conditions of use as significant new uses. As a result, those conditions of use are no longer reasonably foreseen to occur without first going through a separate, subsequent EPA review and determination process associated with a SNUN.

VI. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these SNURs and as further discussed in Unit IV. of the April 19, 2019 proposed rule, EPA identified certain reasonably foreseen conditions of use and other circumstances different from the intended conditions of use identified in the PMNs and determined that those changes could result in changes in the type or form of exposure to the chemical substances and/or increased exposures to the chemical substances and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substances.

B. Objectives

EPA is issuing these SNURs because the Agency wants:

- To receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under section 5(a)(3) (A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.
- To be able to identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

EPA designated April 15, 2019 (the date of web posting of the proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of April 15, 2019, that person will have to cease any such activity upon the effective date of the final rule. To resume their activities, that person would have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,*

generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. of the April 19, 2019 proposed rule lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV. of the proposed rule will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance. EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV. of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.1725(b)(1) with that under 40 CFR 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2018–0772.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including using automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 11 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), 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.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 5, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671;

21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add entries for §§ 721.11247 through 721.11257 in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
§ 721.11247	2070–0012
§ 721.11248	2070–0012
§ 721.11249	2070–0012
§ 721.11250	2070–0012
§ 721.11251	2070–0012
§ 721.11252	2070–0012
§ 721.11253	2070–0012
§ 721.11254	2070–0012
§ 721.11255	2070–0012
§ 721.11256	2070–0012
§ 721.11257	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add §§ 721.11247 through 721.11257 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

721.11247 Organic salt (generic).
721.11248 1,2-Cyclohexanedicarboxylic acid, 1-(phenylmethyl) ester, ester with 2,2,4-trimethyl-1,3-pentanediol mono(2-methylpropanoate).
721.11249 Alkylaminium-trialkyl-2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]-, halide (1:1), polymer with alpha-(2-methyl-1-oxo-2-propen-1-yl)- omega-alkoxypoly(oxy-1,2-alkanediyl) (generic).
721.11250 Substituted carboxylic acid, polymer with 2,4-diisocyanato-1-methylbenzene, hexanedioic acid, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatobenzene], 2,2'-oxybis[ethanol], 1,1'-oxybis[2-propanol] and 1,2-propanediol (generic) .
721.11251 Unsaturated polyfluoro ester, (generic).
721.11252 Acetic acid, 2-(2-butoxyethoxy)-.
721.11253 Sulfuric acid, ammonium salt (1:?).
721.11254 Alkylamide, polymer with alkylamine, formaldehyde, and polycyanamide, alkyl acid salt (generic).
721.11255 Cashew nutshell liquid, polymer with diisocyanatoalkane, substituted-polyoxyalkyldiol and polyether polyol (generic).
721.11256 Silane, ethenyltrimethoxy-, polymer with ethene and 1-propene.
721.11257 Hydrogenated fatty acid dimers, polymers with 1,1'-methylenebis[4-isocyanatobenzene], polypropylene glycol, polypropylene glycol ether with trimethylolpropane (3:1), and 1,3-propanediol, polypropylene glycol monomethacrylate-blocked (generic).

* * * * *

§ 721.11247 Organic salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as organic salt (P–14–482) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture, process or use the substance in any manner that results in inhalation exposures. It is a significant new use to exceed the confidential annual production volume stated in the PMN.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) though (c) and (i), are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section

§ 721.11248 1,2-Cyclohexanedicarboxylic acid, 1-(phenylmethyl) ester, ester with 2,2,4-trimethyl-1,3-pentanediol mono(2-methylpropanoate).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,2-Cyclohexanedicarboxylic cyclohexanedicarboxylic acid, 1-(phenylmethyl) ester, ester with 2,2,4-trimethyl-1,3-pentanediol mono(2-methylpropanoate) (P–16–422, CAS No. 1661012–65–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance involving an application method that results in inhalation exposures. It is a significant new use to release a manufacturing, processing, or use stream associated with any use of the substance, other than releases from the confidential polymer additive use described in the PMN, into the waters of the United States exceeding a surface water concentration of 12 part per billion (ppb) using the methods described in § 721.91.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

§ 721.11249 Alkylaminium-trialkyl-2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]-, halide (1:1), polymer with alpha-(2-methyl-1-oxo-2-propen-1-yl)- omega-alkoxypoly(oxy-1,2-alkanediyl) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylaminium-trialkyl-2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]-, halide (1:1), polymer with alpha-(2-methyl-1-oxo-2-propen-1-yl)- omega-alkoxypoly(oxy-1,2-alkanediyl) (PMN P–17–152) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure. It is a significant new use to manufacture or process the substance as a powder or solid.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11250 Substituted carboxylic acid, polymer with 2,4-diisocyanato-1-methylbenzene, hexanedioic acid, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatobenzene], 2,2'-oxybis[ethanol], 1,1'-oxybis[2-propanol] and 1,2-propanediol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted carboxylic acid, polymer with 2,4-diisocyanato-1-methylbenzene, hexanedioic acid, alpha-hydro-omega-hydroxypoly [oxy(methyl-1,2-ethanediyl)], 1,1′-methylenebis[4-isocyanatobenzene], 2,2′-oxybis[ethanol], 1,1′-oxybis[2-propanol] and 1,2-propanediol) (PMN P–17–239) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance involving spray application that results in inhalation exposures. It is a significant new use to manufacture (includes importing) the substance to contain more than 20% residual isocyanate by weight.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=33.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11251 Unsaturated polyfluoro ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as unsaturated polyfluoro ester (P–17–245) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) *Disposal.* It is a significant new use to dispose of the substance and any waste streams containing the substance or its constituent breakdown products other than by sending them via a hazardous waste transporter to a hazardous waste incinerator permitted under the Resource Conservation and Recovery Act (RCRA) or an authorized state hazardous waste program.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) through (k) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

§ 721.11252 Acetic acid, 2-(2-butoxyethoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as acetic acid, 2-(2-butoxyethoxy)- (PMN P–18–48, CAS No. 82941–26–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance other than as emulsifier for metal working fluid.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11253 Sulfuric acid, ammonium salt (1:?).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as sulfuric acid, ammonium salt (1:?) (PMN P–18–73, CAS No. 10043–02–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to use the substance other than a Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) inert ingredient, an anti-scalant, a chlorine stabilizer, or the additional confidential uses described in the PMN.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) thru (c) and (i), are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11254 Alkylamide, polymer with alkylamine, formaldehyde, and polycyanamide, alkyl acid salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylamide, polymer with alkylamine, formaldehyde, and polycyanamide, alkyl acid salt (PMN P–18–122) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to release a manufacturing, processing, or use stream associated with any use of the substances, other than the confidential chemical intermediate use described in the premanufacture notices, into the waters of the United States exceeding a surface water concentration of 1 part per billion (ppb) using the methods described in § 721.91.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11255 Cashew nutshell liquid, polymer with diisocyanatoalkane, substituted-polyoxyalkyldiol and polyether polyol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as cashew nutshell liquid, polymer with diisocyanatoalkane, substituted-polyoxyalkyldiol and polyether polyol (PMN P–18–162) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture (including import) in a form other that as a paste.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers, including importers, and processors of this substance.

(2) Limitations or revocation of certain notification requirements. The provisions of § 721.185 apply to this section.

§ 721.11256 Silane, ethenyltrimethoxy-, polymer with ethene and 1-propene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as silane, ethenyltrimethoxy-, polymer with ethene and 1-propene (P–18–222) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance for uses other than as a reactive polymer for use in adhesive applications.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11257 Hydrogenated fatty acid dimers, polymers with 1,1'-methylenebis[4-isocyanatobenzene], polypropylene glycol, polypropylene glycol ether with trimethylolpropane (3:1), and 1,3-propanediol, polypropylene glycol monomethacrylate-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydrogenated fatty acid dimers, polymers with 1,1'-methylenebis[4-isocyanatobenzene], polypropylene glycol, polypropylene glycol ether with trimethylolpropane (3:1), and 1,3-propanediol, polypropylene glycol monomethacrylate-blocked (P–19–10) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance involving an application method that results in inhalation exposures.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers, including importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2020–05351 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Air Plan Approval; Iowa; State Implementation Plan and Operating Permits Program

CFR Correction

■ In Title 40 of the Code of Federal Regulations, Part 52(§§ 52.01 to 52.1018), revised as of July 1, 2019, on page 1152, in § 52.820, in the table, the entry for Iowa citation 567–22.9 is reinstated to read as follows:

EPA–APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
567–22.9	Special Requirements for Visibility Protection.	11/11/2009	10/25/2013, 78 FR 63887	
* *	*	*	* *	*

[FR Doc. 2020–05998 Filed 3–19–20; 8:45 am]
BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0447 and EPA–HQ–OAR–2016–0449; FRL–10006–04–OAR]

RIN 2060–AT12

National Emission Standards for Hazardous Air Pollutants: Boat Manufacturing and Reinforced Plastic Composites Production Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology reviews (RTR) conducted for the Boat Manufacturing and the Reinforced Plastic Composites Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing emissions during periods of startup, shutdown, and malfunction (SSM) and amending provisions regarding electronic reporting of performance test and performance evaluation results and semiannual reports. These final amendments include removal of regulatory language that is inconsistent with the requirement that the standards apply at all times, inclusion of language requiring electronic reporting of performance test and performance evaluation results and semiannual reports, and an amendment to the Reinforced Plastic Composites Production NESHAP to clarify that mixers that route to a capture and control device system with at least 95-percent efficiency overall are not required to have covers. The numeric emission limits of the standards for both source categories remain unchanged.

DATES: This final rule is effective on March 20, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0447 for the Boat Manufacturing NESHAP and Docket ID No. EPA–HQ–OAR–2016–0449 for the Reinforced Plastic Composites Production NESHAP. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. 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.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Tina Ndoh, Sector Policies and Programs Division (D234–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1516; fax number: (919) 541–4991; and email address: *ndoh.tina@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, 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) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james @epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, (Mail Code 2221A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

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:

BMC bulk molding compound
CAA Clean Air Act
CDX Central Data Exchange
CEMS continuous emission monitoring system
CRA Congressional Review Act
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutants(s)
HQ hazard quotient
ICR Information Collection Request
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTR risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ specific health index
tpy tons per year
UMRA Unfunded Mandates Reform Act

Background information. On May 17, 2019 (84 FR 22642), the EPA proposed revisions to the Boat Manufacturing NESHAP and the Reinforced Plastic Composites Production NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Reviews for Boat Manufacturing NESHAP and Reinforced Plastic Composite NESHAP,* Docket ID No. EPA–HQ–OAR–2016–0447 for Boat Manufacturing and EPA–HQ–OAR–2016–0449 for Reinforced Plastic Composites Production. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket for each rule.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What are the source categories and how does the NESHAP regulate HAP emissions from the source categories?
C. What changes did we propose for the source categories in our May 17, 2019, proposal?
III. What is included in these final rules?
A. What are the final rule amendments based on the risk review for the source categories?
B. What are the final rule amendments based on the technology review for the source categories?

C. What are the final rule amendments addressing emissions during periods SSM?
D. What are the final rule amendments for electronic reporting for the source categories?
E. What are the effective and compliance dates for the Boat Manufacturing and Reinforced Plastic Composites Production source categories?
F. What are the electronic reporting requirements?
G. What are the final rule amendments regarding covers for mixers that route to a control device system?
IV. What is the rationale for our final decisions and amendments for the Boat Manufacturing and Reinforced Plastic Composites Production source categories?
A. Residual Risk Reviews
B. Technology Reviews for the Boat Manufacturing and Reinforced Plastic Composites Production Source Categories
C. SSM Provisions
D. Electronic Reporting Provisions
E. Work Practice Standards for Controlled-Spray Training
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
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)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] Code
Boat Manufacturing	336612
Reinforced Plastic Composites Production	326113 326121 326122 326130 326140 326191 327110 327991 332321 332420 333132 333415 333611 333924 334310 335311 335313 335932 336111 336211 336213 336214 336320 336413 336510 337110 337125 337127 337215 339920 339991

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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 final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/boat-manufacturing-national-emission-standards-hazardous-air* for the Boat Manufacturing NESHAP, and *https://www.epa.gov/stationary-sources-air-pollution/reinforced-plastic-composites-production-national-emission* for the Reinforced Plastic Composites Production NESHAP. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by May 19, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see the *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology* memorandum (Docket ID Item No. EPA–HQ–OAR–2016–0447–0080).

B. What are the source categories and how does the NESHAP regulate HAP emissions from the source categories?

1. What is the Boat Manufacturing source category and how does the current NESHAP regulate its HAP emissions?

The EPA promulgated the Boat Manufacturing NESHAP on August 22, 2001 (66 FR 44218). The standards are codified at 40 CFR part 63, subpart VVVV (40 CFR 63.5680). The boat manufacturing industry consists of facilities that manufacture fiberglass and aluminum boats. The source category covered by this MACT standard currently includes 93 facilities.

The following processes and operations are found at boat manufacturing facilities: Fiberglass boat manufacturing and assembly operations, fabric and carpet adhesive operations, and aluminum boat surface coating operations. See the proposal for this action for additional detail on the processes at boat manufacturing facilities (84 FR 22645, May 17, 2019). The Boat Manufacturing NESHAP regulates organic HAP from sources that manufacture aluminum recreational boats or any type of fiberglass boats. For the purposes of these standards, recreational boats are defined as a vessel which, by design and construction, is intended by the manufacturer to be operated primarily for pleasure, or to be leased, rented, or chartered to another for the latter's pleasure (rather than for commercial or military purposes). The Boat Manufacturing NESHAP applies to the following operations: All open molding operations including pigmented gel coat, clear gel coat, production resin, tooling resin, and tooling gel coat; all closed molding resin operations; resin and gel coat mixing and operations; resin and gel coat application equipment cleaning operations; carpet and fabric adhesive operations; aluminum hull and deck coating operations, including solvent wipe-down operations; and paint spray gun cleaning operations on aluminum recreational boats. The NESHAP regulates HAP emissions by setting HAP content limits for the resins and gel coats used at each regulated open molding resin and gel coat operation. Regulated entities can comply with the HAP limits by averaging emissions, using compliant materials, or using add-on controls.

2. What is the Reinforced Plastic Composites Production source category and how does the current NESHAP regulate its HAP emissions?

The EPA promulgated the Reinforced Plastic Composites Production NESHAP on April 21, 2003 (68 FR 19375) and amended the standards on August 25, 2005 (70 FR 50118). The standards are codified at 40 CFR part 63, subpart WWWW (40 CFR 63.5780). The reinforced plastic composites production industry consists of facilities that manufacture reinforced and non-reinforced plastic composite products and the production of plastic molding compounds used in the production of plastic composites products. The source category covered by this MACT standard currently includes 448 facilities.

The Reinforced Plastic Composites Production NESHAP applies to the following operations: Open molding, closed molding, centrifugal casting, continuous lamination, continuous casting, polymer casting, pultrusion, sheet molding compound

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

manufacturing, bulk molding compound (BMC) manufacturing, mixing, cleaning of equipment used in reinforced plastic composites manufacture, HAP-containing materials storage, and repair operations on manufactured parts (40 CFR 63.5790). Most existing major sources are required to incorporate pollution-prevention techniques in their production processes. These techniques include the following: Using raw materials containing low amounts of regulated HAP; non-atomized resin application; and covering open resin baths and tanks.

C. What changes did we propose for the source categories in our May 17, 2019, proposal?

On May 17, 2019, the EPA published proposed rules in the **Federal Register** for the Boat Manufacturing NESHAP, 40 CFR part 63, subpart VVVV, and the Reinforced Plastic Composites Production NESHAP, 40 CFR part 63, subpart WWWW, that took into consideration the RTR analyses. In the proposed rule, we proposed that the risks due to emissions of air toxics from these source categories under the current standards are acceptable and that the standards provide an ample margin of safety to protect public health, and, therefore, no additional emission reductions are necessary. For the technology reviews, we did not identify any developments in practices, processes, or control technologies, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). We did, however, solicit comments on the feasibility and associated cost of revising the NESHAP to include a work practice standard that would require controlled-spray operator training.

Additionally, the EPA proposed amendments to provisions addressing emissions during periods of SSM and to provisions regarding electronic reporting of performance test and performance evaluation results and semiannual reports, and proposed an amendment to the Reinforced Plastic Composites Production NESHAP to clarify that mixers that route to a capture and control device system with at least 95-percent efficiency overall are not required to have covers.

III. What is included in these final rules?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Boat Manufacturing and Reinforced Plastic Composites Production source categories. This actions also finalizes other changes to the NESHAP, including:

- Amending provisions addressing emissions during periods of SSM;
- Amending provisions regarding electronic reporting of performance test and performance evaluation results and semiannual reports; and
- An amendment to the Reinforced Plastic Composites Production NESHAP to clarify that mixers that route to a capture and control device system with at least 95-percent efficiency overall are not required to have covers.

A. What are the final rule amendments based on the risk review for the source categories?

This section introduces the final amendments to the Boat Manufacturing and Reinforced Plastic Composites Production NESHAP being promulgated pursuant to CAA section 112(f). Consistent with the proposed findings for these NESHAP, the EPA is finalizing our determination that the risks due to emissions of air toxics from these source categories under the current standards are acceptable and that the standards provide an ample margin of safety to protect public health. The EPA proposed no changes to these two subparts based on the risk reviews conducted pursuant to CAA section 112(f). The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not requiring additional controls under CAA section 112(f)(2) for either of the two subparts in this action, and we are not making any changes to the existing standards under CAA section 112(f)(2). In other words, we are readopting the standards for both subparts.

B. What are the final rule amendments based on the technology review for the source categories?

Consistent with the proposed findings for these NESHAP, we determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for either of these source categories. Therefore, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods SSM?

We are finalizing the proposed amendments to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV) and the Plastic Composites Production NESHAP (40 CFR part 63, subpart WWWW) to remove and revise the provisions related to SSM. 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 (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 some CAA section 112 standards apply continuously. As detailed in section IV.D and IV.I of the proposal preamble for these NESHAP (84 FR 22660 and 22668, May 17, 2019), Table 8 to subpart VVVV of part 63 and Table 15 to subpart WWWW of part 63 (General Provisions applicability tables) are being revised to require that the standards apply at all times. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made other harmonizing changes to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We determined that facilities in both of these source categories can meet the applicable emission standards in the Boat Manufacturing NESHAP and the Plastic Composites Production NESHAP at all times, including periods of startup and shutdown. Therefore, the EPA determined that no additional standards are needed to address emissions during these periods. The legal rationale and explanation of the changes to the SSM requirements are set forth in the proposed rules. See 84 FR 22660 through 22662 and 22668 through 222669, May 17, 2019.

Further, the EPA is not implementing standards for malfunctions. As discussed in sections IV.D and IV.I of the May 17, 2019, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For these source categories, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.D and IV.I of the May 17, 2019, proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to

comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

The EPA is finalizing a revision to the performance testing requirements at 40 CFR 63.5765 and 63.5912. The final performance testing provisions prohibit performance testing during SSM for demonstrating compliance as these conditions are not representative of normal operating conditions. The final rules also require that operators maintain records to document that operating conditions during performance tests represent normal conditions.

D. What are the final rule amendments for electronic reporting for the source categories?

The EPA is finalizing electronic reporting requirements that apply to owners and operators of facilities subject to the Boat Manufacturing NESHAP and the Plastic Composites Production NESHAP. Owners and operations are required to submit electronic copies of performance test reports and performance evaluation reports and semiannual 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 the dockets for both rules at Docket ID Item Nos. EPA–HQ–OAR–2016–0447–0082 and EPA–HQ–2016–0449–0047. The final rule requires that performance test and performance evaluation report results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [2] 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 using the attachment module of the ERT. For semiannual reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed template for these reports is included in the dockets for this rulemaking (Docket ID Item Nos. EPA–HQ–OAR–2016–0447–0082 and EPA–HQ–OAR–2016–0449–0047). Electronic reporting requirements are discussed further in section IV.D and V.D of this preamble.

E. What are the effective and compliance dates for the Boat Manufacturing and Reinforced Plastic Composites Production source categories?

The revisions to the MACT standards being promulgated in this action are effective on March 20, 2020.

The EPA is finalizing rule revisions that require affected sources in the Boat Manufacturing and Reinforced Plastic Composites Production source categories that commenced construction or reconstruction on or before May 17, 2019, to comply with all the amendments, including the electronic format for submitting performance test and performance evaluation results and compliance reports, no later than 180 days after the effective date of the final rule. Affected sources that commence construction or reconstruction after May 17, 2019, must comply with all requirements of the subpart, including the amendments being finalized, no later than the effective date of the final rule or upon startup, whichever is later, with the exception of the electronic format for submitting compliance reports. Affected sources that commence construction or reconstruction after May 17, 2019, must comply with all requirements for the electronic format for submitting compliance reports no later than 180 days after the effective date of the final rule or upon startup, whichever is later. The EPA's rationale for these compliance deadlines appears in the proposal preamble (84 FR 22664 and 22670, May 17, 2019). All affected facilities for the Boat Manufacturing source category must continue to meet the current requirements of 40 CFR part 63, subpart VVVV, and for the Plastic Composites Production source category must continue to meet the current requirements of 40 CFR part 63, subpart WWWW, until the applicable compliance date of the amended rule.

F. What are the electronic reporting requirements?

The EPA is requiring owners and operators of boat manufacturing and reinforced plastic composites production facilities to submit electronic copies of certain required performance test reports, performance evaluation reports, and periodic reports through the EPA's CDX using the CEDRI. The final rule requires that performance test and performance evaluation test results be submitted using the ERT. For the periodic compliance reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the templates for these reports will be located on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*).

The electronic submittal of the reports addressed in this 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. For a more thorough discussion of electronic reporting, see the memorandum on e-reporting, available in Docket ID Item No. EPA–HQ–OAR–2016–0447 and EPA–HQ–OAR–2016–0449.

G. What are the final rule amendments regarding covers for mixers that route to a control device system?

In this action, we are finalizing an amendment to Table 4 to 40 CFR part 63, subpart WWWW, to clarify that mixers that route emissions to a capture and control device system that is at least 95-percent efficient overall are not required to have covers. In the 2003 NESHAP rulemaking, we determined that MACT for existing sources was pollution prevention measures (for mixing and BMC manufacturing operations) and that MACT for new sources was 95-percent control. We also considered whether the new source MACT floor for mixing operations should be incorporation of the pollution prevention measures (in this case covering the mixers) combined with 95-percent control. We determined that the best controlled facilities which route emissions to a 95-percent efficient control device do not also incorporate the best pollution prevention

[2] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

techniques. Therefore, we concluded that combining the pollution prevention requirements with the 95-percent control requirements would result in an overall control level that exceeds the levels at the best controlled facilities (66 FR 40332, August 2, 2001). However, the text in table 4 of the regulation did not directly address whether mixers that capture and control emissions by 95 percent overall need to have covers. We have added text in line 6 of table 4 to clarify that covers are not required for mixers that fully capture and route emissions to a control device with at least 95-percent efficiency.

IV. What is the rationale for our final decisions and amendments for the Boat Manufacturing and Reinforced Plastic Composites Production source categories?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review

1. What did we propose pursuant to CAA section 112(f)?

a. Boat Manufacturing (40 CFR Part 63, subpart VVVV) Source Category

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in section IV.A of the proposed rule preamble (84 FR 22658, May 17, 2019). The results of this review are presented briefly below in Table 2 of this preamble. Additional detail is provided in the residual risk technical support document titled *Residual Risk Assessment for the Boat Manufacturing Source Category in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the Boat Manufacturing Docket (Docket ID No. EPA–HQ–OAR–2016–0447).

TABLE 2—INHALATION RISK ASSESSMENT SUMMARY FOR THE BOAT MANUFACTURING SOURCE CATEGORY

	Cancer MIR (in 1 million)		Cancer incidence (cases per year)	Population with risk of 1-in-1 million or greater	Population with risk of 10-in-1 million or greater	Max chronic noncancer hazard index (HI) (actuals and allowables)
	Based on actual emissions	Based on allowable emissions				
Source Category	0.2 (nickel compounds, ethyl benzene, tetrachloroethene).	0.3 (nickel compounds, ethyl benzene, tetrachloroethene).	0.00001	0	0	HI < 1.
Whole Facility	0.4 (naphthalene)		0.00004	0	0	HI = 1.

The EPA proposed that the risks from the Boat Manufacturing source category were acceptable based on the health risk information and factors discussed in section IV.C of the proposal for this rulemaking (84 FR 22658, May 17, 2019). As explained in section II.A of the proposal preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual risk (MIR) of approximately 1-in-10 thousand (84 FR 22644, May 17, 2019).''

For the Boat Manufacturing source category, the risk analysis indicates that the cancer risks to the individual most exposed is 0.2-in-1 million based on actual emissions and is 0.3-in-1 million based on allowable emissions. These risks are considerably less than 100-in-1 million (or 1-in-10 thousand), which is the presumptive upper limit of acceptable risk. The Benzene NESHAP explained that ''a 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 (54 FR 38057, September 14, 1989). The risk analysis also shows very low cancer incidence (0.00001 cases per year for actual emissions and 0.00002 cases per year for allowable emissions). Based on our analysis, we did not identify potential for adverse chronic noncancer health effects; all target organ specific health indexes (TOSHIs) were less than 1. The acute noncancer risks based on actual emissions are not greater than a hazard quotient (HQ) of 1 for styrene. Therefore, we find there is little potential concern of acute noncancer health impacts from actual emissions. In addition, the risk assessment indicates no significant potential for multipathway health effects or ecological effects. For all the reasons stated, the risk from the Boat Manufacturing source category were found to be acceptable.

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, considering all of the health risks and other health information considered in the risk acceptability determination described above. In this analysis, we considered the results of the technology review, risk assessment, and other aspects of our MACT rule review to determine whether there are any cost-effective controls or other measures that would reduce emissions further and would be necessary to provide an ample margin of safety to protect public health.

Our risk analysis indicated the risks from the Boat Manufacturing source category are low for both cancer and noncancer health effects, and, therefore, any risk reductions from further available control options would result in minimal health benefits. As noted in section IV.C of the proposal preamble,

no additional control measures were identified for reducing HAP emissions from the Boat Manufacturing source category (84 FR 22660, May 17, 2019). Thus, we proposed that the Boat Manufacturing NESHAP provides an ample margin of safety to protect health and we are not making any changes to the existing standards under CAA section 112(f)(2).

b. Reinforced Plastic Composites Production (40 CFR Part 63, subpart WWWW) Source Category

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in section IV.F of the proposed rule preamble (84 FR 22664, May 17, 2019). The results of this review are presented briefly below in Table 3 of this preamble. Additional detail is provided in the residual risk technical support document titled *Residual Risk Assessment for the Reinforced Plastic Composites Production Source Category in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the Boat Manufacturing Docket (Docket ID No. EPA–HQ–OAR–2016–0449).

TABLE 3—INHALATION RISK ASSESSMENT SUMMARY FOR THE REINFORCED PLASTIC COMPOSITES PRODUCTION SOURCE CATEGORY

	Cancer MIR (in 1 million)		Cancer incidence (cases per year)	Population with risk of 1-in-1 million or greater	Population with risk of 10-in-1 million or greater	Max chronic noncancer hazard index (HI) (actuals and allowables)
	Based on actual emissions	Based on allowable emissions				
Source Category	4 (formaldehyde, ethyl benzene).	4 (formaldehyde, ethyl benzene).	0.001	1,500	0	HI = 1.
Whole Facility	20 (cadmium,7-12-dimethylbenz [a]anthracene, nickel, formaldehyde).		0.001	4,500	800	HI = 1.

The EPA proposed that the risks from the Reinforced Plastic Composites Production source category were acceptable based on the health risk information and factors discussed in section IV.G of the proposal for this rulemaking (84 FR 22666, May 17, 2019). As explained in section II.A of the proposal preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand (84 FR 22644, May 17, 2019).''

For the Reinforced Plastic Composites Production source category, the risk analysis indicates that the cancer risks to the individual most exposed is 4-in-1 million based on actual emissions and is 4-in-1 million based on allowable emissions. These risks are considerably less than 100-in-1 million (or 1-in-10 thousand), which is the presumptive upper limit of acceptable risk. The risk analysis also shows very low cancer incidence (0.001 cases per year for actual emissions and 0.001 cases per year for allowable emissions). We did not identify potential for adverse chronic noncancer health effects; the TOSHIs were equal to 1. The results of the acute screening analysis estimate a maximum acute noncancer HQ of 3 based on the acute recommended exposure limit for styrene. The maximum off-site concentration for this HAP was also compared to EPA's Acute Exposure Guideline Levels (AEGL–1) and Emergency Response Planning Guideline (ERPG–1) levels and, in all cases, the HQ was less than 1, below the level at which mild, reversible effects would be anticipated. This information, in addition to the conservative (health protective) assumptions built into the screening assessment, leads us to conclude that adverse effects from acute exposure to emissions of this HAP from this category are not anticipated. In addition, the risk assessment indicates no significant potential for multipathway health effects or ecological effects. Considering all the health risk information and factors discussed above, we proposed that the risks from the Reinforced Plastic Composites Production source category are acceptable.

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, considering all of the health risks and other health information considered in the risk acceptability determination described above. In this analysis, we considered the results of the technology review, risk assessment, and other aspects of our MACT rule review to determine whether there are any cost-effective controls or other measures that would reduce emissions further and would be necessary to provide an ample margin of safety to protect public health.

Our risk analysis indicated the risks from the Reinforced Plastic Composites Production source category are low for both cancer and noncancer health effects, and, therefore, any risk reductions from further available control options would result in minimal health benefits. As noted in section IV.H of the proposal preamble, no additional control measures were identified for reducing HAP emissions from sources in the Reinforced Plastic Composites Production source category (84 FR 22667, May 17, 2019). Thus, we proposed that the Reinforced Plastic Composites Production NESHAP provides an ample margin of safety to protect health and we are not making any changes to the existing standards under CAA section 112(f)(2).

2. How did the risk review change for these source categories?

The EPA has not changed any aspect of the risk assessment for either of these two source categories as a result of public comments received on the May 2019 proposal.

3. What key comments did we receive on the risk review, and what are our responses?

The EPA received comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2) for either source category. Generally, the comments that did not support the proposed determinations that the risks are acceptable and that the existing standards provide an ample margin of safety also asserted that changes to the underlying risk assessment methodology were needed. For example, one commenter stated that the EPA should lower the acceptability benchmark and not assume that risks below 100-in-1 million are inherently acceptable, include emissions from outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. Generally, the comments that were supportive of the proposed determinations of the residual risk review agreed with our underlying risk assessment methodology and data inputs and asked for the rule to be finalized as soon as possible to provide regulatory certainty. After review of all the comments received, we decided not to make any changes to the residual risk review. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses on Proposed Rule (84 FR 22642, May 17, 2019),* available in the dockets for these actions (Docket ID Nos. EPA–HQ–OAR–2016–0447 and EPA–HQ–OAR–2016–0449).

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on the MIR of approximately 1-in-10 thousand (see 54 FR 38045, September 14, 1989).'' We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum chronic noncancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determine that the risks from the Boat Manufacturing and Reinforced Plastic Composites Production source categories are acceptable, and that the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising either subpart to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Reviews for the Boat Manufacturing and Reinforced Plastic Composites Production Source Categories

1. What did we propose pursuant to CAA section 112(d)(6)?

Based on our review, the EPA did not identify any developments in practices, processes, or control technologies for the Boat Manufacturing and Reinforced Plastic Composites Production source categories, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). Brief summaries of the EPA's findings in conducting the technology review of Boat Manufacturing and Reinforced Plastic Composites Production source categories were included in the preamble to the proposed rule (84 FR 22642, 22660, 22667, May 17, 2019), and detailed discussions of the EPA's technology review and findings were included in the memorandum, *Technology Review for Boat Manufacturing and Reinforced Plastic Composites Production Source Category,* June 1, 2018, which can be found in the dockets for both source categories (Docket ID Nos. EPA–OAR–HQ–2016–0447 and EPA–HQ–OAR–2016–0449).

2. How did the technology reviews change?

The EPA is making no changes to the conclusions of the technology review and is finalizing the results of the technology reviews for the Boat Manufacturing and Reinforced Plastic Composites Production source categories as proposed.

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received one comment on the proposed technology review for the Boat Manufacturing source category. This commenter supported our proposed determination that no revisions were warranted under CAA section 112(d)(6) for the Boat Manufacturing source category. No comments were received on the technology review for the Reinforced Plastic Composites source category.

4. What is the rationale for our final approach for the technology review?

As we received no adverse comments on our proposed technology reviews or the proposed determinations based on those reviews, we are finalizing the reviews as proposed and making no changes to the standards pursuant to CAA section 112(d)(6). The rationale for and results of our technology reviews are explained in the preamble to the proposed rules (84 FR 22660 and 22667, May 17, 2019).

C. SSM Provisions

1. What did we propose for SSM?

In the May 17, 2019, action, the EPA proposed amendments to the Boat Manufacturing NESHAP and the Reinforced Plastic Composites Production NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the proposed amendments for the elimination of SSM exemption provisions is in the preamble to the proposed rules (84 FR 22660 and 22668, May 17, 2019).

2. What changed since proposal?

The EPA is finalizing the SSM provisions as proposed with no changes (84 FR 22660 and 22668, May 17, 2019).

3. What key comments did we receive on the SSM provisions and what are our responses?

We received several comments in support of the proposed SSM amendments for the Boat Manufacturing and Reinforced Plastic Composites source categories. One commenter also stated that the proposed amendments will have no impact on the Boat Manufacturing industry.

4. What is the rationale for our final approach for the SSM provisions?

For the reasons explained in the proposed rule and after evaluation of the comments on the proposed amendments to the SSM provisions for

the Boat Manufacturing NESHAP and the Reinforced Plastic Composites Production NESHAP, we are finalizing the proposed revisions related to SSM that are inconsistent with the requirement that the standards apply at all times. More information concerning the proposed amendments to the SSM provisions is in the preamble for each of the proposed rules (84 FR 22660 and 22668, May 17, 2019).

D. Electronic Reporting Provisions

1. What did we propose?

In the May 17, 2019, action, we proposed that owners and operators of facilities subject to the Boat Manufacturing NESHAP and the Reinforced Plastic Composites NESHAP submit electronic copies of performance test and performance evaluation results and semiannual reports through the EPA's CDX, using the CEDRI Interface. A description of the electronic 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),* August 8, 2018, in the dockets for Boat Manufacturing (Docket ID No. EPA–OAR–HQ–2016–0447) and Reinforced Plastic Composites (Docket ID No. EPA–HQ–OAR–2016–0449). The proposed rule requirement would replace the current rule requirement to submit these notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. The proposed rule requirement would not affect submittals required by state air agencies. The proposed compliance schedule language in 40 CFR 63.5765(c) and 63.5912(c) for submission of semiannual compliance reports gives facilities 181 days after the final rule is published to begin electronic reporting or 1 year after the 40 CFR part 63, subparts VVVV and WWWW, semiannual compliance report template for both source categories is available in CEDRI, whichever is later.

2. What changed since proposal?

The EPA is finalizing the electronic reporting provisions as proposed with no changes (84 FR 22662 and 22669, May 17, 2019).

3. What key comments did we receive on the electronic reporting provisions and what are our responses?

The EPA received several comments that were generally supportive of the proposed electronic reporting requirements. One commenter stated that the proposed electronic reporting requirements will reduce ''regulatory burden imposed on this sector by helping to minimize waste of resources and streamline operations.''

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the proposed rule and after evaluation of the comments on the proposed amendments, the EPA is requiring owners and operators of facilities subject to the Boat Manufacturing NESHAP and the Reinforced Plastic Composites Production NESHAP to submit electronic copies of performance test and performance evaluation results and semiannual reports through the EPA's CDX, using CEDRI. The rationale for the proposed amendments to the electronic reporting provisions is in the preamble to the proposed rule (84 FR 22662 and 22669, May 17, 2019). This rationale also supports our determination to finalize these requirements as proposed.

E. Work Practice Standards for Controlled-Spray Training

1. What did we propose for a controlled-spray operator training program?

The EPA requested comment on the potential costs and benefits of revising the Boat Manufacturing NESHAP and/or the Reinforced Plastic Composites Production NESHAP to include a controlled-spray training program for operations where styrene-containing resins and gel coats are sprayed onto an open mold. We specifically asked for feedback on whether this practice is widely used in industry, whether significant HAP reductions can be achieved industry-wide and whether HAP reductions could be applicable to all open mold production operations. A more detailed description of the potential revisions and amendatory rule text were provided in the dockets for both rulemakings (Docket ID Item Nos. EPA–OAR–HQ–2016–0447–0079 and EPA–OAR–HQ–2016–0049–0044).

2. What changed since proposal?

For reasons described below, the EPA has decided not to add provisions requiring a controlled-spray operator training program for styrene-containing resins and gel coats sprayed onto an open mold.

3. What key comments did we receive on the work practice standards and what are our responses?

Comment: The EPA received mixed comments on the inclusion of a work practice standard for controlled-spray operator training. Some commenters argued that EPA was obligated to include a training program, while other commenters objected to the inclusion of such a program. One commenter argued that EPA must adopt controlled spray training as a technological development based on the statutory requirements of CAA section 112(d)(6). A commenter also argued that the program must be included in the final rule as a measure for reducing emissions and therefore reducing health risk to satisfy the 'ample margin of safety' requirements under CAA section 112(f)(2). Other commenters objected to the inclusion of the controlled spray-training program, arguing that it would achieve no additional environmental benefit and would impose unwarranted regulatory burden. Some commenters also asserted that requirements to weigh overspray of resins and gel coats does not provide any additional environmental benefit and is overly burdensome.

Response: The EPA has decided not to add a work practice for controlled spray operator training to either the Boat Manufacturing NESHAP and/or the Reinforced Plastic Composites Production NESHAP. The EPA acknowledges that a controlled-spray training could be considered a potential development in practices. Even if the agency were to conclude it is a development, however, no changes to these NESHAP would be warranted. We do not have enough information at this time to conclude that a controlled-spray program implemented for boat manufacturing and reinforced plastic composites production facilities would result in environmental benefits and we cannot quantify the burden on affected facilities. The EPA did not receive any additional information regarding potential environmental benefits or costs associated with such a program for these source categories during the comment period. For these reasons, the EPA has concluded, based on the available information, that even if the spray operator training program were found to be a development, changes to the standards would not be required under CAA section 112(d)(6).

Under the ample margin of safety analysis, the EPA analyzes whether there are any cost-effective controls or other measures that would reduce emissions further and would be necessary to provide an ample margin of safety to protect public health. The EPA is not able, based on the information currently available to it, to conclude that the controlled-spray operator training program would be cost effective for either source category or that it would have any environmental benefit. As such, the EPA has concluded, based

on the available information on the cost and feasibility of the program and considering all of the health risks and other health information considered in the risk acceptability determination, that the program is not needed to provide an ample margin of safety.

4. What is the rationale for our final decision with regard to the work practice standards?

The EPA could not determine that requiring a work practice standard for controlled-spray operator training in the NESHAP for the Boat Manufacturing and Reinforced Plastic Composites Production source categories would provide an environmental benefit, and, therefore, could not determine if such programs would be cost effective. The EPA did not receive any information regarding the potential costs of revising the Boat Manufacturing NESHAP and/or the Reinforced Plastic Composites Production NESHAP to include controlled-spray training as a work practice standard during the comment period for both regulatory actions. Given this uncertainty for program costs and benefits, we have also determined that the controlled-spray operator training program is not needed to provide an ample margin of safety.

For these reasons, the EPA has decided not to add work practice standards for controlled-spray operator training to either the Boat Manufacturing NESHAP and/or the Reinforced Plastic Composites Production NESHAP.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

The EPA estimates that there are 93 boat manufacturing facilities that are subject to the Boat Manufacturing NESHAP affected by the proposed amendments to 40 CFR part 63, subpart VVVV, and 448 reinforced plastic composites production facilities subject to the Reinforced Plastic Composites Production NESHAP, affected by the proposed amendments to 40 CFR part 63, subpart WWWW. The basis of our estimates of affected facilities are provided in the memorandum, *Emissions Data for the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing and the National Emission Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production,* which is available in the respective dockets for this action. We are not currently aware of any planned or potential new or reconstructed manufacturing facilities in either of the source categories.

B. What are the air quality impacts?

All major sources in the two source categories would be required to comply with the relevant emission standards at all times without the SSM exemption. We were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

C. What are the cost impacts?

The one-time cost associated with reviewing the revised rules and becoming familiar with the electronic reporting requirements is estimated to be $446,448 (2016$); the one-time cost is composed of $75,629 for the Boat Manufacturing source category (93 facilities), and $370,819 for the Reinforced Plastic Composites Production source category (448 facilities). The total cost per facility in the Boat Manufacturing source category is estimated to be $399 per facility to review the final rule requirements and $414 per facility to become familiar with the electronic reporting requirements. The total cost per facility in the Reinforced Plastic Composites Production source category is estimated to be $414 per facility to review the final rule requirements and $414 per facility to become familiar with the electronic reporting requirements. All other costs associated with notifications, reporting, and recordkeeping are assumed to be unchanged because the facilities in each source category are currently required to comply with notification, reporting, and recordkeeping requirements, and will continue to be required to comply with those requirements. The number of personnel-hours required to develop the materials in support of reports required by the NESHAP remain unchanged.

D. What are the economic impacts?

The cost per facility for all of the facilities in both source categories to review the proposed rule requirements and to become familiar with the electronic reporting requirements are less than 1 percent of annual sales revenues. 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.

In addition, the EPA prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. As result of our small business screening, we have identified 73 out of the 93 facilities in the Boat Manufacturing NESHAP as small entities, while 309 out of the 448 facilities in the Reinforced Plastic Composites Production NESHAP are small entities. For both industries, the costs associated with becoming familiar with the proposed rule requirements and to become familiar with the electronic reporting requirements are less than 1 percent of their annual sales revenues. Therefore, there are no significant economic impacts on a substantial number of small entities from these proposed amendments.

E. What are the benefits?

The EPA does not anticipate reductions in HAP emissions as a result of the proposed amendments to the Boat Manufacturing NESHAP or the Reinforced Plastic Composites Production NESHAP. Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were estimated, we did not estimate any health benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

The EPA performed a demographic analysis for each source category, which is an assessment of risks to individual demographic groups, of the population close to the facilities (within 50 kilometers (km) and within 5 km). In our analysis, we evaluated the distribution of HAP-related cancer risks and noncancer hazards from the Boat Manufacturing source category and the Reinforced Plastic Composites Production source category across different social, demographic, and economic groups within the populations living near operations identified as having the highest risks.

Results of the demographic analysis performed for the Boat Manufacturing source category indicate that, for seven of the 11 demographic groups, Hispanic or Latino, minority, people living below the poverty level, linguistically isolated people, adults without a high school diploma, adults 65 years of age or older, and African Americans that reside within 5 km of facilities in the source category is greater than the corresponding national percentage for the same demographic groups. When examining the risk levels of those exposed to emissions from boat manufacturing facilities, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic

noncancer TOSHI greater than 1, and that risks are acceptable for all populations.

The results of the Reinforced Plastic Composites Production source category demographic analysis indicate that populations residing within 50 km of facilities in the source category for three of the 11 demographic groups; minority populations, people living below the poverty level, ages 0 to 17, and adults without a high school diploma is greater than the corresponding national percentage for the same demographic groups. However, emissions from the source category expose approximately 1,600 people to a cancer risk at or above 1-in-1 million, but no cancer risk greater than 4-in-1 million (Docket ID Item No. EPA–HQ–OAR–2016–0449–0228). When examining the demographics for those exposed to cancer risks greater than 1-in-1 million from reinforced plastic composites production facilities, we find that four of the 10 demographic groups; African American, ages 0 to 17, over 25 without a high school diploma, and people below the poverty level are exposed to a cancer risk at or above 1-in-1 million. For chronic noncancer risks, no one is exposed to a chronic noncancer TOSHI greater than 1. A review of all risks from this source category is considered acceptable for all populations.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IIIA. and IV.A and B of the proposal for this rule (84 FR 22684 through 22660, May 17, 2019) and are further documented in the *Residual Risk Assessment for the Boat Manufacturing Source Category in Support of the 2018 Risk and Technology Review Proposed Rule,* and the *Residual Risk Assessment for the Surface Coating of Reinforced Plastic Composites Production Source Category in Support of the 2018 Risk and Technology Review Proposed Rule* (Docket ID Item No. EPA–HQ–OAR–2016–0447–0035 and Docket ID Item No. EPA–HQ–OAR–2016–0449–0014).

VI. 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 Orders 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 Regulations 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)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) documents that the EPA prepared has been assigned EPA ICR number 1966.09 for the Boat Manufacturing source category and 1976.09 for the Reinforced Plastic Composites Production source category. You can find a copy of these ICR documents in the dockets for these rules, and they are briefly summarized here. The information collection requirements are not enforceable until OMB approves them. A brief summary of the information collection requirements for Boat Manufacturing and the Reinforced Plastic Composites Production categories is provided in sections VI.C.1 and VI.C.2 of this preamble.

1. Boat Manufacturing

We are finalizing changes to the recordkeeping and reporting requirements associated with 40 CFR part 63, subpart VVVV, in the form of eliminating the SSM plan and reporting requirements; including reporting requirements for deviations in the semiannual report; and including the requirement for electronic submittal of reports. In addition, the number of facilities subject to the standards changed since the original ICR was finalized.

Respondents/affected entities: The respondents to the recordkeeping and reporting requirements are owners or operators of boat manufacturing facilities subject to 40 CFR part 63, subpart VVVV.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart VVVV).

Estimated number of respondents: 93 facilities.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include one-time review of rule amendments, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: The annual recordkeeping and reporting burden for responding facilities to comply with all the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be 7,914 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for responding facilities to comply with all the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be $816,500 (rounded, per year). There are no estimated capital and operation and maintenance (O&M) costs.

2. Reinforced Plastic Composites Production

We are finalizing changes to the recordkeeping and reporting requirements associated with 40 CFR part 63, subpart WWWW, in the form of eliminating the SSM plan and reporting requirements; including reporting requirements for deviations in the semiannual report; and including the requirement for electronic submittal of reports. In addition, the number of facilities subject to the standards changed since the original ICR was finalized.

Respondents/affected entities: The respondents to the recordkeeping and reporting requirements are owners or operators of reinforced plastic composites production facilities subject to 40 CFR part 63, subpart WWWW.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart WWWW).

Estimated number of respondents: 448 facilities.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include one-time review of rule amendments, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: The annual recordkeeping and reporting burden for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be 38,125 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be $3,933,400 (rounded, per year). There are no estimated capital and O&M costs.

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 include small businesses engaged in either the Boat Manufacturing or Reinforced Plastic Composites Production source categories. The Agency has determined that 73 boat manufacturing facilities and 309 reinforced plastic composites production facilities are small entities, and that these small entities may experience an impact of less than 1 percent of annual sales. Additional discussion of the cost impacts can be found in section V.D of this preamble.

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. 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. No tribal facilities are known to be engaged in the Boat Manufacturing or Reinforced Plastic Composites Production source categories and would not be affected by this action. Thus, Executive Order 13175 does not apply to this action.

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. This action's health and risk assessments are contained in sections III.A and IV.A and B of the proposal for this rule (84 FR 22684 through 22660, May 17, 2019).

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 has determined 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). The documentation for this decision is contained in sections IV.A, IV.B, IV.F, and IV.G of the proposal preamble (84 FR 22658 through 22667*, May 17, 2019*). For both source categories, the risks were found to be acceptable for all populations, including minority pollutions, low-income populations, and/or indigenous people.

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).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 25, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 63 is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

§ 63.5764 [Amended]

■ 2. Section 63.5764 is amended by removing paragraph (e).

■ 3. Section 63.5765 is added to read as follows:

§ 63.5765 How do I submit my reports?

(a) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (a)(1) through (3) 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 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 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.

(3) Confidential business information (CBI). If you claim some of the information submitted under paragraph (a)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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 in paragraph (a)(1) of this section.

(b) Within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation as defined in § 63.2, you must submit the results of the performance evaluation following the procedures specified in paragraphs (b)(1) through (3) of this section.

(1) Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation. Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. 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 XML schema listed on the EPA's ERT website.

(2) Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation. The results of the performance evaluation 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.

(3) Confidential business information. If you claim some of the information submitted under paragraph (a)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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 in paragraph (a)(1) of this section.

(c) For sources that commence construction or reconstruction before or on May 17, 2019, you must submit to the Administrator semiannual compliance reports of the information required in § 63.5764(c) and (d) beginning on September 16, 2020. For sources that commence construction or reconstruction after May 17, 2019, you must submit to the Administrator semiannual compliance reports of the information required in § 63.5764(c) and (d) beginning on March 20, 2020, or upon startup, whichever is later.

(d) If you are required to submit reports following the procedure specified in this paragraph (d), beginning on September 16, 2020, you must submit all subsequent reports to the EPA via CEDRI, which can be accessed through the EPA's 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 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 or an alternate electronic file consistent with the XML schema listed 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 (d).

(e) 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 (e)(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 5 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.

(f) 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 (f)(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 outages).

(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) A description of 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.

■ 4. Section 63.5767 is amended by revising paragraph (d) to read as follows:

§ 63.5767 What records must I keep?

* * * * *

(d) If your facility has an add-on control device, you must keep the records of any failures to meet the applicable standards, including the date, time, and duration of the failure; a list of the affected add-on control device and actions taken to minimize emissions, 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; control device performance tests; and continuous monitoring system performance evaluations.

■ 5. Section 63.5770 is amended by adding paragraph (e) to read as follows:

§ 63.5770 In what form and for how long must I keep my records?

* * * * *

(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.

■ 6. Section 63.5779 is amended by:

■ a. Removing the definition for ''Deviation''; and

■ b. Adding definitions for ''Deviation after'', ''Deviation before'', ''Shutdown'', and ''Startup'' in alphabetical order.

The additions read as follows:

§ 63.5779 What definitions apply to this subpart?

* * * * *

Deviation after September 16, 2020, 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 emission limit, operating limit, or work practice standard; or

(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.

Deviation before September 17, 2020 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 emission limit, operating limit, or work practice standard; or

(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 emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

* * * * *

Shutdown after September 16, 2020, means the cessation of operation of the add-on control devices.

* * * * *

Startup after September 17, 2020, means the setting in operation of the add-on control devices.

* * * * *

■ 7. Table 8 to subpart VVVV of part 63 is revised to read as follows:

Table 8 to Subpart VVVV of Part 63—Applicability of General Provisions (40 CFR part 63, subpart A) to Subpart VVVV

As specified in § 63.5773, you must comply with the applicable requirements of the General Provisions according to the following table:

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.1(a)	General Applicability	Yes	
§ 63.1(b)	Initial Applicability Determination	Yes	
§ 63.1(c)(1)	Applicability After Standard Established	Yes	
§ 63.1(c)(2)		Yes	Area sources are not regulated by subpart VVVV.
§ 63.1(c)(3)		No	[Reserved].
§ 63.1(c)(4)–(5)		Yes	
§ 63.1(d)		No	[Reserved].
§ 63.1(e)	Applicability of Permit Program	Yes	
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.5779.
§ 63.3	Units and Abbreviations	Yes	
§ 63.4(a)	Prohibited Activities	Yes	
§ 63.4(b)–(c)	Circumvention/Severability	Yes	
§ 63.5(a)	Construction/Reconstruction	Yes	
§ 63.5(b)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes	
§ 63.5(c)		No	[Reserved].
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes	
§ 63.5(f)	Approval of Construction/Reconstruction Based on prior State Review.	Yes	
§ 63.6(a)	Compliance with Standards and Maintenance Requirements—Applicability.	Yes	

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.6(b)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.695 specifies compliance dates, including the compliance date for new area sources that become major sources after the effective date of the rule.
§ 63.6(c)	Compliance Dates for Existing Sources	Yes	§ 63.5695 specifies compliance dates, including the compliance date for existing area sources that become major sources after the effective date of the rule.
§ 63.6(d)		No	[Reserved].
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements	No	Operating requirements for open molding operations with add-on controls are specified in § 63.5725.
§ 63.6(e)(3)	Startup, Shut Down, and Malfunction Plans	No	Only sources with add-on controls must complete startup, shutdown, and malfunction plans.
§ 63.6(f)	Compliance with Nonopacity Emission Standards.	Yes	
§ 63.6(g)	Use of an Alternative Nonopacity Emission Standard.	Yes	
§ 63.6(h)	Compliance with Opacity/Visible Emissions Standards.	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of Compliance with Emission Standards.	Yes	
§ 63.6(j)	Exemption from Compliance with Emission Standards.	Yes	
§ 63.7(a)(1)	Performance Test Requirements	Yes	
§ 63.7(a)(2)	Dates for performance tests	No	§ 63.5716 specifies performance test dates.
§ 63.7(a)(3)	Performance testing at other times	Yes	
§ 63.7(b)–(h)	Other performance testing requirements	Yes	
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	All of § 63.8 applies only to sources with add-on controls. Additional monitoring requirements for sources with add-on controls are found in § 63.5725.
§ 63.8(a)(3)		No	[Reserved].
§ 63.8(a)(4)		No	Subpart VVVV does not refer directly or indirectly to § 63.11.
§ 63.8(b)(1)	Conduct of Monitoring	Yes	
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple CMS	Yes	Applies to sources that use a CMS on the control device stack.
§ 63.8(c)(1)(i) and (iii)	CMS Operation and Maintenance	No	References to startup, shutdown, malfunction are not applicable.
§ 63.8(c)(1)–(4)	CMS Operation and Maintenance	Yes	Except those provisions in § 63.8(c)(1)(i) and (iii) as noted above.
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems (COMS).	No	Subpart VVVV does not have opacity or visible emission standards.
§ 63.8(c)(6)–(8)	CMS Calibration Checks and Out-of-Control Periods.	Yes	
§ 63.8(d)	Quality Control Program	Yes	Except those provisions of § 63.8(d)(3) regarding a startup, shutdown, malfunction plan as noted below
§ 63.8(d)(3)	Quality Control Program	No	No requirement for a startup, shutdown, malfunction plan.
§ 63.8(e)	CMS Performance Evaluation	Yes	
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Yes	Applies only to sources that use continuous emission monitoring systems (CEMS).
§ 63.8(g)	Data Reduction	Yes	
§ 63.9(a)	Notification Requirements—Applicability	Yes	
§ 63.9(b)	Initial Notifications	Yes	
§ 63.9(c)	Request for Compliance Extension	Yes	
§ 63.9(d)	Notification That a New Source Is Subject to Special Compliance Requirements.	Yes	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to sources with add-on controls.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart VVVV does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CMS Notifications—Date of CMS Performance Evaluation.	Yes	Applies only to sources with add-on controls.
§ 63.9(g)(2)	Use of COMS Data	No	Subpart VVVV does not require the use of COMS.
§ 63.9(g)(3)	Alternative to Relative Accuracy Testing	Yes	Applies only to sources with CEMS.
§ 63.9(h)	Notification of Compliance Status	Yes	
§ 63.9(i)	Adjustment of Deadlines	Yes	
§ 63.9(j)	Change in Previous Information	Yes	

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.10(a)	Recordkeeping/Reporting—Applicability	Yes	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	§§ 63.567 and 63.5770 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i), (iii), (vi)–(xiv).	General Recordkeeping Requirements	Yes	
§ 63.10(b)(2)(ii), (iv), (v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods.	No	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes	§ 63.5686 specifies applicability determinations for non-major sources.
§ 63.10(c)(1)–(14)	Additional Recordkeeping for Sources with CMS.	Yes	Applies only to sources with add-on controls.
§ 63.10(c)(15)	Additional Recordkeeping for Sources with CMS.	No	No requirement for a startup, shutdown, malfunction plan.
§ 63.10(d)(1)	General Reporting Requirements	Yes	§ 63.5764 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance Test Results	Yes	§ 63.5764 specifies additional requirements for reporting performance test results.
§ 63.10(d)(3)	Opacity or Visible Emissions Observations	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress Reports for Sources with Compliance Extensions.	Yes	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	No	Applies only to sources with add-on controls.
§ 63.10(e)(1)	Additional CMS Reports—General	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(2)	Reporting Results of CMS Performance Evaluations.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	
§ 63.11	Control Device Requirements—Applicability	No	Facilities subject to subpart VVVV do not use flares as control devices.
§ 63.12	State Authority and Delegations	Yes	§ 63.5776 lists those sections of subpart A that are not delegated.
§ 63.13	Addresses	Yes	
§ 63.14	Incorporation by Reference	Yes	
§ 63.15	Availability of Information/Confidentiality	Yes	

Subpart WWWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

■ 8. Section 63.5835 is amended by:
■ a. Revising paragraph (b); and
■ b. Removing paragraph (d).
The revision reads as follows:

§ 63.5835 What are my general requirements for complying with this subpart?

* * * * *

(b) You must be in compliance with all organic HAP emissions limits in this subpart that you meet using add-on controls at all times.

* * * * *

■ 9. Section 63.5900 is amended by:
■ a. Revising paragraph (c); and
■ b. Removing paragraphs (d) and (e).
The revision reads as follows:

§ 63.5900 How do I demonstrate continuous compliance with the standards?

* * * * *

(c) You must meet the organic HAP emissions limits and work practice standards that apply to you at all times.

■ 10. Section 63.5910 is amended by:
■ a. Removing and reserving paragraph (c)(4); and
■ b. Revising paragraphs (d) introductory text and (e) and (h).
The revisions read as follows:

§ 63.5910 What reports must I submit and when?

* * * * *

(d) For each deviation from an organic HAP emissions limitation or operating limit and for each deviation from the requirements for work practice standards that occurs at an affected source where you are not using a CMS to comply with the organic HAP emissions limitations or work practice standards in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (3) of this section and in paragraphs (d)(1) and (2) of this section.

* * * * *

(e) For each deviation from an organic HAP emissions limitation (*i.e.,* emissions limit and operating limit) occurring at an affected source where you are using a CMS to comply with the organic HAP emissions limitation in this subpart, you must include the information in paragraphs (c)(1) through (3) of this section and in paragraphs (e)(1) through (6) of this section.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CMS was out of control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) 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 other unknown causes.

* * * * *

(h) Submit compliance reports based on the requirements in §§ 63.5910 and 63.5912 and table 14 to this subpart, and not based on the requirements in § 63.999.

* * * * *

■ 11. Section 63.5912 is added to read as follows:

§ 63.5912 How do I submit my reports?

(a) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (a)(1) through (3) 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 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 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.

(3) Confidential business information (CBI). If you claim some of the information submitted under paragraph (a)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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 in paragraph (a)(1) of this section.

(b) Within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation as defined in § 63.2, you must submit the results of the performance evaluation following the procedures specified in paragraphs (b)(1) through (3) of this section.

(1) Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation. Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. 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 XML schema listed on the EPA's ERT website.

(2) Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation. The results of the performance evaluation 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.

(3) Confidential business information (CBI). If you claim some of the information submitted under paragraph (a)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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 in paragraph (a)(1) of this section.

(c) For sources that commence construction or reconstruction before or on May 17, 2019, you must submit to the Administrator semiannual compliance reports of the information required in § 63.5910(c),(d), (e), (f), and (i) beginning on September 16, 2020. For sources that commence construction or reconstruction after May 17, 2019, you must submit to the Administrator semiannual compliance reports of the information required in § 63.5910(c), (d), (e), (f), and (i) beginning on March 20, 2020, or upon startup, whichever is later.

(d) If you are required to submit reports following the procedure specified in this paragraph (d), beginning on September 17, 2020, you must submit all subsequent reports to the EPA via CEDRI, which can be accessed through the EPA's 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 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 or an alternate electronic file consistent with the XML schema listed 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 (d).

(e) 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 (e)(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.

(f) 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 (f)(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) A description of 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.

§ 63.5915 [Amended]

■ 12. Section 63.5915 is amended by removing and reserving paragraph (a)(2).

■ 13. Section 63.5920 is amended by adding paragraph (e) to read as follows:

§ 63.5920 In what form and how long must I keep my records?

* * * * *

(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.

■ 14. Section 63.5935 is amended by adding the definitions for ''Deviation after'', ''Deviation before'', ''Shutdown'', and ''Startup'' in alphabetical order to read as follows:

§ 63.5935 What definitions apply to this subpart?

* * * * *

Deviation after September 16, 2020, 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 emission limit, operating limit, or work practice standard; or

(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.

Deviation before September 17, 2020, 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 emission limit, operating limit, or work practice standard; or

(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 emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

* * * * *

Shutdown after September 16, 2020, means the cessation of operation of the add-on control devices.

* * * * *

Startup after September 17, 2020, means the setting in operation of the add-on control devices.

* * * * *

■ 15. Table 4 of subpart WWWW of part 63 is revised to read as follows:

Table 4 to Subpart WWWW of Part 63—Work Practice Standards

As specified in § 63.5805, you must meet the work practice standards in the following table that apply to you:

For . . .	You must . . .
1. A new or existing closed molding operation using compression/injection molding.	Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.

For . . .	You must . . .
2. A new or existing cleaning operation	Not use cleaning solvents that contain HAP, except that styrene may be used as a cleaner in closed systems, and organic HAP containing cleaners may be used to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin.
3. A new or existing materials HAP-containing materials storage operation.	Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.
4. An existing or new SMC manufacturing operation	Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.
5. An existing or new SMC manufacturing operation	Use a nylon containing film to enclose SMC.
6. All mixing or BMC manufacturing operations[1]	Use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation. Mixers where the emissions are fully captured and routed to a 95 percent efficient control device are exempt from this requirement.
7. All mixing or BMC manufacturing operations[1]	Close any mixer vents when actual mixing is occurring, except that venting is allowed during addition of materials, or as necessary prior to adding materials or opening the cover for safety. Vents routed to a 95 percent efficient control device are exempt from this requirement.
8. All mixing or BMC manufacturing operations[1]	Keep the mixer covers closed while actual mixing is occurring except when adding materials or changing covers to the mixing vessels.
9. A new or existing pultrusion operation manufacturing parts that meet the following criteria: 1,000 or more reinforcements or the glass equivalent of 1,000 ends of 113 yield roving or more; and have a cross sectional area of 60 square inches or more that is not subject to the 95-percent organic HAP emission reduction requirement.	i. Not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s), ii. Not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device, iii. Use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across the wet-out area(s), iv. Direct any compressed air exhausts away from resin and wet-out area(s), v. Convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air, vi. Cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled, and vii. Cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.

[1] Containers of 5 gallons or less may be open when active mixing is taking place, or during periods when they are in process (*i.e.,* they are actively being used to apply resin). For polymer casting mixing operations, containers with a surface area of 500 square inches or less may be open while active mixing is taking place.

■ 16. Table 14 of subpart WWWW of part 63 is revised to read as follows:

Table 14 to Subpart WWWW of Part 63—Requirements for Reports

As required in § 63.5910(a), (b), (g), and (h), you must submit reports on the schedule shown in the following table:

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. A statement that there were no deviations during that reporting period if there were no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you and there were no deviations from the requirements for work practice standards in Table 4 to this subpart that apply to you. If there were no periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control as specified in § 63.8(c)(7), the report must also contain a statement that there were no periods during which the CMS was out of control during the reporting period.	Semiannually according to the requirements in § 63.5910(b).
	b. The information in § 63.5910(d) if you have a deviation from any emission limitation (emission limit, operating limit, or work practice standard) during the reporting period. If there were periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control, as specified in § 63.8(c)(7), the report must contain the information in § 63.5910(e).	Semiannually according to the requirements in § 63.5910(b).

■ 17. Table 15 of subpart WWWW of part 63 is revised to read as follows:

Table 15 to Subpart WWWW of Part 63—Applicability of General Provisions (Subpart A) to Subpart WWWW of Part 63

As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.1(a)(1)	General applicability of the general provisions	Yes	Additional terms defined in subpart WWWW of part 63, when overlap between subparts A and WWWW of this part, subpart WWWW of part 63 takes precedence.
§ 63.1(a)(2) through (4)	General applicability of the general provisions	Yes	
§ 63.1(a)(5)	Reserved	No	
§ 63.1(a)(6)	General applicability of the general provisions	Yes	
§ 63.1(a)(7) through (9)	Reserved	No	
§ 63.1(a)(10) through (14)	General applicability of the general provisions	Yes	
§ 63.1(b)(1)	Initial applicability determination	Yes	Subpart WWWW of part 63 clarifies the applicability in §§ 63.5780 and 63.5785.
§ 63.1(b)(2)	Reserved	No	
§ 63.1(b)(3)	Record of the applicability determination	Yes	
§ 63.1(c)(1)	Applicability of this part after a relevant standard has been set under this part.	Yes	Subpart WWWW of part 63 clarifies the applicability of each paragraph of subpart A to sources subject to subpart WWWW of part 63.
§ 63.1(c)(2)	Title V operating permit requirement	Yes	All major affected sources are required to obtain a title V operating permit. Area sources are not subject to subpart WWWW of part 63.
§ 63.1(c)(3) and (4)	Reserved	No	
§ 63.1(c)(5)	Notification requirements for an area source that increases HAP emissions to major source levels.	Yes	
§ 63.1(d)	Reserved	No	
§ 63.1(e)	Applicability of permit program before a relevant standard has been set under this part.	Yes	
§ 63.2	Definitions	Yes	Subpart WWWW of part 63 defines terms in § 63.5935. When overlap between subparts A and WWWW of part 63 occurs, you must comply with the subpart WWWW of part 63 definitions, which take precedence over the subpart A definitions.
§ 63.3	Units and abbreviations	Yes	Other units and abbreviations used in subpart WWWW of part 63 are defined in subpart WWWW of part 63.
§ 63.4	Prohibited activities and circumvention	Yes	§ 63.4(a)(3) through (5) is reserved and does not apply.
§ 63.5(a)(1) and (2)	Applicability of construction and reconstruction	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(b)(1)	Relevant standards for new sources upon construction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(b)(2)	Reserved	No	
§ 63.5(b)(3)	New construction/reconstruction	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(b)(4)	Construction/reconstruction notification	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(b)(5)	Reserved	No	
§ 63.5(b)(6)	Equipment addition or process change	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(c)	Reserved	No	
§ 63.5(d)(1)	General application for approval of construction or reconstruction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.5(d)(2)	Application for approval of construction	Yes	
§ 63.5(d)(3)	Application for approval of reconstruction	No	
§ 63.5(d)(4)	Additional information	Yes	
§ 63.5(e)(1) through (5)	Approval of construction or reconstruction	Yes	
§ 63.5(f)(1) and (2)	Approval of construction or reconstruction based on prior State preconstruction review.	Yes	
§ 63.6(a)(1)	Applicability of compliance with standards and maintenance requirements.	Yes	

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.6(a)(2)	Applicability of area sources that increase HAP emissions to become major sources.	Yes	
§ 63.6(b)(1) through (5)	Compliance dates for new and reconstructed sources.	Yes	Subpart WWWW of part 63 clarifies compliance dates in § 63.5800.
§ 63.6(b)(6)	Reserved	No	
§ 63.6(b)(7)	Compliance dates for new operations or equipment that cause an area source to become a major source.	Yes	New operations at an existing facility are not subject to new source standards.
§ 63.6(c)(1) and (2)	Compliance dates for existing sources	Yes	Subpart WWWW of part 63 clarifies compliance dates in § 63.5800.
§ 63.6(c)(3) and (4)	Reserved	No	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	Subpart WWWW of part 63 clarifies compliance dates in § 63.5800.
§ 63.6(d)	Reserved	No	
§ 63.6(e)(1)	Operation and maintenance requirements	Yes	Except portions of § 63.6(e)(1)(i) and (ii) specific to conditions during startup, shutdown, or malfunction.
§ 63.6(e)(3)	SSM plan and recordkeeping	No	
§ 63.6(f)(1)	Compliance except during periods of startup, shutdown, and malfunction.	No	Subpart WWWW of part 63 requires compliance at all times.
§ 63.6(f)(2) and (3)	Methods for determining compliance	Yes	
§ 63.6(g)(1) through (3)	Alternative standard	Yes	
§ 63.6(h)	Opacity and visible emission Standards	No	Subpart WWWW of part 63 does not contain opacity or visible emission standards.
§ 63.6(i)(1) through (14)	Compliance extensions	Yes	
§ 63.6(i)(15)	Reserved	No	
§ 63.6(i)(16)	Compliance extensions	Yes	
§ 63.6(j)	Presidential compliance exemption	Yes	
§ 63.7(a)(1)	Applicability of performance testing requirements.	Yes	
§ 63.7(a)(2)	Performance test dates	No	Subpart WWWW of part 63 initial compliance requirements are in § 63.5840.
§ 63.7(a)(3)	CAA Section 114 authority	Yes	
§ 63.7(b)(1)	Notification of performance test	Yes	
§ 63.7(b)(2)	Notification rescheduled performance test	Yes	
§ 63.7(c)	Quality assurance program, including test plan	Yes	Except that the test plan must be submitted with the notification of the performance test.
§ 63.7(d)	Performance testing facilities	Yes	
§ 63.7(e)	Conditions for conducting performance tests	Yes	Performance test requirements are contained in § 63.5850. Additional requirements for conducting performance tests for continuous lamination/casting are included in § 63.5870. Conditions specific to operations during periods of startup, shutdown, and malfunction in § 63.7(e)(1) do not apply.
§ 63.7(f)	Use of alternative test method	Yes	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes	
§ 63.7(h)	Waiver of performance tests	Yes	
§ 63.8(a)(1) and (2)	Applicability of monitoring requirements	Yes	
§ 63.8(a)(3)	Reserved	No	
§ 63.8(a)(4)	Monitoring requirements when using flares	Yes	
§ 63.8(b)(1)	Conduct of monitoring exceptions	Yes	
§ 63.8(b)(2) and (3)	Multiple effluents and multiple monitoring systems.	Yes	
§ 63.8(c)(1)	Compliance with CMS operation and maintenance requirements.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit. Except references to SSM plans in § 63.8(c)(1)(i) and (iii).
§ 63.8(c)(2) and (3)	Monitoring system installation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(4)	CMS requirements	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) minimum procedures.	No	Subpart WWWW of part 63 does not contain opacity standards.
§ 63.8(c)(6) through (8)	CMS calibration and periods CMS is out of control.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.8(d)(1)–(2)	CMS quality control program, including test plan and all previous versions.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(d)(3)	CMS quality control program, including test plan and all previous versions.	Yes	Except references to SSM plans in § 63.8(d)(3).
§ 63.8(e)(1)	Performance evaluation of CMS	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(2)	Notification of performance evaluation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(3) and (4)	CMS requirements/alternatives	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(i)	Reporting performance evaluation results	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(ii)	Results of COMS performance evaluation	No	Subpart WWWW of part 63 does not contain opacity standards.
§ 63.8(f)(1) through (3)	Use of an alternative monitoring method	Yes	
§ 63.8(f)(4)	Request to use an alternative monitoring method.	Yes	
§ 63.8(f)(5)	Approval of request to use an alternative monitoring method.	Yes	
§ 63.8(f)(6)	Request for alternative to relative accuracy test and associated records.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(g)(1) through (5)	Data reduction	Yes	
§ 63.9(a)(1) through (4)	Notification requirements and general information.	Yes	
§ 63.9(b)(1)	Initial notification applicability	Yes	
§ 63.9(b)(2)	Notification for affected source with initial startup before effective date of standard.	Yes	
§ 63.9(b)(3)	Reserved	No	
§ 63.9(b)(4)(i)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes	
§ 63.9(b)(4)(ii) through (iv)	Reserved	No	
§ 63.9(b)(4)(v)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.9(b)(5)	Notification that you are subject to this subpart for new or reconstructed affected source with initial startup after effective date and for which an application for approval of construction or reconstruction is not required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of part 63.
§ 63.9(c)	Request for compliance extension	Yes	
§ 63.9(d)	Notification of special compliance requirements for new source.	Yes	
§ 63.9(e)	Notification of performance test	Yes	
§ 63.9(f)	Notification of opacity and visible emissions observations.	No	Subpart WWWW of part 63 does not contain opacity or visible emission standards.
§ 63.9(g)(1)	Additional notification requirements for sources using CMS.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(g)(2)	Notification of compliance with opacity emission standard.	No	Subpart WWWW of part 63 does not contain opacity emission standards.
§ 63.9(g)(3)	Notification that criterion to continue use of alternative to relative accuracy testing has been exceeded.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(h)(1) through (3)	Notification of compliance status	Yes	
§ 63.9(h)(4)	Reserved	No	
§ 63.9(h)(5) and (6)	Notification of compliance status	Yes	
§ 63.9(i)	Adjustment of submittal deadlines	Yes	
§ 63.9(j)	Change in information provided	Yes	
§ 63.10(a)	Applicability of recordkeeping and reporting	Yes	
§ 63.10(b)(1)	Records retention	Yes	

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.10(b)(2)(i) through (v)	Records related to startup, shutdown, and malfunction.	No	
§ 63.10(b)(2)(vi) through (xi)	CMS records, data on performance tests, CMS performance evaluations, measurements necessary to determine conditions of performance tests, and performance evaluations.	Yes	
§ 63.10(b)(2)(xii)	Record of waiver of recordkeeping and reporting.	Yes	
§ 63.10(b)(2)(xiii)	Record for alternative to the relative accuracy test.	Yes	
§ 63.10(b)(2)(xiv)	Records supporting initial notification and notification of compliance status.	Yes	
§ 63.10(b)(3)	Records for applicability determinations	Yes	
§ 63.10(c)(1)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(c)(2) through (4)	Reserved	No	
§ 63.10(c)(5) through (8)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(c)(9)	Reserved	No	
§ 63.10(c)(10) through (14)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(c)(15)	CMS records	No	
§ 63.10(d)(1)	General reporting requirements	Yes	
§ 63.10(d)(2)	Report of performance test results	Yes	
§ 63.10(d)(3)	Reporting results of opacity or visible emission observations.	No	Subpart WWWW of part 63 does not contain opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports as part of extension of compliance.	Yes	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports	No	
§ 63.10(e)(1) through (3)	Additional reporting requirements for CMS	Yes	This section applies if you have an add-on control device and elect to use a CEM to demonstrate continuous compliance with an emission limit.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart WWWW of part 63 does not contain opacity standards.
§ 63.10(f)	Waiver for recordkeeping or reporting	Yes	
§ 63.11	Control device requirements	Yes	Only applies if you elect to use a flare as a control device.
§ 63.12	State authority and delegations	Yes	
§ 63.13	Addresses of state air pollution control agencies and EPA Regional offices.	Yes	
§ 63.14	Incorporations by reference	Yes	
§ 63.15	Availability of information and confidentiality	Yes	

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 18–143, 10–90, 14–58; DA 20–133; FRS 16538]

The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC Annual Reports and Certifications

AGENCY: Federal Communications Commission.

ACTION: Final action; requirements and procedures.

SUMMARY: In this document, the Wireline Competition Bureau (the Bureau) establishes procedures for the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Competition (PR–USVI Stage 2 Competition, Stage 2 Competition, or the Competition).

DATES: The PR–USVI Stage 2 Competition applications will not be due earlier than 30 days following the announcement of the application form's approval from the Office of Management and Budget. The Bureau will release a public notice announcing the application deadline.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Public Notice in WC Docket Nos. 18–143, 10–90, 14–58; DA 20–133, released on February 5, 2020. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *https://www.fcc.gov/document/uniendo-puerto-rico-fund-and-connect-usvi-fund-procedures-pn.*

I. General Information

A. Introduction

1. The Bureau established procedures for the PR–USVI Stage 2 Competition, thus furthering the Commission's goal of closing the digital divide for all Americans, including those in non-contiguous areas of our country. The Stage 2 Competition will award up to $691.2 million annually for 10 years to service providers that commit to offer voice and broadband services to all fixed locations in the Commonwealth of Puerto Rico and the U.S. Virgin Islands (USVI) (together, the ''Territories''). The Bureau will release an application form and instructions, and announce the application deadline in a public notice following Paperwork Reduction Act approval from the Office of Management and Budget.

B. Requirements for Participation

2. Those wishing to participate in this competition must:

- Submit an application form for Stage 2 of the Uniendo a Puerto Rico Fund or the Connect USVI Fund (Application Form) via electronic mail to *ConnectAmerica@fcc.gov* prior to the application deadline; and
- Comply with all provisions outlined in this Public Notice and applicable Commission rules.

C. Public Interest Obligations

3. Each winning applicant that is authorized to receive Stage 2 fixed support will be required to offer voice and broadband services meeting the relevant performance requirements to fixed locations. It must make these services available to all fixed locations associated with the geographic area for which it is the winning applicant.

4. In the competition, the Bureau will accept applications for service at one of three performance levels, each with its own minimum download and upload speed and usage allowance, and for either high or low latency service, as shown in the tables herein. Winning applicants that become authorized to receive Stage 2 fixed support must deploy broadband service that meets the performance speed, usage and latency requirements associated with their winning applications. The performance requirements for authorized winning applicants are described in more detail in the following tables and in the *PR–USVI Stage 2 Order.*

Speed	Monthly usage allowance	Assigned points
≥25/3 Mbps	≥250 GB or U.S. median, whichever is higher	50
≥100/20 Mbps	≥2 TB	25
1 Gbps/500 Mbps	≥2 TB	0

Latency	Requirement	Assigned points
Low	≤100 ms	0
High	≤750 ms	40

5. Stage 2 support recipients may offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements, and these plans must be offered at rates that are reasonably comparable to rates offered in urban areas. For voice service, a support recipient will be required to certify annually that the pricing of its service is no more than the applicable reasonably comparable rate benchmark that the Bureau releases each year. For broadband services, a support recipient will be required to certify that the pricing of a service that meets the required performance tier and latency performance requirements is no more than the applicable reasonably comparable rate benchmark, or that it is no more than the non-promotional price charged for a comparable fixed wireline broadband service in the state or U.S. territory where the eligible telecommunication carrier (ETC) receives support.

6. The Commission has adopted specific service deployment milestones that require each winning applicant authorized to receive Stage 2 support to offer service to all locations associated with the geographic area included in its authorized winning application. Specifically, each support recipient must complete construction and begin commercially offering service to at least 40% of the locations in an area by the end of the third year of support, to at least 60% by the end of the fourth year, at least 80% and by the end of the fifth year, and to 100% by the end of the sixth year. A support recipient is deemed to be commercially offering voice and/or broadband service to a location if it provides service to the location or could provide it within 10 business days upon request.

7. Compliance will be determined by geographic area. The Bureau will verify that the support recipient offers the required service to the total number of locations across all winning areas included in the support recipient's authorized application areas (*i.e.,* municipios or island(s)). If a support recipient is authorized to receive support in an area for different performance tier/latency and resiliency/redundancy combinations, it will be required to demonstrate that it is offering service meeting the relevant performance requirements to the required number of locations throughout each geographic area for each such combination within the application.

8. The Commission established a one-year location adjustment process, as described more completely in the *PR–USVI Stage 2 Order* and in the following. In the event a support recipient cannot identify all locations in its winning geographic areas, it will have one year from release of the Stage 2 Competition winning applicants public notice to file evidence of the total number of locations in those blocks, including geolocation data of all the locations it was able to identify. The support recipient's filing will be subject to review and comment by relevant stakeholders and to audit. If the support recipient demonstrates that the number of actual, on-the-ground locations is lower than the number announced by the Bureau on December 19, 2019, its location total will be adjusted, and its support will be reduced on a pro rata basis. If a support recipient finds that the number of actual locations has increased, its total support will not be increased, but it will be required to deploy to all actual locations.

9. Additionally, the Commission adopted a voluntary five-year assessment prior to the end of the fifth year of support, as described more completely in the *PR–USVI Stage 2 Order.* This process allows a support recipient that faces unforeseen challenges to request a review of and adjustment to its deployment obligations. As directed by the Commission, the Bureau will establish a process no later than the beginning of the fifth year of support to provide recipients an opportunity to request reassessment of their obligations. The support recipient's filing will be subject to review and public comment. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.

10. To monitor each support recipient's compliance with the Stage 2 public interest obligations, the Commission has adopted reporting requirements described in detail in the *PR–USVI Stage 2 Order.* These include reporting a list of geocoded locations each year to which the support recipient is offering the required voice and broadband services, making a certification when the support recipient has met service milestones, and submitting the annual FCC Form 481 report. A support recipient that fails to offer service to all locations by a service milestone will be subject to non-compliance measures. A support recipient will also be subject to any non-compliance measures that are adopted in conjunction with the uniform methodology applicable to high-cost support recipients for testing and reporting network performance.

II. Applying To Compete in the Stage 2 Competition

A. Competition Structure

11. *Single-Round Competition Format.* As adopted in the *PR–USVI Stage 2 Order,* the Bureau will conduct the Stage 2 Competition using a single-round, confidential submission, objective scoring process. The Bureau will consider all eligible Stage 2 applications simultaneously and select applicants based on the lowest score for a series of weighted objective criteria. Applicants must commit to meeting the established minimum performance requirements identified in its application, and the scoring gives greater preference to proposals based on how much they exceed the minimum thresholds. The Bureau establishes the procedures in the following in order to implement a competition that is efficient, orderly, transparent, and impartial.

12. *Eligible Providers.* The Commission determined that it would allow all providers that had existing fixed network facilities and made broadband service available in Puerto Rico or in the U.S. Virgin Islands, according to June 2018 FCC Form 477 data, to be eligible to participate in their respective territory's competitive process. Therefore, for example, a provider that has deployed broadband in Puerto Rico but not the U.S. Virgin Islands according to June 2018 FCC Form 477 data would be eligible to apply for support throughout Puerto Rico, but not in the U.S. Virgin Islands. The Commission determined that it would allow broadband providers that, according to June 2018 FCC Form 477 data, serve only business locations to participate. The Commission also allowed participation by fixed providers who rely on any technology, including satellite, that can meet the Stage 2 service requirements.

13. *Eligible Areas and Minimum Geographic Area.* All areas of the Territories are eligible for support. As the Commission determined in the *PR–USVI Stage 2 Order,* the Bureau will use the 78 municipios in Puerto Rico and create two areas in USVI—one that is composed of St. John and St. Thomas islands together and a second of just St. Croix island—as the geographic areas for which applicants may request support in the competition.

14. As directed by the Commission, the Bureau released a public notice listing the number of locations for each geographic area for the Stage 2 Competition in December 2019 based on the most recent census data (Reserve Price Notice). The Reserve Price Notice identifies the geographic areas eligible for Stage 2 fixed funding, and lists the municipio or island name, the number of locations in each area, and the reserve price.

15. Applicants must use the municipio as the minimum geographic area for applying for Stage 2 support in Puerto Rico. An applicant may apply for up to 78 geographic areas in an application to compete for Stage 2 fixed support in Puerto Rico. Applicants may apply for up to two geographic areas in an application to compete for Stage 2 support in the USVI.

16. *Reserve Prices.* The Bureau released the reserve prices for the Territories on December 19, 2019. The Bureau applied the three-step process adopted by the Commission to determine the reserve price for each minimum geographic area. First, the Bureau employed the Connect America Model (CAM) to calculate the average cost per location for all locations in a census block. Second, the Bureau applied the full amount of the budgets for Puerto Rico and for the U.S. Virgin Islands to create territory-specific high-cost thresholds and to ensure the entire budget is available over the 10-year term. Third, the Bureau established a reserve price for each geographic area in proportion to the support amounts calculated for each census block within that area. The reserve prices are $25.58 per location per month for Puerto Rico and $23.34 per location per month for USVI.

17. *Competition Delay or Suspension.* The Bureau may, by announcement, delay or suspend the competition in the event of natural disaster, technical obstacle, network disruption, evidence of an competition security breach or unlawful application activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive proposal process. In such cases, the Bureau will resume the competition starting from the point at which the competition was suspended.

B. Application Procedures

18. *Application Overview.* The Stage 2 Competition will establish the amount of support that each winning applicant will be eligible to receive over the 10-year term. An applicant can submit an application that includes a proposal for each geographic area for which it seeks support. The price proposed for each geographic area represents the amount of support the applicant is willing to receive per location per month in a geographic area (Proposal Price). The Proposal Price will apply to all locations within a geographic area for which the applicant is seeking support. The Proposal Price must be at a price that is equal to or less than the reserve price established by the Bureau. An applicant may submit a different Proposal Price for each geographic area it proposes to serve in the territory. Each application represents an irrevocable offer to meet the terms of the application if it becomes a winning application. That is, an application indicates that the applicant, if selected, commits to provide service to all locations in the minimum geographic area(s) in which it is chosen as the winning applicant in accordance with its specified performance tier and latency requirements in exchange for Stage 2 support. An authorized winning applicant will receive support in amounts corresponding to the Proposal Price for each geographic area in which it is the winning applicant.

19. The application and scoring procedures described herein implement the Commission's decisions on the process for evaluating applications in the Stage 2 Competition.

20. *Required Application Form.* An applicant must timely and properly file an Application Form to be considered a participant in the Stage 2 Competition for support in the Territories. This form can be accessed at the FCC's website.

21. *Application Submission.* An application to participate in the Stage 2 Competition will provide information used to determine whether the applicant has the legal, technical, and financial qualifications to participate in a Commission competition for universal service support. An entity seeking to participate in the competition must file an application in which it certifies, under penalty of perjury, its qualifications. Eligibility to participate in the Stage 2 Competition is based on an applicant's submission of required information, Application Form and certifications. A potential applicant must take seriously its duties and responsibilities and carefully determine before filing an application that it is able to meet the public interest obligations associated with Stage 2 support if it ultimately becomes a winning applicant in the competition. An applicant's selection as a winning applicant does not guarantee that the applicant will also be deemed qualified to receive Stage 2 support. Each winning applicant must file all required forms, information and certifications, which the Bureau will review to determine if a winning applicant should be authorized to receive support for its winning applications.

22. An entity seeking to participate in the Stage 2 Competition must file an application electronically via email at *ConnectAmerica@fcc.gov* by the deadline announced by the Bureau. Among other things, an applicant must submit operational and financial information demonstrating that it can meet the service requirements associated with the performance tier and latency combination(s) for which it submits an application. In the following, the Bureau describes more fully the information disclosures and certifications required in the application. An applicant is also subject to the Commission's rules prohibiting certain communications, as explained in the following, beginning on the date the window for filing applications opens. The Bureau will publish a notice announcing the window opening date and a notice announcing all parties that have successfully filed a Stage 2 Fixed application following the application deadline.

23. An applicant bears full responsibility for submitting an accurate, complete, and timely application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described in the following, all required information is included in its application. To the extent the information in this Public Notice does not address an applicant's particular circumstances, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the *PR–USVI Stage 2 Order* and the instructions for the Application Form and/or use the contact information provided in this Public Notice to consult with Commission staff to better understand the information it must submit in its application.

24. An applicant should note that submitting an application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. As more fully explained in the following, an applicant may not make major modifications to its application after the application filing deadline. Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, competitions, and/or criminal prosecution.

25. After the initial application filing deadline, Bureau staff will review all timely submitted applications to determine whether each application complies with the application requirements and has provided all required information concerning the applicant's qualifications. After this review is complete, Bureau staff may contact an applicant regarding minor application defects that may be corrected. Staff will establish a deadline for resubmitting modified applications. After any applications have been resubmitted, Bureau staff will complete review of all qualified applications, and the selected winners will be announced in a public notice.

26. *Acceptable Applications.* To submit an application for support to provide service to an area in the Stage 2 Competition, an applicant must specify the area, a performance tier and latency combination, a Proposal Price, resiliency and redundancy information that explains how the applicant is building in network or path diversity, and a Disaster Preparation and Response Plan. Several requirements, as set forth in the following, will also apply to application submission and the Bureau will advise applicants if an application does not meet these conditions.

27. Each applicant should submit a single application for each territory in which it seeks to provide qualifying voice and broadband services. The application should include all proposals for each geographic area within the territory for which the applicant seeks to provide service. To effectuate this direction from the Commission, the Bureau prohibits commonly controlled applicants from applying for the same geographic areas.

28. An applicant may submit the Proposal Price as a price point percentage of the reserve price for a geographic area. The price point percentage submitted in the application may be specified with up to two decimal places (*e.g.,* 98.44%). The option to apply at intermediate price point percentages will allow an applicant to indicate more precisely the minimum amount of support it will accept for an area, and it reduces the likelihood of ties.

29. An application must specify a percentage that implies a support amount that is one percent or more of an area's reserve price to be acceptable. One percent represents a sufficiently small fraction of the model-derived reserve price to serve as a minimum acceptable application for applicants with legitimate support needs. An applicant that requires—or receives—no Stage 2 support to build out in an area is free to provide service in the area if it wishes, and furthermore, it can do so without the requirements imposed on Stage 2 support recipients.

30. *Modifying the Application Form.* As indicated in this document, an entity seeking to participate in the Stage 2 Competition must file an Application Form electronically via electronic mail to the Bureau at *ConnectAmerica@fcc.gov.* During the filing window, an applicant will be allowed to make any necessary permissible modifications to its Application Form through resubmission via electronic mail to the Bureau. An applicant that has certified and submitted its Application Form before the close of the filing window may continue to make modifications as often as necessary until the application deadline; however, the applicant must re-certify and resubmit its Application Form before the close of the filing

window to confirm and effect its latest application changes.

31. After the Application Form filing deadline, a Stage 2 Competition applicant will be permitted to make only minor changes to its application consistent with the Commission's rules. An applicant's ability to modify its Application Form will be limited between the closing of the filing window and the release of the public notice announcing the Stage 2 Competition winning applicants. During this period, an applicant will be permitted to modify only the applicant's address, responsible party address, and contact information (*e.g.,* name, address, telephone number, etc.) via resubmission through electronic mail to the Bureau.

32. If an applicant needs to make other permissible minor changes to its Application Form, or changes to maintain the accuracy and completeness of its application pursuant to § 1.65 of the Commission's rules, the applicant must submit a letter briefly summarizing the changes to its Application Form via electronic mail to the Bureau at *ConnectAmerica@fcc.gov.* The email summarizing the changes must include a subject line referring to the Stage 2 Competition and the name of the applicant, for example, ''Re: Changes to the Stage 2 Competition Application of XYZ Corp.'' Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents.

33. An applicant will not be able to modify any other portions of the Application Form, and in particular an applicant may not, after the filing deadline, add a proposal for an area that it did not submit by the filing deadline or subtract a proposal from those areas that it submitted by the filing deadline. Major modifications to an Application Form (*e.g.,* changes in ownership that would constitute an assignment or transfer of control of the applicant, change in applicant's legal classification that results in a change in control, change in the area(s) for which proposals are submitted) will not be permitted after the Application Form filing deadline. If an amendment reporting change is a ''major modification,'' the major modification will not be accepted and may result in the dismissal of the application.

34. Pursuant to § 1.65 of the Commission's rules, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in the Stage 2 Competition. Consistent with the requirements for the Commission's spectrum competitions, an applicant for the Stage 2 Competition must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its Application Form no more than five business days after the applicant becomes aware of the need for the amendment. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

35. If, at any time, an applicant needs to make changes in order to maintain the accuracy and completeness of its application pursuant to § 1.65 of the Commission's rules, it must make the change(s) by resubmitting its application with an email to the Bureau, which must include a re-certification to confirm and effect the change(s).

36. As with filing the Application Form, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

37. Questions about Application Form amendments should be directed to the Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418–0660.

C. Application Requirements

38. *Disclosure of Agreements.* An applicant must identify in its application all real parties in interest to any agreements relating to the participation of the applicant in the Stage 2 Competition. This disclosure requirement applies to any arrangements with parties that are applying to participate in the Stage 2 Competition as well as parties that are not. An applicant that discloses any such agreement(s) in its application must also provide a brief description of each agreement.

39. An applicant must certify under penalty of perjury in its application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the Stage 2 Competition. The Bureau requires an applicant to certify under penalty of perjury that it has not entered into any explicit or implicit agreements, arrangements, or understandings of any kind related to the support to be sought through the Stage 2 Competition, other than those disclosed in its application. For purposes of making the required agreement disclosures, if parties agree in principle on all material terms prior to the application filing deadline, each applicant should provide a brief description of, and identify the other party or parties to, the agreement on its respective Application Form, even if the agreement has not been reduced to writing. If an applicant has had discussions, but it has not reached an agreement by the close of the filing deadline, it should not include the matter on its application and may not continue such discussions with any applicants after the close of the filing window.

40. *Ownership Disclosure Requirements.* Each applicant must comply with the ownership disclosure requirements in §§ 1.2112(a) and 54.315(a)(1) of the Commission's rules. Specifically, in completing the application, an applicant must fully disclose information regarding the real party- or parties-in-interest in the applicant and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in § 1.2112(a) of the Commission's rules. Each applicant is responsible for ensuring that information submitted in its application is complete and accurate.

41. In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed a competition application for a previous competition in which ownership information was disclosed. Although an applicant might have filed this information using the same FRN, the applicant should resubmit that information in its Application Form. Each applicant must carefully review any ownership information contained in its Application Form, including any ownership attachments, to confirm that all information supplied on the Application Form is complete and accurate as of the application filing deadline for the Stage 2 Competition. An applicant should note if there are any changes to information recently submitted. Any information that needs to be corrected or updated must be changed in the Application Form.

42. *Specific Universal Service Certifications.* An applicant must certify that it is in compliance with all statutory and regulatory requirements for receiving Stage 2 universal service support. Alternatively, if expressly allowed by the rules specific to a high-cost support mechanism, an applicant

may certify that it acknowledges that it must be in compliance with such requirements before being authorized to receive Stage 2 support.

43. In addition, the Bureau requires that an applicant must certify that it will make any default payment that may be required and that it is aware that if its application is shown to be defective, the application may be dismissed without further consideration and penalties may apply.

44. *Specific Stage 2 Eligibility Requirements and Certifications.* In the *PR–USVI Stage 2 Order,* the Commission established that an applicant must demonstrate its operational experience and financial qualifications to participate in the Stage 2 Competition. Therefore, all applicants are required to provide the information described in the following in this section.

45. An applicant must certify on its Application Form that it has provided voice and/or broadband services since at least the time period required for filing the June 30, 2018 FCC Form 477. An applicant must specify the number of years it has been operating and identify the services it has provided. An applicant will be deemed to have started providing a service on the date it began commercially offering that service to end users.

46. An applicant must certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC Form 477s as required during that time period. And it must identify the FRNs it (or its parent company) used to file the FCC Form 477s for the relevant filing periods. The relevant FCC Form 477 filing periods include data as of June 30, 2018; December 31, 2018; June 30, 2019; and December 31, 2019. The Bureau will use FCC Form 477 data for these periods to validate an applicant's representation on its application.

47. An applicant that intends to use wireless technologies to meet the relevant Stage 2 public interest obligations must demonstrate that it currently has sufficient access to spectrum—either licensed and unlicensed—for each performance combination it selects in each area. Specifically, in its application, an applicant must (i) identify the spectrum band(s) it will use for the last mile, backhaul, and any other parts of the network; (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable; and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if applicable. An applicant that intends to provide service using satellite technology should describe its expected timing for applying for earth station license(s), and an applicant that intends to obtain microwave license(s) for backhaul should describe its expected timing for applying for microwave license(s) if these licenses have not already been obtained.

48. To the extent that an applicant will use licensed spectrum, it should provide details about how the licensed service area covers its winning application area(s) (*e.g.,* provide a list of geographic areas that the spectrum license covers and describe how those areas relate to the application area(s)). In the Public Notice, the Bureau identifies the spectrum bands that it anticipates could be used for the last mile to meet the performance obligations and indicate whether the spectrum bands are licensed or unlicensed. The Bureau would expect that a service provider operating in these bands could, at a minimum, offer service meeting the requirements for the minimum performance tier provided that the service provider is using sufficient bandwidth in the spectrum band(s) and a technology that can operate on these spectrum bands consistent with applicable U.S. and international rules and regulations. The Bureau notes that the spectrum chart in the Public Notice is a non-exhaustive list of spectrum bands that an applicant could potentially use to meet its performance obligations. An applicant is not precluded from proposing to use a spectrum band that is not included in Appendix A of the Public Notice, provided that the applicant can demonstrate that it is reasonably capable of meeting the performance requirements over the entire support term for the selected performance tier and latency combination(s) using that spectrum. The Bureau also notes that an applicant that selects a spectrum band listed in in the Public Notice for a particular performance tier and latency combination may not necessarily be deemed eligible for that combination.

49. An applicant must also certify that the description of the spectrum access is accurate and that it will retain such access for at least 10 years after the date on which it is authorized to receive Stage 2 fixed support. Applications will be reviewed to assess the reasonableness of the certification.

50. The Commission required all applicants to demonstrate sufficient financial qualifications to participate in the Stage 2 Competition in order to minimize the number of winning applicants that default because they are unable to meet their obligations. The Bureau staff will review and evaluate the financial information provided to assess the reasonableness of the applicant's financial qualifications. In support of its financial showing, an applicant may choose to submit its (or its parent company's) unaudited or audited financial statements from the prior fiscal year, including balance sheets, net income and cash flow, to support its application and financial certification. Staff may request further information from an application if there are questions about its qualifications. An applicant will ultimately be provided a pass or fail rating on its financial qualifications. If an applicant receives a failing score, its application will not be reviewed, and the applicant will be disqualified from competing in the Stage 2 Competition.

51. An applicant must certify in its application that it will have available funds for all project costs that exceed the amount of Stage 2 support to be received for the first two years of its support term. An applicant must also describe how the required construction will be funded in each territory. The description should include the estimated project costs for all facilities that are required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements. The estimated costs must be broken down to indicate the costs associated with each proposed service area and must specify how Stage 2 support and other funds, if applicable, will be used to complete the project. The description must include financial projections demonstrating that the applicant can cover the necessary debt service payments over the life of any loans. The Bureau will treat all the information included with this submission as confidential and will withhold it from routine public inspection.

52. Each applicant must select in its application the performance tier (speed and usage) and latency combination(s) for which it intends to apply in each area where it seeks support. For each performance combination, an applicant must indicate the technology or technologies it intends to use to meet the associated requirements. The Bureau also requires an applicant to demonstrate its eligibility to apply for the performance tier and latency combination(s) it selects in its application. It is the Bureau's objective to safeguard consumers from situations

where applicants unable to meet the specified service requirements divert support from applicants that can meet the public interest obligations.

53. An applicant must demonstrate that it is technically qualified to meet the relevant Stage 2 public interest obligations in its application areas by submitting technical information to support the operational assertions. An applicant must submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer. The professional engineer must certify that the network can deliver, to all locations in each geographic area, voice and broadband service that meets the requisite performance requirements.

54. *Initial Overview.* All applicants must submit with their application an overview of its intended technology and system design for each area in its application. The overview must describe at a high level how the applicant will meet its Stage 2 public interest obligations for the relevant performance tier and latency combination(s) using Stage 2 support (*e.g.,* building a new network or expanding an existing network, deploying new technology or existing technology). This overview should avoid highly technical terminology or jargon unless such language is integral to the understanding of the project. The overview will be made publicly available.

55. *Detailed Description.* All applicants must submit with their application, for each area, a more detailed description of its technology and system design that describes the network to be built or upgraded, demonstrates the project's feasibility, and includes the network diagram certified by a professional engineer. It must describe in detail a network that fully supports the delivery of consumer voice and broadband service that meets the requisite performance requirements to all locations in each area by the end of the six-year build-out period and for the duration of the 10-year support term. It also must contain sufficient detail to demonstrate that the applicant can meet the interim service milestones if it becomes authorized to receive support. If an applicant submits a technology and system design description that lacks sufficient detail to demonstrate that the applicant has the technical qualifications to meet the relevant Stage 2 obligations, the applicant will be asked to provide further details about its proposed network. The Bureau will treat all the information submitted as confidential and will withhold it from routine public inspection.

56. In the following, the Bureau provides guidance on how an applicant can successfully meet the requirement to provide a description of its technology and system design. Specifically, the Bureau describes the types of information it would expect an applicant to include, at a minimum, in a detailed description of its technology and system design in order to demonstrate that it has the technical qualifications to meet its Stage 2 obligations. The Bureau's guidance is informed by the types of information that applicants submitted in the CAF II Auction and for rural broadband experiment support. These are also the types of information about which the Bureau expects a technically qualified applicant will have made preliminary decisions in order to determine how much support it would need to meet the relevant Stage 2 Competition public interest obligations and to begin planning how it will meet the required service milestones.

57. The Bureau expects an applicant, regardless of the technology (or technologies) it proposes to use, to:

- Describe the proposed last mile architecture(s) and technologies, middle mile/backhaul topology, and the architecture used to provide voice service.
- Describe the network's scalability and features that improve reliability (such as redundancy).
- Indicate whether parts of the network will use the applicant's or another party's existing network facilities, including non-wireless facilities extending from the network to customers' locations. For non-wireless facilities that do not yet exist, the description should indicate whether the new facilities will be aerial, buried, or underground.
- Provide technical information about the methods, ''rules of thumb,'' and engineering assumptions used to size the capacity of the network's nodes (or gateways) and links. The information provided should demonstrate how the required performance for the relevant performance tier will be achieved during periods of peak usage.
- Provide a project plan that includes a network build-out schedule that includes but is not restricted to plans for construction of last mile and middle mile facilities. The build-out schedule should show the applicant's projected milestones on an annual basis, including achievement of the interim service milestones described in the *PR–USVI Stage 2 Order* and completion of the network by the end of the sixth year of funding authorization. The project plan and included schedule should incorporate detailed information showing how the applicant plans to offer, to all locations in each geographic area, voice and broadband service meeting the relevant performance requirements when the system is complete. The project plan and included schedule should also incorporate the applicant's plans for monitoring and maintaining the performance of the service for the duration of the 10-year support term.

58. The network diagram, which must be certified by a professional engineer, should:

- Identify all wireline and wireless segments of the proposed networks.
- Uniquely identify (i) major network nodes including their manufacturer and model, as well as their functions, locations, and throughput/capacity; (ii) access nodes or gateways, including their technology, manufacturer and model, location, and throughput/capacity; and (iii) major inter-nodal links (not last mile), and their throughput/capacity.
- Indicate how many locations will be offered service from each access node or from each gateway, and which performance tier or tiers will be supported at each access node.
- Indicate what parts of the network will be new deployment and what parts will use the applicant's or another party's existing network facilities.
- Identify specialized nodes used in providing voice service.
- Explain how nodes or gateways are connected to the internet backbone and Public Switched Telephone Network.

59. Additionally, an applicant that proposes to use terrestrial fixed wireless technologies should:

- Explain, with technical detail, how the proposed spectrum can meet or exceed the relevant performance requirements at peak usage periods.
- Provide the calculations used, for each performance tier and frequency band, to design the last mile link budgets in both the upload and download directions at the cell edge, using the technical specifications of the expected base station and customer premise equipment.
- Provide coverage maps for the planned and/or existing networks that will be used to meet the Stage 2 public interest obligations, indicating where the upload and download speeds will meet or exceed the relevant performance tier speed(s). The coverage maps should be provided for each interim and final service milestone and should display the required service areas and target locations (or a representation thereof).

• Describe the underlying propagation model used to prepare the coverage maps and how the model incorporates the operating spectrum, antenna heights, distances, digital elevation, and clutter resolutions.

• Describe, for each relevant performance tier and latency combination, the base station equipment that the applicant plans to use.

• Describe the planned customer premise equipment configuration.

60. Additionally, an applicant that proposes to use primarily satellite technologies should:

• Describe how many satellites that are in view simultaneously from any specific location will be required to meet the relevant Stage 2 public interest obligations.

• Describe how many uplink and downlink gateway antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.

• Describe how many uplink and downlink user antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.

• Describe how the gateway capacity is connected to user beams on the satellite, in terms of beams and data capacity per beam.

• Describe whether the capacity on the uplink and downlink beams would be able to be reallocated once a satellite commences operation, if the subscription rate is less in one beam but than in another beam.

61. An applicant must submit with its application a letter from a bank acceptable to the Commission, as set forth in § 54.1508, committing to issue an irrevocable stand-by letter of credit, in the required form, to the applicant. The letter must, at a minimum, provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit, attached hereto as Appendix B of the Public Notice. The Bureau will treat this letter as confidential trade secrets and/or commercial information and thus withhold it from routine public inspection.

62. Each applicant has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the amount of Stage 2 support it will seek in its application. Each qualified applicant is responsible for certifying that, if it becomes a winning applicant and is ultimately authorized to receive Stage 2 support, it will be able to build and operate facilities in accordance with the Stage 2 obligations and the Commission's rules generally.

63. Applicants should be aware that the Stage 2 Competition represents an opportunity to apply for Stage 2 support, subject to certain conditions and regulations. The Stage 2 Competition does not constitute an endorsement by the Bureau or Commission of any particular service, technology, or product, nor does the award of Stage 2 support constitute a guarantee of business success.

64. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureau strongly encourages each applicant to review all underlying Commission orders and to assess all pertinent economic factors relating to the deployment of service in a particular area.

65. Each applicant should perform technical analyses or refresh its previous analyses to assure itself that, should it become authorized to receive Stage 2 support, it will be able to build and operate facilities that fully comply with all applicable technical and legal requirements and will advertise and provide the service to customers. Each applicant should verify the number of actual locations within the geographic areas that it proposes to serve in its application. Each Stage 2 support recipient will be required to offer service meeting the relevant requirements to all locations across all the winning areas where it is authorized to receive support. The Bureau provided location counts in the Stage 2 Reserve Price Public Notice, released on December 19, 2019. As described in this document and in the following, the Commission has adopted a process by which support recipients that cannot identify all locations can demonstrate that the number of actual, on-the-ground locations is lower than the number estimated by the CAM. Such a demonstration must be made within one year after the release of the Stage 2 Competition public notice announcing the winners and will be subject to review by the Bureau following comment by relevant stakeholders and potentially an audit. Applicants' due diligence should be informed by the availability of and requirements for this process, in addition to other factors.

66. The Bureau also reminds each applicant that pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in the Stage 2 Competition. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Stage 2 support available through this competition. The due diligence considerations mentioned in this Public Notice do not comprise an exhaustive list of steps that should be undertaken prior to participating in this competition. As always, the burden is on the applicant to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

67. Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to apply for or otherwise receive Stage 2 support. Each applicant is responsible for undertaking research to ensure that any support won in this competition will be suitable for its business plans and needs. Each applicant must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

68. The Bureau makes no representations or guarantees regarding the accuracy or completeness of information in the Commission's databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, an applicant must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Bureau makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the Commission's databases.

69. To confirm an applicant's understanding of its obligations, the Bureau requires each applicant to certify under penalty of perjury in its application that:

> The applicant acknowledges that it has sole responsibility for investigating and evaluating all technical, marketplace, and regulatory factors that may have a bearing on the level of Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 Fixed high-cost support it submits in its application, and that, if the applicant wins support, it will be able to build and operate facilities in

accordance with the Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 obligations and the Commission's rules generally.

70. This certification will help ensure that an applicant acknowledges and accepts responsibility for its application and any forfeitures imposed in the event of default, and that it will not attempt to place responsibility for the consequences of its activity in this process on either the Commission or any of its contractors.

71. An applicant must acknowledge in its application that it must be designated as an ETC for the areas in which it will receive support prior to being authorized to receive support. Only ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act) ''shall be eligible to receive specific Federal universal service support.'' Section 214(e)(2) gives states the primary responsibility for ETC designation. However, section 214(e)(6) provides that this Commission is responsible for processing requests for ETC designation when the service provider is not subject to the jurisdiction of any state commission. Support is disbursed only after the provider receives an ETC designation and satisfies the requirements.

72. The Commission decided that an applicant need not be an ETC as of the application filing deadline for the Stage 2 Competition, but that it must obtain a high-cost ETC designation for the areas covered by its winning applications within 60 days after being announced as a winning applicant.

73. Absent a waiver, an applicant that fails to obtain the necessary ETC designations by that deadline will be subject to a forfeiture as described in the following, and will not be authorized to receive Stage 2 support. In addition to all the requirements for participating in the Stage 2 Competition, each applicant should be familiar with the requirements of a high-cost ETC. For example, all high-cost ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers pursuant to the Lifeline program rules. Moreover, when the requirement has been fully implemented, each Stage 2 support recipient will be required to bid on Category One telecommunications and internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the Schools and Libraries universal service support program (E-rate) for eligible schools and libraries located within any area in a census block where the ETC is receiving Stage 2 support. A high-cost ETC may also be subject to state-specific requirements imposed by the state that designates it as an ETC.

74. An applicant is required to submit with its application a Disaster Preparation and Response Plan (DPRP), which will be reviewed by the Bureau for completeness. The DPRP should, at a minimum, address in detail how an applicant intends to prepare for and respond to disasters in Puerto Rico and/or the U.S. Virgin Islands according to five criteria: (1) Strengthening Infrastructure; (2) Ensuring Network Diversity; (3) Ensuring Backup Power; (4) Network Monitoring; and (5) Emergency Preparedness. The detailed DPRP must include, for each criterion:

- A description of your commitments to maintain, improve or modify your facilities based on reasonably-selected best practices, checklists and industry standards;
- commitments that are auditable and your agreement to be subject to reasonable audit procedures; and
- identification of your employee official(s) responsible for management and compliance.

For each criterion, the Bureau has provided example best practices, checklists, and/or standards in Appendix C of the Public Notice. It may be useful to consider and/or incorporate some or all of these materials in preparing the DPRP; however, the Bureau does not endorse any of the specific examples, but rather it simply provides them as examples that may prove useful. The applicant should explain why it believes compliance with any specific standard it identifies will prove adequate to meet the criteria the Bureau sets forth.

75. As directed by the Commission and as part of its review of the application, Bureau staff will review each applicant's DPRP for completeness, and may contact the applicant for further information. The Bureau will provide detailed written notification of the deficiencies, if any, to the carrier and withhold authorization to receive support until the support recipient has cured the deficiencies.

76. Notwithstanding the prohibition against major modifications to an application after the submission deadline, the Bureau will allow an applicant to amend its DPRP submission in order to maintain best practices to prepare for and respond to disasters.

77. A support recipient must certify annually to USAC that it has recently reviewed the DPRP and considered whether any changes or revisions were necessary. A support recipient has the obligation to provide the Bureau with an updated DPRP within 10 days of making any material changes to the DPRP, and for as long as it receives Stage 2 support.

D. Procedures for Limited Disclosure of Application Information

78. Consistent with the Commission's practice in the CAF II Auction (Auction 903), Mobility Fund I and Tribal Mobility Fund I (Auctions 901 and 902) and recent spectrum auctions, the Bureau adopts procedures for limiting the application information that will be disclosed to the public.

79. Specifically, the Bureau will withhold from the public and other applicants the application information listed in the following to help ensure anonymous applications and to protect applicants' competitively sensitive information. This Bureau will withhold the application information until at least after the winning applicants have been authorized to receive Stage 2 high-cost support. The application information to be withheld includes, but is not limited to:

- The minimum geographic areas selected by an applicant.
- The performance tier and latency combination(s) selected by an applicant and the associated weight for each combination.
- The applicant's price percentage(s).
- The spectrum access description.
- An applicant's responses to the questions in this Public Notice and any supporting documentation submitted in any attachment(s) that are intended to demonstrate an applicant's ability to meet the public interest obligations for each performance tier and latency combination that the applicant has selected in its application.
- Any financial information contained in an applicant's Stage 2 application for which the applicant has requested confidential treatment under the abbreviated process in § 0.459(a)(4) of the Commission's rules.
- An applicant's letter of interest from a qualified bank that the bank would provide a letter of credit to the applicant.
- The applicant's DPRP.

80. Unlike the typical § 0.459 process, which requires that an applicant submit a statement of the reasons for withholding the information for which confidential treatment is sought from public inspection, an applicant that seeks confidential treatment of the financial information contained in its application need not submit a statement that conforms with the requirements of § 0.459(b) unless and until its request for confidential treatment is challenged. Because the Bureau has found in other contexts that financial information that

is not otherwise publicly available could be competitively sensitive, it permits applicants seeking confidential treatment of financial information to use this abbreviated process.

81. The § 0.459(a)(4) abbreviated process for requesting confidential treatment may *not* be used by an applicant to request confidential treatment of any information in its application other than its financial information. Thus, an applicant that wishes to seek confidential treatment of any other portion(s) of its application must file a regular § 0.459 request for confidential treatment of any such information with its application (other than responses to the questions in the Public Notice and associated supporting documentation that the Bureau presumes to be competitively sensitive). This request must include a statement of the reasons for withholding those portions of the application from public inspection. Additionally, in the event an applicant's abbreviated request for confidential treatment of the financial information contained in its application is challenged, the applicant must submit a request for confidential treatment of its financial information that conforms with the requirements of § 0.459 within 10 business days after receiving notice of the challenge.

82. After the winning applicant(s) is authorized to receive Stage 2 fixed support, the Bureau no longer has a need to preserve the confidentiality of the contents of applications. Accordingly, the Bureau will make publicly available all application information, except for an applicant's operational information (including its DPRP), letter of interest, and confidential financial information. This approach is consistent with the Bureau's interest in a transparent competition process and the Commission's recent practices in the CAF II Auction 903, Mobility Fund Phase I competition and the Commission's typical spectrum competitions.

E. Prohibited Communications and Compliance With Antitrust Laws

83. To help protect competition during the Stage 2 Competition, the Bureau incorporates into this process the Commission's rules prohibiting an applicant from communicating certain proposal-related information to another applicant from the application filing deadline until awards are announced. More specifically, § 1.21002 of the Commission's rules prohibits an applicant from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's applications or application strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's applications or application strategies during the prohibition period. The rule provides an exception for communications between applicants if those applicants identify each other on their respective applications as members of a joint application arrangement and certify that the application identifies all real parties in interest to agreements related to the applicant's participation in the competition. Consistent with the Commission's direction in the *PR–USVI Stage 2 Order,* the Bureau applies a prohibition identical to § 1.21002 to the Stage 2 Competition.

84. This section provides guidance on the application of the rule during the Stage 2 Competition. As in past competitions and auctions for support, the targeted restrictions imposed by the rule are necessary to serve the important public interest in a fair and competitive process.

85. *Entities Covered by Communications Prohibition.* Consistent with § 1.21002, the prohibition of certain communications that the Bureau adopts will apply to any party that submits an application to participate in the Stage 2 Competition. This prohibition applies to all parties that submit an application by the deadline regardless of whether such parties become winning applicants authorized to receive Stage 2 support.

86. ''Applicant'' for purposes of this rule includes the entity filing the application, each party capable of controlling the applicant, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.

87. Subject to the exception described in this document, the prohibition applies to communications by an applicant that are conveyed to another applicant. The prohibition of ''communicating in any manner'' includes public disclosures as well as private communications and indirect or implicit communications, as well as express statements. Consequently, an applicant must take care to determine whether its Stage 2 Competition-related communications may reach another applicant, unless the exception applies.

88. Applicants should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any other applicant's Stage 2 applications or application strategies. Information received by a party related to the applicant may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the applications and application strategies of one applicant are presumed conveyed to the other applicant, and, absent a disclosed agreement that makes the rule's exception applicable, the shared officer creates an apparent violation of the rule.

89. *Prohibition Applies Until Deadline.* Consistent with § 1.21002, the prohibition of certain communications begins at the application filing deadline and ends when the winning applicants are authorized to receive Stage 2 support.

90. *Prohibited Communications.* Consistent with § 1.21002 as applied to this Stage 2 Competition, the rule prohibits an applicant from communicating with another applicant only with respect to ''its own, or one another's, or any other competing applicant's application or application strategies.'' Thus, the prohibition does not apply to all communications between or among applicants; it applies to any communication conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's ''application or application strategies.''

91. All applicants seeking support in the competitive proposal process are ''competing applicants'' under the rule. Parties apply to participate in the Stage 2 Competition to obtain support from a fixed budget. As such, applicants are competing with one another regardless of whether each seeks to serve different geographic areas with Stage 2 support.

92. Business discussions and negotiations that are *unrelated* to applications in the Stage 2 Competition and that do not convey information about Stage 2 applications or application strategies are not prohibited by the rule. Moreover, not all competition-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in the Stage 2 Competition will not violate the rule. In contrast, communicating how a party is participating, including specific areas and/or tier and latency combinations selected, specific price percentages, and/or whether or not the party has submitted an application, would convey application strategies and would be prohibited.

93. In the present context, the prohibited communications rule will take effect after applications are due and

continue to be in effect until the Bureau announces the winning applicants that are authorized for support. Although there are no subsequent rounds, and applicants may not add or subtract competitive area-specific proposals after that date, it is imperative that an applicant not discuss with any other applicant any aspect of its application and proposals until the winning applicants are authorized for support to comply with the rule. Previously, the Commission has found discussions related to strategic defaults between winning auction bidders after the close of bidding in an auction to violate the prohibited communications rule.

94. While consistent with § 1.21002 the Bureau does not prohibit business discussions and negotiations among applicants that are not competition related, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, applications or application strategy. Certain discussions might touch upon subject matters that could convey cost information and application strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

95. The Bureau cautions applicants that applications or application strategies may be communicated outside of situations that involve one party subject to the prohibition communicating privately and directly with another such party.

96. Applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for prohibited communication of application information. For example, even though communicating that it has applied to participate in the competition will not violate the rule, an applicant's statement to the press about the details of its application or proposal in the competition could give rise to a finding of a violation of the prohibition on certain communications that the Bureau adopts.

97. *Communicating with Third Parties.* Consistent with § 1.21002, the Bureau does not prohibit an applicant from communicating application or application strategies to a third party, such as a consultant or consulting firm, counsel, or lender, provided that the applicant takes appropriate steps to ensure that the third party does not become a conduit for prohibited communications to other applicants, unless both applicants are parties to a joint application arrangement disclosed on their respective applications. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding application or application strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or competition consultants, may advise individual applicants on application or application strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the application or application strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability if a violation of the rule has occurred.

98. As the Commission has previously explained, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of engaging in a prohibited communication. The Bureau will take the same approach to interpreting the prohibited communications rule in the Stage 2 Competition. The Bureau emphasizes that whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the status of the competition.

99. The Bureau reminds potential applicants that they may discuss the application or proposals for specific geographic areas with the counsel, consultant, or expert of their choice *before* the application deadline. Furthermore, the same third-party individual could continue to give advice after the deadline regarding the application, provided that no information pertaining to application or application strategies is conveyed to that individual.

100. *Certification.* By submitting an application, each applicant in the Stage 2 Competition certifies its compliance with the prohibition on certain communications that the Bureau adopts, consistent with the Commission's direction in the *PR–USVI Stage 2 Order.* In particular, an applicant must certify under penalty of perjury that the application discloses all real parties in interest to any agreements involving the applicant's participation in the applying for Stage 2 support. Also, the applicant must certify that it and all applicable parties have complied with and will continue to comply with the prohibition the Bureau adopts, which is identical to 47 CFR 1.21002.

101. The Bureau cautions, however, that merely filing a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission has stated that it ''intend[s] to scrutinize carefully any instances in which applying patterns suggest that collusion may be occurring.'' Any applicant found to have violated the prohibition on certain communications may be subject to sanctions.

102. *Duty to Report Prohibited Communications.* Consistent with § 1.21002(c), the Bureau requires that any applicant that makes or receives a communication that appears to violate the prohibition on certain communications that it adopts must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. An applicant's obligation to make such a report continues until the report has been made.

103. In addition, § 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires a Stage 2 Competition applicant to notify the Commission of any substantial change to the information or certifications included in its pending application. An applicant is therefore required by § 1.65 to report to the Commission any communication the applicant has made to or received from another applicant after the application filing deadline that affects or has the potential to affect its application or application strategy, unless such communication is made to or received from an applicant that is a member of a joint application arrangement identified on the application.

104. Sections 1.65(a) and 1.21002 of the Commission's rules require each applicant in competitive proceedings to furnish additional or corrected information within five days of a significant occurrence, or to amend its application no more than five days after the applicant becomes aware of the need for amendment. These rules are intended to facilitate the competition process by making information that should be publicly available promptly accessible to all participants and to enable the Bureau to act expeditiously

on those changes when such action is necessary. For the avoidance of doubt, the Bureau applies the same requirement here.

105. *Procedure for Reporting Prohibited Communications.* A party reporting any prohibited communication pursuant to § 1.65 or the prohibition the Bureau adopts here (*i.e.,* a communication that would be prohibited by § 1.21001(b), or § 1.21002(c)) must take care to ensure that any report of the prohibited communication does not itself give rise to a violation of the communications prohibition the Bureau adopts. For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that allow such materials to be made available for public inspection.

106. Parties must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's competitions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any required reports must be filed consistent with the instructions set forth in this Public Notice. For the Stage 2 Competition, such reports must be filed with Ryan Palmer, the Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau, by the most expeditious means available. Any such report should be submitted by email to Mr. Palmer at the following email address: *ConnectAmerica@fcc.gov.* If you choose instead to submit a report in hard copy, any such report must be delivered only to: Ryan Palmer, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Room 5–A426, Washington, DC 20554.

107. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in § 0.459 of the Commission's rules. The Bureau encourages such parties to coordinate with the Telecommunications Access Policy Division staff about the procedures for submitting such reports.

108. *Disclosure of Agreement Terms.* Each applicant may be required to disclose in its application the specific terms, conditions, and parties involved in any agreement into which it has entered. This may apply to an applicant that is a consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the Stage 2 competitive proposal process, including any agreement relating to the post-competition market structure. Failure to comply with the Commission's rules can result in enforcement action.

109. *Additional Information Concerning Prohibition of Certain Communications.* The prohibition the Bureau adopts here is consistent with similar rules the Commission has applied in other Commission competitions and auctions. Applicants may gain insight into the public policies underlying § 1.21002 by reviewing information about the application of these other rules. Decisions applying these rules by courts and by the Commission and its Bureau in other Commission competitions can be found at *https://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications.* Applicants utilizing these precedents should keep in mind the specific language of the rule applied in past decisions, as well as any differences in the context.

110. *Antitrust Laws.* Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure of prohibited communications pursuant to the rules the Bureau adopts in the Public Notice will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before the application filing deadline, when the prohibited communications rule takes effect. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other. Similarly, Commission staff have previously reminded potential applicants and others that ''[e]ven where the applicant discloses parties with whom it has reached an agreement on the application . . . the applicant is nevertheless subject to existing antitrust laws.''

111. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the Stage 2 Competition application process, it may be subject to a forfeiture and may be prohibited from participating further in the Stage 2 Competition and in future competitions and auctions, among other sanctions.

F. Red Light Rule

112. The Commission has adopted rules, including a provision referred to as the ''red light rule,'' that implement the Commission's obligation under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States, including debts owed to the Commission. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. Applicants seeking to participate in the Stage 2 Competition are subject to the Commission's red light rule. Pursuant to the red light rule, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission.

113. Specifically, a red-lighted applicant seeking to participate in the Stage 2 Competition must pay any debt(s) associated with the red light prior to filing its application. If an applicant has not resolved its red light issue(s) prior to filing, its application will be deemed incomplete. Bureau staff will not process the applicant's Stage 2 application, and the applicant will be deemed not qualified to apply for Stage 2 support.

114. Potential applicants for the Stage 2 Competition should review their own records, as well as the Commission's Red Light Display System (RLD), to determine whether they owe any non-tax debt to the Commission and should try to resolve and pay any outstanding debt(s) prior to submitting a application. The RLD enables a party to check the status of its account by individual FCC Registration Numbers (FRNs) and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at *http://www.fcc.gov/redlight/.* Additional information is available at *https://www.fcc.gov/debt_collection/.*

115. Additionally, the Bureau recognizes that a Stage 2 Competition

applicant may incur debt to the Commission after it files its application and may fail to pay that debt when due. An applicant should note that the Commission will conduct additional red light checks prior to authorizing Stage 2 support. The Bureau therefore encourages qualified applicants to continue to review their own records as well as the RLD periodically during the Stage 2 Competition and to resolve and pay all outstanding debts to the Commission as soon as possible. The Commission will not authorize any winning applicant to receive Stage 2 support until its red light issues have been resolved.

G. USF Debarment

116. The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program. Stage 2 Competition applicants are reminded that those rules apply with equal force to the Stage 2 Competition.

III. Evaluating Stage 2 Competition Applications and Proposals

A. Evaluation of Applications

117. *Evaluation Process Overview.* The Bureau strongly encourages each applicant to carefully review its entire application, including specific proposals for each geographic area, for completeness and accuracy. Following an application's submission to the Commission, an applicant is not afforded any opportunity to cure deficiencies or make major modifications to its competitive proposal that may affect Commission staff's ultimate scoring of proposals. However, the Bureau may request additional information from applicants to facilitate its review of underlying applications.

118. Once the deadline to submit an application has passed, Bureau staff will determine whether each applicant has complied with the application requirements and provided all information concerning its competitive proposal(s). The Bureau will issue a public notice with each applicant's proposal status identifying (1) those that are complete and (2) those that are incomplete or deficient. Eligible applicants that submit complete proposals will be reviewed as part of the Stage 2 Competition for the Territories consistent with the methodology prescribed by the *PR–USVI Stage 2 Order.*

119. The Bureau will select only one winner per geographic area in the Territories. The Bureau staff will score the applications using at least two independent reviewers for each application who will not communicate about the contents or merits of the applications prior to issuing a final score. Each reviewer will score separately, and the final overall score for each competitive proposal will be the average score of the proposal based on all scores from reviewers. There will be no public comment period on competitive proposals submitted in the Stage 2 Competition.

120. *Overall Scoring and Weighting.* Bureau staff will apply three objective factors in scoring and selecting winning applicants based upon information provided in each applicant's competitive proposal for a specific geographic area: (1) Price per location; (2) network performance, including speed, latency, and usage allowance; and (3) network resilience and redundancy. For administrative simplicity in evaluating comprehensive proposals, applicants shall provide this information in a Microsoft Excel or Access format using Schedule B to the Application Form for each geographic area it seeks Stage 2 support.

121. Bureau staff will evaluate each geographic area contained in an applicant's competitive proposal based on a 270-point scale, as shown in the table in the following and allocated as follows: 100 points for price per location, 90 points for network performance, and 80 points for network resilience and redundancy. An applicant will be assigned a specific point value in each category, and it will receive a final overall score, calculated as the average of all scores from Commission staff for each geographic area for which it seeks support. Price per location will be given the greatest weight; however, a proposal for a network with top-notch performance and resilience and redundancy can prevail over a proposal for a less expensive but less robust and resilient network to encourage applicants to deploy high-performing, storm-hardened networks. The applicant with the lowest final overall point score out of a total of 270 possible points for a geographic area will win support for that area. In the event of a tied score for a geographic area, the Bureau will select the competitive proposal with the lowest price per location.

TABLE 1—OVERALL SCORING

Overall scoring	Points
Price Per Location	100
Network Performance	90
Network Resilience and Redundancy	80
Total	270

122. *Price Per Location.* The Bureau will use the Proposal Price submitted by applicants in their Application Form to determine their scores for price per location. The reserve price for each geographic area is the maximum amount that an applicant may commit to accept in its proposal. An applicant who proposes to accept the reserve price for a geographic area will receive the highest score of 100 points for price per location category. Unlike in the multi-round CAF II reverse auction previously used by the Commission, the competitive process here is only a single round, so applicants must provide their best price possible in the first instance.

123. The Bureau will subtract one point from the high score of 100 for each percentage point the Proposal Price is below the reserve price, as shown in the Table 2 herein. Applicants may submit a Proposal Price below the reserve price to the nearest hundredth of one percent. In such cases, the Bureau will round the percentage to the nearest whole percentage for the purpose of scoring. In the event two applicants have equal overall final scores, the applicant with the lowest Proposal Price will be selected the winning applicant. For example, if an applicant commits to a Proposal Price that is 10.55 percent less than the reserve price, the applicant will receive an 11-point reduction from the possible 100 points. In the event a second applicant submits a Proposal Price for the same geographic area that is 10.75 percent less than the reserve price, thereby also receiving an 11-point reduction, and has the same point total as the first applicant in every other respect, this later applicant would be the winning bidder because its Proposal Price would be less than the former applicant, assuming the final overall score for both applicants' proposals were equal. Thus, this single-round competitive process rewards applicants to reveal their best price to increase the likelihood of being the winning applicant.

TABLE 2—PRICE PER LOCATION SCORING

Price	Assigned points
Reserve Price	100

TABLE 2—PRICE PER LOCATION SCORING—Continued

Price	Assigned points
1% 100% Below Reserve Price.	–1 point for each percentage below reserve

124. *Network Performance.* In the *PR–USVI Stage 2 Order* the Commission established three tiers for a combination of network speed and usage allowances, and two tiers for network latency, as reflected in Table 3 in the following. The Bureau requires applicants to commit to the deployment of a network capable of providing a minimum upload and download speeds of at least 25/3 Mbps with at least 200 gigabytes (GB) of monthly data usage or a usage allowance that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar data source, whichever is greater. For each geographic area the applicant seeks support, the applicant specifies the specific speed, usage, and latency in Schedule B of the Application Form. The Bureau does not require an applicant to propose the same network performance measures for each geographic area it proposes to provide voice and broadband service in the territory.

125. Applicants that propose to meet these minimum network speed and usage requirements will be assigned the maximum 50 points allotted for this category.

126. To promote the deployment of advanced networks and access to quality services, the Bureau provides point reductions only by meeting specific performance metrics. Applicants will be given a points reduction if its proposed network speed and data usage is greater than or equal to speeds of 100/20 Mbps and greater than or equal to 2 TB of monthly data usage. Staff will assign 25 points out of a possible 50 points to applicants that commit to deploy networks meeting or exceeding these specified speeds and minimum data usage. And staff will assign zero points only if an applicant's proposal meets or exceeds speeds of 1 Gbps/500 Mbps with at least 2TB for monthly usage allowance. Unlike the price per location category, applicants do not receive incremental decreases in assigned points for increases in speed or monthly data usage allowance that are less than those specified for the next performance tier.

127. All applicants must provide services with a maximum roundtrip broadband and voice latency of ≤750 milliseconds (ms) or less, but the Bureau will give preference to applicants with low-latency broadband and voice at or below 100 ms as shown in Table 4 herein. Staff will assign high-latency commitments the full 40 points for this category and assign zero points for a proposal with low-latency. Similar to speed and usage, applicants do not receive incremental point reductions for latency performance that are between 750 ms and 100 ms.

TABLE 3—NETWORK PERFORMANCE SCORING (1 OF 2)—SPEED/USAGE

Speed	Monthly usage allowance	Assigned points
≥25/3 Mbps	≥200 GB or U.S. median, whichever is higher	50
≥100/20 Mbps	≥2 TB	25
1 Gbps/500 Mbps	≥2 TB	0

TABLE 4—NETWORK PERFORMANCE SCORING (2 OF 2)—LATENCY

Latency	Requirement	Assigned points
Low	≤100 ms	0
High	≤750 ms	40

128. *Network Resiliency and Redundancy.* Bureau staff will evaluate resiliency and redundancy by assigning points for a few key, objective criteria specified in Schedule B of the Application Form. Bureau staff will award a points preference based on the level of resilience an applicant proposes to build into its network and/or the redundancy or diversity it proposes to create in its network as measured in network miles.

129. Applicants must provide data concerning its proposed network for each geographic area for evaluation and scoring. Applicants must provide the total network miles within the geographic area. Applicants must further provide the amount of its total network miles that consists of buried fiber, aerial fiber using standard poles, aerial fiber using composite high-wind rated poles, and fixed wireless technology. An applicant will receive a score for network resilience based on the percentage of these technologies, as measured by network miles, that comprise the entire network within the geographic area. The Bureau assigns the full 60 points for this category to a network comprised entirely of aerial fiber using standard poles, and provide the greatest preference, with least amount of points, to an all-buried fiber network. Bureau staff will assign as few as zero points for a network resiliency solution that relies on all-buried fiber.

130. Finally, Bureau staff will assign up to 20 points depending on whether an applicant proposes a redundancy solution that includes a backup network or path diversity. Network diversity means maintaining a separate communications network that can provide services should the first type fail. Path diversity means that there is an alternate route to achieving communications within the network. Specifically, staff will assign no points for a proposal that includes either a backup network or path redundancy, and staff will assign 20 points to a proposal that includes neither a backup network or path redundancy. Applicants must specify the amount of network miles within the geographic area that include a backup network, path diversity, or both. Bureau staff will not deduct points for satellite providers for redundancy simply based on the availability of a backup satellite path. Satellite providers will receive a reduction in points based on the percentage of locations that it intends to reach with a backup network. Although scoring will equally reward a carrier for building in either network or path diversity, the Bureau encourages carriers to build both into their network

wherever possible as a best practice for building a storm-hardened network.

TABLE 5—NETWORK RESILIENCE AND REDUNDANCY SCORING

Network resilience and redundancy measures	Assigned points
Aerial wireline deployment	60.
Satellite; fixed wireless end user location connection; microwave backhaul; aerial wireline deployment using high-wind rated composite poles.	40–60 sliding scale.
Underground fiber	0–60 sliding scale.
Backup network/path diversity	0–20 sliding scale.

B. Confidentiality and Availability of Competition Information

131. Applicants may request confidential treatment of application information pursuant to the normal or abbreviated § 0.459 processes detailed in the public notice. For a typical request for confidential treatment, an applicant must submit a statement of the reasons for withholding information from public inspection. An applicant that seeks confidential treatment of financial information contained in its application need not submit a statement that conforms with the requirements of § 0.459(b) unless and until its request for confidential treatment is challenged. Notwithstanding an applicant's request for confidential treatment, the Bureau will withhold from public inspection certain application information until at least after the winning applicants have been authorized to receive support.

C. Default Payment Requirements

132. *Forfeiture.* Any Stage 2 Competition winning applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. A winning applicant will be considered in default and will be subject to forfeiture if it fails to meet the document submission deadlines, is found ineligible or unqualified to receive Stage 2 support by the Bureau, and/or otherwise defaults on its winning applications or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureau shall be final, and a winning applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in application in the Stage 2 Competition.

133. The Commission established a base forfeiture of $3,000 per census block group within a geographic area for any applicant that (i) fails to meet the document submission deadlines, (ii) is found ineligible or unqualified to receive support by the Bureau, or (iii) otherwise defaults on its bid or was disqualified for any reason prior to receiving authorization for support. The forfeiture amount resulting from an applicant's default prior to receiving authorization for support will be subject to adjustment based on the criteria set forth in the Commission's forfeiture guidelines.

134. A winning applicant will be subject to the base forfeiture for each separate violation of the Commission's rules. The Commission defined a violation as any form of default with respect to the geographic area. In other words, there shall be separate violations for each winning geographic area in an application. To ensure that the amount of the base forfeiture is not disproportionate to the amount of a winning applicant's application, the Commission decided to limit the total base forfeiture to five percent of the applicant's total assigned support for the application for the support term.

135. In the event of default, the Bureau will notify and identify the next-in-line applicant as the new winning applicant. The new winning applicant will have all the same obligations for submitting additional information and filings and obligations as did the initial winning applicant.

136. *Non-Compliance Measures Post-Authorization.* An applicant that has received notice from the Commission that it is authorized to receive Stage 2 support will be subject to non-compliance measures if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Stage 2 support. As described in the *PR–USVI Stage 2 Order,* these measures will scale with the extent of non-compliance, and include additional reporting, withholding of support, support recovery, and drawing on the support recipient's letter of credit if the support recipient cannot pay back the relevant support by the applicable deadline. A support recipient may also be subject to other sanctions for non-compliance with the terms and conditions of Stage 2 support, including, but not limited to, potential revocation of ETC designations and suspension or debarment. Additionally, a support recipient will be subject to any non-compliance measures in conjunction with a methodology for high-cost support recipients to measure and report speed and latency performance to fixed locations.

D. Closing Conditions

137. The Stage 2 Competition window for applicants will close on a date to be announced by the Bureau. No further applications will be accepted after that time. To avoid concerns related to electronic or technical errors, the Bureau encourages applicants to submit ahead of this time and date. The Bureau will confirm receipt via electronic mail of each application received by the deadline.

E. Competition Announcements

138. The Bureau will make announcements as necessary to report or request information from applicants during the Stage 2 Competition. Announcements will be available at the FCC's website.

F. Competition Results

139. The Bureaus will determine the winning applicants as described elsewhere in this Public Notice and will announce the results in a public notice. The Bureau will make the final overall application scores for all applicants available for public viewing after winning applicants are authorized to receive support. Winning applicants will then be required to complete the necessary actions described in this Public Notice to become authorized for support.

IV. Post—Competition Procedures

A. Authorization Public Notice

140. After the Stage 2 Competition has ended, the Bureau will issue a public notice declaring the competition closed, identifying the winning applicants, and establishing the deadline for submission of further information for authorizing support. Winning applicants will file the information using ECFS and email to the Bureau. Details regarding the

submission requirements will be provided in the public notice. After the information has been reviewed and is considered to be complete, including the Disaster Preparation and Response Plan, and the winning applicant has submitted an acceptable letter of credit and accompanying Bankruptcy Code opinion letter as described in the following, a public notice will be released authorizing the winning applicant to receive Stage 2 support.

B. Eligible Telecommunications Carrier Designation and Certification

141. Within 60 days after the release of the winning applicants public notice, a winning applicant is required to submit appropriate documentation of its high-cost ETC designation in all the areas for which it will receive support. Appropriate documentation should include the original designation order, any relevant modifications, *e.g.,* expansion of service area or inclusion of wireless, along with any name-change orders. An applicant is also required to provide documentation showing that the designated areas (*e.g.,* census blocks, wire centers, etc.) cover the relevant winning application areas so that it is clear that the winning applicant has high-cost ETC status in each winning application area. Such documentation could include maps of the applicant's ETC designation area, map overlays of the winning application areas, and/or charts listing designated areas. Additionally, an applicant is required to submit a letter with its documentation from an officer of the company certifying that the applicant's ETC designation for each state covers the relevant areas where the applicant will receive support.

C. Letter of Credit and Bankruptcy Code Opinion Letter

142. After an application has been reviewed and is considered to be complete, the Commission will issue a public notice identifying each winning applicant that may be authorized to receive Stage 2 support. No later than 10 business days after the release of the public notice, an applicant must obtain an irrevocable standby letter of credit at the value specified in § 54.1508(b) from a bank acceptable to the Commission as set forth in § 54.1508(c) for each territory where the applicant is seeking to be authorized. The letter of credit must be issued in substantially the same form as set forth in the model letter of credit provided in Appendix B of the Public Notice.

143. In addition, a winning applicant will be required to provide with the letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the applicant's bankruptcy estate, or the bankruptcy estate of any other applicant-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.

144. *New and Renewed Letter of Credit.* A winning application receiving Stage 2 support may obtain a new or renewed Letter of Credit after successfully achieving its deployment milestones. When a winning applicant first obtains a letter of credit, it must be at least equal to the amount of the first year of authorized support. Before the winning applicant can receive its next year's support, it must modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total amount of money that has already been disbursed plus the amount of money that is going to be provided in the next year.

145. The Commission found that, as a recipient makes progress towards building its network, it is appropriate to modestly reduce the value of the letter of credit in an effort to reduce the cost of maintaining a letter of credit as the recipient meets certain service milestones. Specifically, once an entity meets the 60 percent service milestone that entity may obtain a new letter of credit or renew its existing letter of credit so that it is valued at 90 percent of the total support amount already disbursed plus the amount that will be disbursed the next year. Once the entity meets the 80 percent service milestone that entity may obtain a new letter of credit valued at 80 percent of the total support amount already disbursed plus the amount that will be disbursed the next year. The letter of credit must remain open until the recipient has certified it has deployed broadband and voice service meeting the Commission's requirements to 100% of the required number of locations, and USAC has verified that the entity has fully deployed.

D. Location Adjustment Process

146. *Submission Due Date and Format for Submission.* The Bureau expects the adjustment window to open on or about one year following the notice announcing Stage 2 winning applicants. The Bureau will announce the specific dates of the location adjustment submission filing window and stakeholder comment period in the public notice announcing the winning Stage 2 applicants. By the closing date, if a winning applicant cannot identify actual locations totaling the number announced in the Reserve Price Public Notice on December 19, 2019, it must file its proposed actual location number and all relevant supporting information, including maps, studies, certifications, documents, and any other evidence with the Bureau via electronic mail at *ConnectAmerica@fcc.gov.* The applicant must include geolocation data (indicating the latitude/longitude and address) for each actual location it can identify and for each winning area. An applicant must also include a certification for its assertion. The information and evidence submitted will be subject to potential audit.

147. If a winning applicant does not need to adjust its deployment obligation, it must file a certification with the Bureau by the close of the window certifying to that effect and accepting the number of locations the Bureau announced in the Reserve Price Public Notice on December 19, 2019, as its location obligation.

148. *Stakeholder Comment Period.* Following the window closing date, relevant stakeholders will have 30 days to review and comment on the information submitted by the winning applicants. There will be no reply comment period for the winning applicants.

149. *Adjustment Order.* After the comment period is closed, Bureau staff will review all evidence submitted by the support recipients and all relevant comments. The Bureau will then issue an order addressing the recipients' showings, which will establish and announce the final location obligations for each recipient.

E. Five-Year Review

150. A support recipient may choose to participate in the voluntary five-year review process to reassess its deployment obligations. As directed, the Bureau will release a public notice detailing the five-year review process no later than the beginning of the fifth year of Stage 2 support to provide recipients an opportunity to request reassessment of their deployment obligations. The Bureau expects any request for reassessment will be accompanied by specific information, documents, evidence and data upon which the Bureau can make an informed decision. This reassessment will allow the Bureau to determine whether to adjust any deployment requirements based on newly available data or changed circumstances such as disruptive disasters, altered subscribership or significantly decreased revenue due to

population shifts. In the five-year review process public notice, the Bureau will establish a public comment period for any support recipient requesting reassessment, which will allow public review of the documentation, data, and evidence put forward to support the request. Following the close of the public comment period, the Bureau will review and evaluate the record for each requesting support recipient. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.

F. Updating the Disaster Preparation and Response Plan

151. As indicated in this document, a winning applicant has the obligation to provide the Bureau with an updated DPRP within ten business days of making any material change, and for as long as it receives Stage 2 support. The failure to update the DPRP may result in withholding of support or disqualification from future participation in the Commission's competitive competitions.

G. Mandatory Filing in Disaster Information Reporting System (DIRS)

152. All Stage 2 support recipients are required to perform DIRS reporting when the system is activated. The Commission will determine whether to activate DIRS in coordination with DHS and FEMA, and will announce the areas that will be covered via public notice and electronic mail. Following normal Commission protocol, the Bureau will continue to activate DIRS and notify providers of its reporting schedule, typically in advance of an expected impending disaster event or immediately after such a disaster. Also pursuant to normal Commission protocol, DIRS reporting obligations begin at the time of DIRS activation, which may be immediately before, at the onset of, or immediately after a disaster event, with reports due each time a provider's restoration status changes. The Bureau notes that support recipients are not required to report daily via DIRS when there is no change in restoration status, and instead are only required to make updates on changes in restoration status when they occur. The only difference from ordinary Commission protocol is that DIRS reporting is mandatory for Stage 2 support recipients for as long as a recipient is receiving Stage 2 support.

153. Stage 2 funding recipients that fail to meet this mandatory DIRS reporting obligation may be subject to penalties and sanctions through the withholding of Stage 2 funds and/or disqualification from participating in future Stage 3 mobile support. However, the Bureau will not impose a penalty or sanctions if reporting deadline(s) cannot be met for reasons reasonably beyond a participant's control (*e.g.* loss of communications that precludes access to DIRS). In that case, the Bureau requires instead that providers begin and/or resume DIRS reporting according to the reporting schedule as soon as they are reasonably able to do so.

V. Procedural Matters

A. Paperwork Reduction Act Analysis

154. This document implements the information collections adopted in the *PR–USVI Stage 2 Order* and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The Commission is currently seeking PRA approval for information collections related to the PR–USVI Stage 2 Competition application process. Therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

B. Congressional Review Act

155. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Public Notice to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

C. Legal Authority

156. The Bureau establishes procedures for the Stage 2 Competition pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 214, 254, 303(r), 403, and 405, and §§ 1.1, 1.3, 1.425 and 1.429 of the Commission's rules, 47 CFR 1.1, 1.3, 1.425 and 1.429.

D. Supplemental Regulatory Flexibility Analysis

157. In the *PR–USVI Stage 2 Order,* the Commission conducted a Final Regulatory Flexibility Analyses (FRFAs) as required by the Regulatory Flexibility Act of 1980, as amended (RFA). The Bureau anticipated that the Order will not affect a substantial number of carriers and, therefore, certified the Order would not affect a substantial number of small entities.

158. This document establishes procedures for the Connect America Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 Competition (PR–USVI Stage 2 Competition or Stage 2 Competition). The procedures established in this document are consistent with the *PR–USVI Stage 2 Order* and FRFA is not required for this document.

VI. Contact Information

FCC Email & Webpages	*ConnectAmerica@fcc.gov, http://www.fcc.gov.*
General Uniendo a Puerto Rico Fund and Connect USVI Fund Questions.	Wireline Competition Bureau Telecommunications Access Policy Division, Alex Minard, Rebekah Douglas, Dangkhoa Nguyen, (202) 418–0660.
Press Information	Office of Media Relations, (202) 418–0500.
FCC Forms	(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington area), *http://www.fcc.gov/formpage.html.*
Accessible Formats: Braille, large print, electronic files, or audio format for people with disabilities.	Consumer and Governmental Affairs Bureau, (202) 418–0530 or (202) 418–0432 (TTY), *fcc504@fcc.gov.*
Small Businesses: Additional information for small and disadvantaged businesses.	Office of Communications Business Opportunities, (202) 418–0990, *http://www.fcc.gov/ocbo/.*

Federal Communications Commission

Kirk Burgee,

Chief of Staff, Wireline Competition Bureau.

[FR Doc. 2020–05508 Filed 3–19–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74 and 76

[MB Docket Nos. 19–165, 17–105; FCC 20–8; FRS 16516]

Electronic Delivery of Notices to Broadcast Television Stations; Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) modernizes its rules regarding certain written notices that cable operators and direct broadcast satellite (DBS) providers are required to provide to broadcast television stations. Rather than continuing to require that cable and DBS providers deliver these notices on paper, the Commission is revising its rules to require that the notices be delivered to broadcast television stations electronically via email.

DATES:

Effective Date: April 20, 2020.

Compliance Date: Compliance will not be required for 47 CFR 74.779, 76.54(e), 76.64(k), 76.66(d)(1)(iv), (d)(2)(ii), (v), and (vi), (d)(3)(iv), (d)(5)(i), (f)(3) and (4), and (h)(5), 76.1600(e), 76.1607, 76.1608, 76.1609, and 76.1617(a) and (c) until the Commission publishes a document in the **Federal Register** announcing the compliance date.

FOR FURTHER INFORMATION CONTACT: Christopher Clark, Industry Analysis Division, Media Bureau, at *Christopher.Clark@fcc.gov* or (202) 418–2609.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 20–8, in MB Docket Nos. 19–165 and 17–105, adopted on January 30, 2020, and released on January 31, 2020. The complete text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *https://www.fcc.gov/document/fcc-modernizes-delivery-mvpd-notices-broadcast-tv-stations-0.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text of this document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW, CY–A257, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. We adopt the proposal to require electronic delivery of certain notices that cable operators are required to provide to broadcast television stations under our existing rules. To harmonize the rules applicable to cable operators and direct broadcast satellite (DBS) providers, we extend the same treatment to the notices that DBS providers are required to provide to broadcast television stations under our existing rules. We conclude that it will serve the public interest and enhance administrative efficiency to harmonize the notification rules discussed herein for cable operators and DBS providers with our modernized carriage election notice procedures for broadcast television stations.

2. As proposed in the notice of proposed rulemaking (*NPRM*) (84 FR 37979, August 5, 2019), we will require that cable operators use email to deliver notices to broadcast television stations in the following circumstances: informing local broadcast stations that a new cable system intends to commence service (§ 76.64(k)); sending required information to local broadcast stations when a new cable system is activated (§ 76.1617); notifying a television station about the deletion or repositioning of its signal (§ 76.1601); informing stations of a change in the designation of the principal headend of a cable operator (§ 76.1607); informing stations that a cable operator intends to integrate two cable systems, requiring a uniform carriage election (§ 76.1608); and notifying stations that a cable system serves 1,000 or more subscribers and is no longer exempt from the Commission's network non-duplication and syndicated exclusivity rules (§ 76.1609). To ensure that television stations continue to receive these important notices, we will require that cable operators deliver the notices to the email address that the station designates for carriage-related questions in accordance with the procedures adopted in the Carriage Election Notice Modernization proceeding. Under those procedures, commercial and noncommercial full-power and Class A television stations are already required to provide a current email address and phone number in their online public inspection file (OPIF) for carriage-related questions no later than July 31, 2020, and maintain up-to-date contact information at all times thereafter. Requiring cable operators to deliver notices to this email address will help ensure that notices are sent to the correct inbox without imposing any new obligations on these stations. Because the email address must be kept up-to-date, cable operators will easily be able to identify the email address that is current for purposes of sending notices to a television station. In addition, if questions arise pertaining to the notices, cable operators will be able to call the station at the phone number provided.

3. We conclude that transitioning the notices from paper to electronic delivery will serve the public interest. As discussed above, the Commission has already taken similar steps with respect to various other notices and filings required by our rules. In doing so, the Commission found that the benefits of transitioning the notices from paper to electronic delivery include reducing the costs, administrative burdens, and environmental waste associated with paper notices. Consistent with these previous determinations, we conclude that requiring notices under § 76.64(k) and subpart T to be delivered to broadcast television stations via email will reduce burdens on all parties and ensure that notices are still received in a timely manner, while reducing environmental waste.

4. Perhaps not surprisingly, we find unanimous support in the record for transitioning these notices from paper to electronic delivery. Cable operators and broadcasters commenting in this proceeding agree that electronic delivery will reduce the time and money spent on the required notices, enable quicker, more effective communication of necessary information, and decrease the environmental waste generated by paper notices. As the National Cable and Telecommunications Association (NCTA) explains, electronic notices need not be printed, posted, or tracked to ensure they reach their destination, making them far less expensive and much less administratively burdensome than paper notices. Because email transmission is nearly instantaneous and paper delivery methods often take up to several days, transitioning from paper notices to email will also help ensure that broadcasters receive notices

much faster than they do currently. Further, as America's Communications Association (ACA) and NCTA attest, allowing the notices to be delivered via email is consistent with the way companies do business today. Public television broadcasters similarly support the use of email for notices to full-power noncommercial television stations, and the National Association of Broadcasters (NAB) suggests that email would be acceptable for delivering notices to low-power television (LPTV) stations. No commenter disputes our authority to require that cable operators deliver notices via email. And we conclude, consistent with our previous finding, that emailing television stations the information required by § 76.64(k) and subpart T of our rules satisfies the ''written notice'' requirement in sections 614(b)(9) and 615(g)(3) of the Communications Act of 1934, as amended, because ''it is reasonable to interpret the term 'written information' . . . to include information delivered by email.''

5. Given the unanimous support in the record for transitioning from paper to electronic delivery of notices from cable operators to broadcast television stations, we see no reason to retain paper delivery as an option for the notices required by § 76.64(k) and subpart T of our rules. Indeed, no commenter in this proceeding asserts that we should retain such an option. To the contrary, ACA cautions that exempting some broadcasters from receiving the notices electronically would substantially negate the benefits of our decision today to move to electronic distribution of the notices. We agree with ACA that requiring cable operators to deliver notices to some broadcast stations via email and other stations via paper delivery would introduce unnecessary complexity and additional costs, which could pose challenges, particularly for small cable operators with limited resources. Similarly, we believe that allowing some cable operators to continue using paper delivery to distribute the notices would impose unnecessary burdens and costs on broadcast television stations. To streamline delivery of the notices and reduce the associated costs and burdens for all parties, we adopt email as the required means for delivering notices to broadcast television stations under § 76.64(k) and subpart T of our rules. Accordingly, we will require that after July 31, 2020, cable operators must deliver to broadcast television stations electronically via email the notices required by the rules listed above.

6. For LPTV stations that are entitled to notices but not required to maintain an OPIF, we will require that notices be delivered to the general email address listed for the licensee in our Licensing and Management System (LMS). Unlike full-power and Class A television stations, non-Class A LPTV stations are not subject to our OPIF rules and will therefore need to use alternative means other than the OPIF to publicize an email address and phone number for receiving notices from cable operators. We agree with commenters that cable operators should be able to consult a single Commission website or database to obtain contact information for delivering notices to non-Class A LPTV stations, rather than having to attempt to locate this information on each station's website. While some commenters suggest the Commission should establish a new means to collect and share such contact information, we find that the information such stations are already required to provide in LMS is sufficient for this purpose. When submitting a broadcast license application in LMS, an applicant is required to provide contact information, including an email address and phone number, for itself and any contact representatives listed on the form. Thus, each LPTV station that has filed a license application in LMS should already have an email address and phone number listed in LMS. LPTV stations may add or update this information easily by filing an Administrative Update for a LPTV/Translator Station Application in LMS. After submission, this contact information is publicly available in LMS via the Facility Details page, which may be accessed by doing a Facility Search and then clicking the relevant Facility ID Number in the Facility Search results.

7. We conclude that notices to non-Class A LPTV stations should be delivered to the licensee's email address, rather than a contact representative's email address (if different from the licensee's email address), to ensure that all such notices are delivered consistently to the same inbox in cases where a station designates a third party as a contact representative or designates multiple types of contact representatives. Accordingly, we will require that after July 31, 2020, § 76.64(k) and subpart T notices to LPTV stations that are entitled to such notices but that lack Class A status must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS. Delivering notices to the email address listed for the contact representative is not sufficient to satisfy the notice requirements in § 76.64(k) and subpart T. After July 31, 2020, non-Class A LPTV stations must be prepared to respond to carriage questions directed to the licensee's email address and phone number (not a contact representative's email address and phone number, if different) as displayed publicly in LMS and must ensure that this information is kept up-to-date in LMS. We conclude that relying on this existing information in LMS will ensure that cable operators are able to identify contact information easily for notices to non-Class A LPTV stations without imposing additional burdens on stations or the Commission. LPTV stations are responsible for the accuracy of this contact information, and cable operators may rely on its accuracy at any time after July 31, 2020, for purposes of delivering the notices required by § 76.64(k) and subpart T of the Commission's rules.

8. Similarly, with respect to qualified noncommercial educational (NCE) translator stations, we agree with the public broadcasting organizations that there is no need to adopt a new email posting requirement for such stations. Rather, we will require that after July 31, 2020, § 76.64(k) and subpart T notices to a qualified NCE translator station must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS, or alternatively to the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS. Like LPTV and other broadcast stations, qualified NCE translator stations are already required to provide general contact information, including an email address and phone number, when filing license applications in LMS. While it is possible that some qualified NCE translator stations have yet to submit a filing in LMS, we expect that by the end of the next cycle for television license renewal applications in 2023, all such stations will have submitted an application requiring them to provide an email address and phone number in LMS. We conclude that delivering relevant notices to the primary station's carriage-related email address is sufficient for providing electronic notices to qualified NCE translator stations that have no email address listed in LMS. Unlike an LPTV station, a qualified NCE translator station is associated with the primary station that authorizes the retransmission of its signal by the translator station. To the extent a qualified NCE translator station and its primary station are not owned by

the same party, we expect that the owner of the primary station will inform the translator station promptly upon receiving relevant notices. Because the Commission's rules prohibit a TV translator station from rebroadcasting the programs of a TV broadcast station without obtaining the TV broadcast station's prior consent, we anticipate that there will be an existing relationship between a qualified NCE translator station and its primary station even where the stations are not owned by the same party. Moreover, we believe that the primary station will have every incentive to inform its affiliated translator station of relevant notices quickly in order to maintain or expand the reach of its programming.

9. To effectuate these changes, we add to § 76.1600 of our rules a new subsection requiring that notices provided by cable operators to broadcast television stations under § 76.64(k) and subpart T must be delivered via email as discussed herein. To avoid potential discrepancies with § 76.1600 as revised herein, we also add language to §§ 76.64(k), 76.1607, 76.1608, 76.1609, and 76.1617 to reflect our decision to require that cable operators deliver the notices required by these rules electronically to broadcast television stations via email in accordance with revised § 76.1600. In addition, we codify the requirements discussed above for LPTV and qualified NCE translator stations. Further, as proposed in the *NPRM,* we make a minor correction to our rules in part 74 by moving our existing channel sharing rule for LPTV and TV translator stations from subpart H (Low Power Auxiliary Stations) to subpart G (Low Power TV, TV Translator, and TV Booster Stations). Because the rules in subpart G apply to LPTV stations, TV translator stations, and TV booster stations, subpart G is a more appropriate location for § 74.799 than subpart H, which contains rules for low power auxiliary stations that transmit over distances of approximately 100 meters for uses such as wireless microphones, cue and control communications, and synchronization of TV camera signals.

10. We adopt the same approach outlined above for the notices that DBS providers currently are required to provide to broadcast television stations pursuant to the following rules: §§ 76.54(e) and 76.66(d)(5) (intent to retransmit ''significantly viewed'' out-of-market station); 76.66(d)(2) (intent to launch new local-into-local or HD carry-one, carry-all service); 76.66(d)(1)(vi) and (d)(3)(iv) (response to carriage requests); 76.66(f)(3) and (4) (location of local receive facility or intent to relocate such facility); and 76.66(h)(5) (deletion of duplicating signal or addition of formerly duplicating signal). DISH and DIRECTV support the *NPRM's* proposal to require that DBS providers deliver these notices electronically via email, and no commenter opposes such a requirement.

11. No commenter disputes our authority to adopt rules requiring that DBS operators deliver these notices via email. We believe it will serve the public interest and enhance administrative efficiency to have a consistent approach for delivery of notices discussed herein. We agree with DISH and DIRECTV that, given our previous decision to require electronic delivery of carriage election notices, failure to allow email delivery of the notices required by §§ 76.54(e) and 76.66 will result in disproportionate burdens on DBS providers and broadcasters, and raise logistical and operational challenges. Accordingly, we require that after July 31, 2020, DBS providers must deliver to broadcast television stations electronically via email the notices required by the rules listed above. Such notices must be delivered to the same email address the station designates for carriage-related questions, as discussed above for the notices from cable operators. We revise our rules accordingly.

12. *Paperwork Reduction Act Analysis.* This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

13. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *notice of proposed rulemaking* (*NPRM*) in MB Docket No. 19–165. The Commission sought written public comments on proposals in the *NPRM,* including comment on the IRFA. The Commission received no direct comments on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

15. *Need for, and Objectives of, the Report and Order.* In the Report and Order, the Commission takes additional steps to modernize certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. Currently, these rules require that cable operators and other multichannel video programming distributors (MVPDs) provide certain written notices to broadcast stations by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. Section 76.64(k) and subpart T of the Commission's rules contain written notification requirements for cable operators, and §§ 76.54(e) and 76.66 of the Commission's rules contain written notification requirements for direct broadcast satellite (DBS) providers. The rules require written notice to a local broadcast television station prior to deleting or repositioning the station, changing the location of the principal headend or local receive facility, or commencing service in a market, among other things.

16. The Report and Order revises the Commission's rules to require that cable operators deliver notices electronically to broadcast television stations in the following circumstances: Informing local broadcast stations that a new cable system intends to commence service (§ 76.64(k)); sending required information to local broadcast stations when a new cable system is activated (§ 76.1617); notifying a television station about the deletion or repositioning of its signal (§ 76.1601); informing stations of a change in the designation of the principal headend of a cable operator (§ 76.1607); informing stations that a cable operator intends to integrate two cable systems, requiring a uniform carriage election (§ 76.1608); and notifying stations that a cable system serves 1,000 or more subscribers and is no longer exempt from the Commission's network non-duplication and syndicated exclusivity rules (§ 76.1609). After July 31, 2020, cable operators must deliver required notices

to full-power and Class A television stations electronically via email to the inbox that the station designates for carriage-related questions in its online public inspection file (OPIF). Similarly, notices to LPTV stations must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in the Commission's Licensing and Management System (LMS), and notices to qualified noncommercial educational (NCE) translator stations must be delivered to the email address listed for the licensee in LMS (not a contact representative, if different from the licensee) or alternatively the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS.

17. The Report and Order also requires that DBS providers similarly use email to deliver to broadcast television stations the notices required by the following rules: §§ 76.54(e) and 76.66(d)(5) (intent to retransmit ''significantly viewed'' out-of-market station); 76.66(d)(2) (intent to launch new local-into-local or HD carry-one, carry-all service); 76.66(d)(1)(vi) and (d)(3)(iv) (response to carriage requests); 76.66(f)(3) and (4) (location of local receive facility or intent to relocate such facility); and 76.66(h)(5) (deletion of duplicating signal or addition of formerly duplicating signal). Through this Report and Order, the Commission continues its efforts to update its rules and eliminate outdated requirements.

18. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed in direct response to the IRFA.

19. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the SBA and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to this proceeding.

20. *Description and Estimate of the Number of Small Entities To Which Rules Will Apply.* The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

21. Cable Companies and Systems (Rate Regulation Standard). The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that there are currently 4,300 active cable systems in the United States. Of this total, 3,550 cable systems have fewer than 15,000 subscribers, and 750 systems have 15,000 or more. Thus, we estimate that most cable systems are small entities.

22. Cable System Operators (Telecommunications Act Standard). The Act also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 49,011,210 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 490,112 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

23. We also note that there currently are 182 cable antenna relay service (CARS) licensees. The Commission, however, neither requests nor collects information on whether CARS licensees are affiliated with entities whose gross annual revenues exceed $250 million. Although some CARS licensees may be affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of CARS licensees that would qualify as small cable operators under the definition in the Communications Act.

24. Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA determines that a wireline business is small if it has fewer than 1,500 employees. Economic census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that, in general, DBS service is provided only by large firms.

25. Open Video Services. Open Video Service (OVS) systems provide subscription services. The open video system framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data currently available from the U.S. Census for the year 2012. According to that source, there were 3,117 firms that in 2012 were Wired Telecommunications Carriers. Of these, 3,059 operated with less than 1,000 employees. Based on this data, the majority of these firms can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities. The Commission further notes that it has certified approximately 45 OVS operators to serve 116 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 44 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

26. Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs). SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2012 indicate that in that year there were 3,117 firms operating businesses as wired telecommunications carriers. Of that 3,117, 3,059 operated with 999 or fewer employees. Based on this data, we estimate that a majority of operators of SMATV/PCO companies were small under the applicable SBA size standard.

27. Television Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of less than $25 million, 25 had annual receipts ranging from $25 million to $49,999,999, and 70 had annual receipts of $50 million or more. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

28. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,380. Of this total, 1,267 stations (or 91.8%) had revenues of $41.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on December 9, 2019, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates the number of licensed noncommercial educational (NCE) television stations to be 380. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

29. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.

30. There are also 387 Class A stations. Given the nature of these services, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard. In addition, there are 1,900 LPTV stations and 3,631 TV translator stations. Given the nature of these services as secondary and in some cases purely a ''fill-in'' service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

31. *Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* As discussed above, this Report and Order takes additional steps to update certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. The existing rules require that cable operators and other MVPDs provide certain written notices to broadcast stations by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. The Report and Order revises the Commission's rules to require that cable operators and DBS providers distribute these notices to broadcast television stations electronically via email. After July 31, 2020, cable operators and DBS providers must deliver required notices to full-power and Class A television stations electronically via email to the inbox that the station designates for carriage-related questions in its OPIF. Similarly, notices to LPTV stations must be

delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS, and notices to qualified NCE translator stations must be delivered to the email address listed for the licensee (not a contact representative, if different from the licensee) in LMS or alternatively the primary station's carriage-related email address, if the translator station does not have its own email address listed in LMS.

32. *Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

33. Through this Report and Order, the Commission takes steps to minimize the administrative burden on MVPDs, including small entities, by transitioning from paper to electronic delivery of certain notices to broadcast television stations, which will reduce the costs and burdens of providing such notices. The Commission has found that electronic delivery of notices would greatly ease the burden of complying with notification requirements for cable operators and DBS providers, including small entities. The Commission previously sought comment on other potential alternative means of delivering notices that might better serve the needs of broadcasters and MVPDs, including small entities, but still be less burdensome than sending notices by paper delivery, such as mail, certified mail, or, in some instances, hand delivery. Commenters, including those representing smaller entities, unanimously support transitioning the notices from paper to electronic delivery.

Ordering Clauses

34. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 338, 340, 614, 615, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 338, 340, 534, 535, and 573, this Report and Order *is adopted*.

35. *It is further ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303(r), 338, 340, 614, 615, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 338, 340, 534, 535, and 573, the Commission's rules *are amended* as set forth in the Final Rules. These rules contain new or modified information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and *will become effective* April 20, 2020. Compliance will not be required until after the Commission publishes a document in the **Federal Register** announcing OMB approval and the relevant compliance date.

36. *It is further ordered* that the Commission *shall send* a copy of this Report and 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).

37. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 19–165 shall be *terminated* and its docket closed.

List of Subjects

47 CFR Part 74

Communications equipment, Education, radio, Reporting and recordkeeping requirements, Research, Television.

47 CFR Part 76

Administrative practice and procedure, Cable television, Communications, Equal employment opportunity, Internet, Political candidates, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 74 and 76 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

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

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

■ 2. Add § 74.779 to read as follows:

§ 74.779 Electronic delivery of notices to LPTV stations.

In accordance with § 76.1600 of this title, beginning July 31, 2020, each licensee of a low power television station or noncommercial educational translator station that is entitled to notices under § 76.64(k), § 76.1601, § 76.1607, or § 76.1617 of this title shall receive such notices via email to the licensee's email address (not a contact representative's email address, if different from the licensee's email address) as displayed publicly in the Commission's Licensing and Management System (LMS), or the primary station's carriage-related email address if the noncommercial educational translator station does not have its own email address listed in LMS. Licensees are responsible for the continuing accuracy and completeness of this information.

§ 74.799 [Transferred from Subpart H to Subpart G]

■ 3. Transfer § 74.799 from subpart H to subpart G.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

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

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 5. Amend § 76.54 by revising paragraph (e) to read as follows:

§ 76.54 Significantly viewed signals; method to be followed for special showings.

* * * * *

(e) Satellite carriers that intend to retransmit the signal of a significantly viewed television broadcast station to a subscriber located outside such station's local market, as defined by § 76.55(e), must provide written notice to all television broadcast stations that are assigned to the same local market as the intended subscriber at least 60 days before commencing retransmission of the significantly viewed station. Such satellite carriers must also provide the notifications described in § 76.66(d)(5)(i). Except as provided in this paragraph (e), such written notice must be sent via certified mail, return receipt requested, to the address for such station(s) as listed in the consolidated database maintained by the Federal Communications Commission. After July 31, 2020, such written notice must be delivered to

stations electronically in accordance with § 76.66(d)(2)(ii).

* * * * *

■ 6. Amend § 76.64 by revising paragraph (k) to read as follows:

§ 76.64 Retransmission consent.

* * * * *

(k) A cable system commencing new operation is required to notify all local commercial and noncommercial broadcast stations of its intent to commence service. The cable operator must send such notification, by certified mail except as provided in this paragraph (k), at least 60 days prior to commencing cable service. After July 31, 2020, the cable operator must send such notification by electronic delivery in accordance with § 76.1600. Commercial broadcast stations must notify the cable system within 30 days of the receipt of such notice of their election for either must-carry or retransmission consent with respect to such new cable system. If the commercial broadcast station elects must-carry, it must also indicate its channel position in its election statement to the cable system. Such election shall remain valid for the remainder of any three-year election interval, as established in paragraph (f)(2) of this section. Noncommercial educational broadcast stations should notify the cable operator of their request for carriage and their channel position. The new cable system must notify each station if its signal quality does not meet the standards for carriage and if any copyright liability would be incurred for the carriage of such signal. Pursuant to § 76.57(e), a commercial broadcast station which fails to respond to such a notice shall be deemed to be a must-carry station for the remainder of the current three-year election period.

* * * * *

■ 7. Amend § 76.66 by revising paragraphs (d)(1)(vi) introductory text and (d)(2)(ii), (v), and (vi), (d)(3)(iv), (d)(5)(i) introductory text, (f)(3) and (4), and (h)(5) to read as follows:

§ 76.66 Satellite broadcast signal carriage.

* * * * *

(d) * * *

(1) * * *

(vi) Within 30 days of receiving a television station's carriage request, and subject to paragraph (d)(2)(ii) of this section, a satellite carrier shall notify in writing:

* * * * *

(2) * * *

(ii) Except as provided in this paragraph (d)(2)(ii), satellite carriers shall transmit the notices required by paragraph (d)(2)(i) of this section via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission. After July 31, 2020, the written notices required by paragraphs (d)(1)(vi), (d)(2)(i), (v), and (vi), (d)(3)(iv), (d)(5)(i), (f)(3) and (4), and (h)(5) of this section shall be delivered electronically via email to the email address for carriage-related questions that the station lists in its public file in accordance with §§ 73.3526 and 73.3527 of this title.

* * * * *

(v) Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry. After July 31, 2020, the written notices required by this paragraph (d)(2)(v) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage. After July 31, 2020, the written notices required by this paragraph (d)(2)(vi) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(3) * * *

(iv) Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station. After July 31, 2020, the written notices required by this paragraph (d)(3)(iv) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(5) * * *

(i) Beginning with the election cycle described in paragraph (c)(2) of this section, the retransmission of significantly viewed signals pursuant to § 76.54 by a satellite carrier that provides local-into-local service is subject to providing the notifications to stations in the market pursuant to paragraphs (d)(5)(i)(A) and (B) of this section, unless the satellite carrier was retransmitting such signals as of the date these notifications were due. After July 31, 2020, the written notices required by this paragraph (d)(5)(i) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(f) * * *

(3) Except as provided in paragraph (d)(2) of this section, a satellite carrier providing local-into-local service must notify local television stations of the location of the receive facility by June 1, 2001 for the first election cycle and at least 120 days prior to the commencement of all election cycles thereafter. After July 31, 2020, the written notices required by this paragraph (f)(3) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

(4) A satellite carrier may relocate its local receive facility at the commencement of each election cycle. A satellite carrier is also permitted to relocate its local receive facility during the course of an election cycle, if it bears the signal delivery costs of the television stations affected by such a move. A satellite carrier relocating its local receive facility must provide 60 days notice to all local television stations carried in the affected television market. After July 31, 2020, the written notices required by this paragraph (f)(4) shall be delivered to stations electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

(h) * * *

(5) A satellite carrier shall provide notice to its subscribers, and to the affected television station, whenever it adds or deletes a station's signal in a particular local market pursuant to this paragraph (h)(5). After July 31, 2020, the required notice to the affected television station shall be delivered to the station electronically in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

■ 8. Amend § 76.1600 by adding paragraph (e) to read as follows:

§ 76.1600 Electronic delivery of notices.

* * * * *

(e) After July 31, 2020, written information provided by cable operators to broadcast stations pursuant to §§ 76.64(k), 76.1601, 76.1607, 76.1608, 76.1609, and 76.1617 must be delivered electronically to full-power and Class A television stations via email to the email address for carriage-related questions that the station lists in its public file in accordance with §§ 73.3526 and 73.3527 of this title, or in the case of low power television stations and noncommercial educational translator stations that are entitled to such notices, to the licensee's email address (not a contact representative's email address, if

different from the licensee's email address) as displayed publicly in the Licensing and Management System (LMS) or the primary station's carriage-related email address if the noncommercial educational translator station does not have its own email address listed in LMS.

■ 9. Revise § 76.1607 to read as follows:

§ 76.1607 Principal headend.

A cable operator shall provide written notice to all stations carried on its system pursuant to the must-carry rules in this subpart at least 60 days prior to any change in the designation of its principal headend. Such written notice shall be provided by certified mail, except that after July 31, 2020, notice shall be provided to stations by electronic delivery in accordance with § 76.1600.

■ 10. Revise § 76.1608 to read as follows:

§ 76.1608 System technical integration requiring uniform election of must-carry or retransmission consent status.

A cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems must give 90 days notice of its intention to do so to any television broadcast stations that have elected must-carry status with respect to one system and retransmission consent status with respect to the other. After July 31, 2020, such notice shall be delivered to stations electronically in accordance with § 76.1600. If the system and the station do not agree on a uniform election 45 days prior to integration, the cable system may require the station to make such a uniform election 30 days prior to integration.

■ 11. Revise § 76.1609 to read as follows:

§ 76.1609 Non-duplication and syndicated exclusivity.

Within 60 days following the provision of service to 1,000 subscribers, the operator of each such system shall file a notice to that effect with the Commission, and serve a copy of that notice on every television station that would be entitled to exercise network non-duplication protection or syndicated exclusivity protection against it. After July 31, 2020, in lieu of serving paper copies on stations, the operator shall provide the required copies to stations by electronic delivery in accordance with § 76.1600.

■ 12. Amend § 76.1617 by revising paragraphs (a) and (c) to read as follows:

§ 76.1617 Initial must-carry notice.

(a) Within 60 days of activation of a cable system, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail, except that after July 31, 2020, notice shall be provided by electronic delivery in accordance with § 76.1600.

* * * * *

(c) Within 60 days of activation of a cable system, a cable operator must send a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system. Such written information shall be provided by certified mail, except that after July 31, 2020, such information shall be provided by electronic delivery in accordance with § 76.1600.

[FR Doc. 2020–05478 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403320–4891–02]

RTID 0648–XS028

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; 2020–2021 Recreational Fishing Season for Black Sea Bass

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

ACTION: Temporary rule; recreational season length.

SUMMARY: NMFS announces that the length of the recreational fishing season for black sea bass in the exclusive economic zone (EEZ) of the South Atlantic will extend throughout the species' 2020–2021 fishing year. Announcing the length of recreational season for black sea bass is one of the accountability measures (AMs) for the recreational sector. This announcement allows recreational fishers to maximize their opportunity to harvest the recreational annual catch limit (ACL) for black sea bass during the fishing season while managing harvest to protect the black sea bass resource.

DATES: This rule is effective from 12:01 a.m. eastern time on April 1, 2020, through March 31, 2021, unless changed by subsequent notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery includes black sea bass south of 35°15.9′ N latitude and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council prepared the FMP and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational fishing year for black sea bass is April 1 through March 31. The recreational AM for black sea bass requires that before the April 1 start date of each recreational fishing year, NMFS projects the length of the recreational fishing season based on when NMFS projects the recreational ACL will be met, and announces the recreational season end date in the **Federal Register** (50 CFR 622.193(e)(2)). The purpose of this AM is to have a more predictable recreational season length while still constraining harvest at or below the recreational ACL to protect the stock from experiencing adverse biological consequences.

The recreational ACL for the 2020–2021 black sea bass fishing year is 323,161 lb (146,583 kg) gutted weight, or 381,330 lb (172,968 kg) round weight. The recreational ACL was set through the final rule for Abbreviated Framework Amendment 2 to the FMP (84 FR 14021, April 9, 2019).

NMFS estimates that recreational landings for the 2020–2021 fishing year will be less than the 2020–2021 recreational ACL. To make this determination, NMFS compared recreational landings in the last 3 fishing years to the recreational ACL for the 2020–2021 black sea bass fishing year. Recreational landings in each of the past 3 fishing years have been substantially less than the 2020–2021 recreational ACL; therefore, recreational landings are projected to be less than the 2020–2021 recreational ACL. Accordingly, the recreational sector for black sea bass is not expected to close during the fishing year as a result of reaching its ACL, and the season end date for recreational fishing for black sea bass in the South Atlantic EEZ south of 35°15.9′ N latitude is March 31, 2021.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic black sea bass and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.193(e)(2) 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 responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement the notice of the recreational season length constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary. Such procedures are unnecessary, because the rule establishing the AM has already been subject to notice and comment and all that remains is to notify the public of the recreational season length.

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. 1801 *et seq.*

Dated: March 16, 2020.

Karyl K. Brewster-Geisz,

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

[FR Doc. 2020–05809 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 55
Friday, March 20, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0200; Product Identifier 2019–NM–185–AD]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2015–14–01, which applies to certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2015–14–01 requires a detailed inspection for loose bolts on the aft translating door crank assembly, and removal and reinstallation of the bolts. Since AD 2015–14–01 was issued, the FAA received a report that additional airplanes may be subject to the unsafe condition. In addition, the design of the translating door crank handle has been improved. This proposed AD would retain the inspections of AD 2015–14–01 and add airplanes to the applicability. For all airplanes, this proposed AD would also require a modification of the door crank handle, which would terminate the inspections. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0200; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0200; Product Identifier 2019–NM–185–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. The FAA will consider all comments received by the closing date and may amend this proposed AD based on those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this proposed AD.

Discussion

The FAA issued AD 2015–14–01, Amendment 39–18199 (80 FR 38615, July 7, 2015) (''AD 2015–14–01''), for certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2015–14–01 requires a detailed inspection for loose bolts on the aft translating door crank assembly, and removal and reinstallation of the bolts. AD 2015–14–01 resulted from a report of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft. The FAA issued AD 2015–14–01 to prevent loose bolts from falling out. If both bolts become loose or fall out after the door is closed and locked, the door cannot be opened from inside or outside, which could impede evacuation in the event of an emergency.

Actions Since AD 2015–14–01 was Issued

Since AD 2015–14–01 was issued, the FAA received a report that loose bolts were found on airplane serial numbers that were outside the applicability range. Further, the manufacturer reclassified the forward baggage door on some airplanes as an emergency exit, which is not subject to AD 2015–14–01. The FAA also received a report that the manufacturer has modified the design of the translating door crank handle to improve retention of the bolts.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2014–08R1, dated July 30, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400 series airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by

searching for and locating Docket No. FAA–2020–0200.

This proposed AD was prompted by reports of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft, and of sealant missing from these bolts on another translating door. The FAA is issuing this AD to address the potential for both bolts to become loose or fall out after the door is closed and locked, which would prevent the door from being opened from inside or outside and impede evacuation in the event of an emergency. See the MCAI for additional background information.

Related Service Information Under 1 CFR part 51

De Havilland Aircraft of Canada Limited has issued the following service information.

- Bombardier Service Bulletin 84–52–89, Revision A, dated January 29, 2018.
- Bombardier Service Bulletin 84–52–92, Revision A, dated January 24, 2018.
- Bombardier Service Bulletin 84–52–94, Revision A, dated January 24, 2018.

This service information describes procedures for modifying the door crank handle with an improved bolt retention design on the type 1 emergency door, the aft entry door, and the aft service door, as necessary. These documents are distinct since they apply to different airplane configurations.

De Havilland Aircraft of Canada Limited has also issued Bombardier Service Bulletin 84–52–96, dated February 26, 2019, which describes procedures for a detailed visual inspection of the translating door crank assembly for any loose bolts.

De Havilland Aircraft of Canada Limited has also issued Modification Summary Package IS4Q5200101, Revision A, dated July 5, 2019, which describes a deviation to the actions specified in certain service information.

This proposed AD would also require Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013, which the Director of the Federal Register approved for incorporation by reference as of August 11, 2015 (80 FR 38615, July 7, 2015).

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain the inspections of AD 2015–14–01. This proposed AD would require accomplishing the actions specified in the service information described previously.

Explanation of Change to Manufacturer's Name Specified in AD 2015–14–01

This NPRM identifies the manufacturer's name as published in the most recent type certificate data sheet for the affected models.

Costs of Compliance

The FAA estimates that this proposed AD affects 59 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 13 work-hours × $85 per hour = $1,105	Up to $677	Up to $1,782	Up to $105,138.

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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–14–01, Amendment 39–18199 (80 FR 38615, July 7, 2015), and adding the following new AD:

De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by

Bombardier, Inc.) Airplanes: Docket No. FAA–2020–0200; Product Identifier 2019–NM–185–AD.

(a) Comments Due Date

The FAA must receive comments by May 4, 2020.

(b) Affected ADs

This AD replaces AD 2015–14–01, Amendment 39–18199 (80 FR 38615, July 7, 2015) (''AD 2015–14–01'').

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers (S/Ns) 4001 through 4530 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This proposed AD was prompted by reports of loose bolts that are intended to secure the translating door crank assembly to the outside handle shaft, and of sealant missing from these bolts on another translating door. The FAA is issuing this AD to address the potential for both bolts to become loose or fall out after the door is closed and locked, which would prevent the door from being opened from inside or outside and impede evacuation in the event of an emergency.

(f) Compliance

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

(g) Inspection and Corrective Actions for S/Ns 4001 Through 4411 Inclusive

For airplane S/Ns 4001 through 4411 inclusive: Within 600 flight hours or 100 days, whichever occurs first after August 11, 2015 (the effective date of AD 2015–14–01): Perform a detailed inspection for loose bolts of the aft translating door crank assembly, in accordance with paragraph 3.B., ''Procedure,'' of Part A—INSPECTION of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013.

(1) If the detailed inspection was done before the effective date of this AD and the corrective action was done in accordance with 3.B., ''Procedure,'' and steps 3.C.(4) and 3.C.(5) of paragraph 3.C., ''Close Out,'' of Part B—RECTIFICATION, of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–75, dated July 27, 2012; or Bombardier Service Bulletin 84–52–75, Revision A, dated July 11, 2013: No further work is required by paragraph (g) of this AD.

(2) If the detailed inspection is done on or after the effective date of this AD, and any loose bolt is found: Before further flight, do the modification in paragraph (i) of this AD.

(h) Inspection and Modification for S/Ns 4412 Through 4491 Inclusive

For airplane S/Ns 4412 through 4491 inclusive: Within 800 flight hours or 120 days, whichever occurs first after the effective date of this AD, perform a detailed inspection for loose bolts of the translating door crank assembly, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–96, dated February 26, 2019.

(1) If any loose bolt is found, before further flight do the modification specified in paragraph (i) of this AD.

(2) If no loose bolt is found, at the compliance time specified in paragraph (i) of this AD, do the modification specified in paragraph (i) of this AD.

(i) Modification for S/Ns 4001 Through 4530 Inclusive

For airplane S/Ns 4001 through 4530 inclusive: Except as required by paragraphs (g)(2) and (h)(1) of this AD, within 8,000 flight hours or 48 months, whichever occurs first after the effective date of this AD, modify the door crank handle with an improved bolt retention design on the type 1 emergency door, the aft entry door, and the aft service door, as applicable, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (i)(1) through (3) of this AD.

(1) For the aft entry door: Bombardier Service Bulletin 84–52–89, Revision A, dated January 29, 2018.

(2) For the aft service door: Bombardier Service Bulletin 84–52–92, Revision A, dated January 24, 2018.

(3) For the type 1 emergency door: Bombardier Service Bulletin 84–52–94, Revision A, dated January 24, 2018.

(j) Alternative Modification

For airplanes with de Havilland Modification Summary Package 4Q459324 incorporated for the cargo combi configuration: Accomplishing the modification in paragraph (i) of this AD using Bombardier Service Bulletin 84–52–89, Revision A, dated January 29, 2018; and Bombardier Service Bulletin 84–52–92, Revision A, dated January 24, 2018; as applicable; in combination with de Havilland Modification Summary Package IS4Q5200101, Revision A, dated July 5, 2019, also meets the requirement specified in paragraph (i) of this AD for the aft entry and aft service doors.

(k) Terminating Actions

Accomplishing the action required by paragraph (i) of this AD terminates the requirements of paragraphs (g) and (h) of this AD.

(l) Credit for Previous Actions

(1) This paragraph provides credit for actions required by the introductory text to paragraph (g) of this AD, if those actions were performed before August 11, 2015 (the effective date of AD 2015–14–01) using Bombardier Service Bulletin 84–52–75, dated July 27, 2012, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the modification of the applicable doors in paragraph (i) of this AD, if the modification was performed before the effective date of this AD using the applicable service information specified in paragraphs (l)(2)(i) through (iii) of this AD.

(i) Bombardier Service Bulletin 84–52–89, dated April 13, 2017.

(ii) Bombardier Service Bulletin 84–52–92, dated April 18, 2017.

(iii) Bombardier Service Bulletin 84–52–94, dated April 13, 2017.

(m) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2014–08R1, dated July 30, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0200.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on March 13, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05762 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0201; Product Identifier 2020–NM–007–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by reports of fatigue cracks on continuity fittings at the lower framing of the front windshield on airplanes on which a certain production modification has been embodied. Additional analysis showed that certain certification requirements for damage tolerance and fatigue are not met on airplanes in a certain post-production modification configuration. This proposed AD would require repetitive high frequency eddy current (HFEC) inspections of the central node windshield area for cracking, and applicable corrective actions if cracking is found, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0201.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0201; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0201; Product Identifier 2020–NM–007–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0005, dated January 13, 2020 (''EASA AD 2020–0005'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by reports of fatigue cracks on continuity fittings at the lower framing of the front windshield on airplanes on which Airbus Production Modification 22058 (which is included in Airbus Modification 21999) has been embodied. Additional analysis showed that certain certification requirements for damage tolerance and fatigue are not met on airplanes in a post-production Modification 22058 configuration. The FAA is proposing this AD to address this condition, which could lead to failure of the continuity fittings at the lower node of the windshield central frame, possibly resulting in decompression of the airplane and injury to occupants. See the MCAI for additional background information.

Related IBR Material Under 1 CFR part 51

EASA AD 2020–0005 describes procedures for repetitive HFEC inspections of the central node windshield area for cracking, and applicable corrective actions if cracking is found. The corrective actions include modification or repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another

country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0005 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0005 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0005 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0005 that is required for compliance with EASA AD 2020–0005 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0201 after the FAA final rule is published.

Explanation of Note 1 of EASA AD 2020–0005

Note 1 of EASA AD 2020–0005 states that, for certain airplanes, no further action is required by that AD up to the ''Publication Trigger.'' The ''Publication Trigger'' is the operation limit for the affected airplanes, which is specified in the Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 2-Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 07, dated June 13, 2018, (which is mandated by AD 2019–23–01, Amendment 39–19794 (84 FR 66579, December 5, 2019)). Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 2-Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 07, dated June 13, 2018, requires operators to contact Airbus for further instructions before they exceed the operation limit referenced as ''Publication Trigger.''

Costs of Compliance

The FAA estimates that this proposed AD affects 1,203 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
19 work-hours × $85 per hour = $1,615	$0	$1,615	$1,942,845

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $102,255, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION MODIFICATIONS *

Labor cost	Parts cost	Cost per product
1,122 work-hours × $85 per hour = $95,370	$316,043	$411,413

* The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition repairs specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to 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 current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0201; Product Identifier 2020–NM–007–AD.

(a) Comments Due Date

The FAA must receive comments by May 4, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0005, dated January 13, 2020 (''EASA AD 2020–0005'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of fatigue cracks on continuity fittings at the lower framing of the front windshield on airplanes on which Airbus Production Modification 22058 (which is included in Airbus Modification 21999) has been embodied. Additional analysis showed that certain certification requirements for damage tolerance and fatigue are not met on airplanes in a post-production Modification 22058 configuration. The FAA is issuing this AD to address this condition, which could lead to failure of the continuity fittings at the lower node of the windshield central frame, possibly resulting in decompression of the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0005.

(h) Exceptions to EASA AD 2020–0005

(1) Where EASA AD 2020–0005 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0005 does not apply to this AD.

(3) Paragraph (8) of EASA AD 2020–0005 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2020–0005 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not 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 current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD; the nature and extent of confidentiality to be provided, if any. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal

Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

(1) For information about EASA AD 2020–0005, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0201.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

Issued on March 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05485 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1113; Project Identifier MCAI–2019–00117–E]

RIN 2120–AA64

Airworthiness Directives; Austro Engine GmbH Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Austro Engine GmbH model E4 and E4P diesel piston engines. This proposed AD was prompted by reports of considerable wear of the timing chain and failure of fuel injectors on these engines. This proposed AD would require replacement of the timing chain and fuel injectors on the affected Austro Engine GmbH model E4 and E4P diesel piston engines. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202 493 2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12 140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria; phone: +43 2622 23000; fax: +43 2622 23000–2711; website: *www.austroengine.at.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1113; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–1113; Project Identifier MCAI–2019–00117–E'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

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 comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0041, dated February 25, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> The airworthiness limitations and maintenance tasks for the Austro Engine E4 and E4P engines, which are approved by EASA, are currently defined and published in the Austro Engine MM, Chapter 04. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Austro Engine recently revised the ALS, introducing life limit for the engine timing chain and for the fuel injectors.
>
> For the reason described above, this [EASA] AD requires accomplishment of the actions specified in the ALS.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1113.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Austro Engine Mandatory Service Bulletin (MSB) No. MSB–E4–025, Rev. No. 3, dated January 8, 2019. The MSB describes procedures for replacing the fuel injectors. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed Austro Engine Maintenance Manual (MM) Temporary Revision (TR) MM–TR–MDC–E4–454, dated October 3, 2018. The MM TR updates the time limits for the fuel injectors and timing chain and describes procedures for updating the Airworthiness Limitation Section in the existing approved MM.

FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because it evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require replacement of the timing chain and fuel injectors on the affected Austro Engine GmbH model E4 and E4P diesel piston engines.

Differences Between This Proposed AD and the MCAI

EASA AD 2019–0041, dated February 25, 2019, requires replacing components included in the revised ALS and updating the approved Aircraft Maintenance Program (AMP). This AD requires replacing the timing chain and the fuel injectors and does not require updating the AMP.

Costs of Compliance

The FAA estimates that this proposed AD affects 263 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace the timing chain	2.5 work-hours × $85 per hour = $212.50	$2,980	$3,192.50	$839,627.50
Replace the fuel injectors	2.5 work-hours × $85 per hour = $212.50	$2,590	$2,802.50	$737,057.50

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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Austro Engine GmbH: Docket No. FAA–2019–1113; Project Identifier MCAI–2019–00117–E.

(a) Comments Due Date

The FAA must receive comments by May 4, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Austro Engine GmbH Model E4 and E4P diesel piston engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7322, Fuel Control/Reciprocating Engines and Code 8520, Reciprocating Engine Power Section.

(e) Unsafe Condition

This AD was prompted by reports of considerable wear of the timing chain and failure of fuel injectors on the affected engines. The FAA is issuing this AD to prevent failure of the timing chain and fuel injectors. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For engines that have had a windmill restart before the effective date of this AD or for engines with a timing chain in which it cannot be determined if the engine has experienced any windmilling, after the effective date of this AD, remove the timing chain and replace with a part eligible for

installation as follows, whichever occurs later:

(i) Before the timing chain exceeds 900 flight hours (FHs) since new, or;

(ii) Within 100 FHs after the windmilling restart, or;

(iii) Before further flight.

(2) For engines that have a windmill restart after the effective date of this AD, remove the timing chain before it exceeds 900 FHs since new or within 100 FHs after the windmilling restart, whichever occurs later, and replace with a part eligible for installation.

(3) Remove the fuel injectors and replace with parts eligible for installation before they exceed 900 FHs since new or before further flight after the effective date of this AD, whichever occurs later.

(i) Use Accomplishment/Instructions, paragraph 2.1, of Austro Engine Mandatory Service Bulletin (MSB) No. MSB–E4–025, Rev. No. 3, dated January 8, 2019, to perform the required actions in paragraph (g)(3) of this AD.

(ii) [Reserved]

(4) Thereafter, repeat the replacement of the fuel injectors required by paragraph (g)(3) of this AD at intervals not exceeding 900 FHs since new.

(h) Non-Required Actions

The tagging and returning of the removed fuel injectors to the manufacturer, referenced in the Accomplishment/Instructions, paragraph 2.1, of Austro Engine MSB No. MSB–E4–025, Rev. No. 3, dated January 8, 2019, are not required by this AD.

(i) Credit for Previous Actions

You may take credit for the replacement of the timing chain that is required by paragraph (g)(1) of this AD if you performed this replacement before the effective date of this AD using Austro Engine MSB No. MSB–E4–017/2, Revision 2, dated December 2, 2016.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0041, dated February 25, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2019–1113.

(3) For Austro Engine GmbH service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria; phone: +43 2622 23000; fax: +43 2622 23000–2711; website: *www.austroengine.at.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued on March 11, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05292 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0202; Product Identifier 2020–NM–025–AD]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170 airplanes and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This proposed AD was prompted by reports of cracks discovered on the engine pylon inboard lower link lugs. This proposed AD would require repetitive detailed inspections of the engine inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary, as specified in an Agência Nacional de Aviação Civil (ANAC) Brazilian AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 4, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n°209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0202; Product

Identifier 2020–NM–025–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The ANAC, which is the aviation authority for Brazil, has issued Brazilian AD 2020–01–02, effective January 28, 2020 (''Brazilian AD 2020–01–02'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 SU, –200 STD, and –200 LL airplanes; and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –100 SR, –200 STD, –200 LR, and –200 IGW airplanes. Model ERJ 190–100 SR airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

This proposed AD was prompted by reports of cracking on the left hand (LH) and right hand (RH) sides of engine pylon inboard lower link lugs. The FAA is proposing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

ANAC Brazilian AD 2020–01–02 describes procedures for repetitive detailed inspections of LH and RH inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in Brazilian AD 2020–01–02 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and the European Union Aviation Safety Agency (EASA) to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, Brazilian AD 2020–01–02 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Brazilian AD 2020–01–02 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in Brazilian AD 2020–01–02 that is required for compliance with Brazilian AD 2020–01–02 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 659 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$168,045

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost on U.S. operators of reporting the inspection results to be $56,015, or $85 per product.

The FAA has received no definitive data that would enable the FAA to provide cost estimates for the on-condition actions specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to 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 current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes: Docket No. FAA–2020–0202; Product Identifier 2020–NM–025–AD.

(a) Comments Due Date

The FAA must receive comments by May 4, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Yaborã Indústria Aeronáutica S.A. (Type certificate previously held by Embraer S.A.) airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category, as identified in Brazilian AD 2020–01–02, effective January 28, 2020 (''Brazilian AD 2020–01–02'').

(1) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 SU, –200 STD, and –200 LL airplanes.

(2) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by reports of cracking on the left hand (LH) and right hand (RH) sides of engine pylon inboard lower link lugs. The FAA is issuing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Brazilian AD 2020–01–02.

(h) Exceptions to Brazilian AD 2020–01–02

(1) Where Brazilian AD 2020–01–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Brazilian AD 2020–01–02 requires contacting ''the ANAC [Agência Nacional de Aviação Civil] and Embraer . . . to approve an adequate repair,'' for this AD, obtain repair instructions using the procedures specified in paragraph (i)(2) of this AD and do the repair.

(3) The ''Alternative methods of compliance (AMOCs)'' section of Brazilian AD 2020–01–02 does not apply to this AD.

(4) Paragraph (e) of Brazilian AD 2020–01–02 specifies to report inspection results to ANAC and Yaborã Indústria Aeronáutica within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not 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 current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD; the nature and extent of confidentiality to be provided, if any. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Related Information

(1) For information about Brazilian AD 2020–01–02, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n°209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/*

DAE.asp. You may view this material 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. This material may also be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0202.

(2) For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov.*

Issued on March 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05486 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0334; Product Identifier 2017–SW–133–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Bell Helicopter Textron Canada Limited (BHTC) Model 429 helicopters. This proposed AD would require repetitive inspections of certain cyclic and collective assembly bearings. This proposed AD is prompted by reports that precipitation can lead to reduced effectiveness of the grease in the bearings. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 19, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0334; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the Transport Canada Civil Aviation (Transport Canada) AD, any comments received, and other information. The street address for the Docket Operations Office is listed above. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 450–437–2862 or 800–363–8023; fax 450–433–0272; or at *https://www.bellcustomer.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Discussion

Transport Canada, which is the aviation authority for Canada, has issued Canadian AD No. CF–2016–11R2, dated October 18, 2017, to correct an unsafe condition for BHTC Model 429 helicopters equipped with a bellcrank assembly part number (P/N) 429–001–523–101, 429–001–523–103, 429–001–532–101 or 429–001–532–103.

Transport Canada advises that in-service reports show that bearings in the roof-mounted flight control bellcranks are adversely affected by precipitation. Pooling can occur at the forward portion of the roof, providing a source of contamination for bearings in the roof-mounted flight controls. Precipitation may reduce the effectiveness of the grease in the bearings, allowing corrosion to occur, and resulting in intermittent restrictions, such as binding and roughness in the flight controls, Transport Canada advises. Transport Canada also advises that an undetected corroded bearing could lead to restrictions in the collective, directional, or pitch control systems, resulting in difficulty controlling the helicopter.

Transport Canada consequently requires within 12 months after the helicopter was manufactured and thereafter at intervals not to exceed 6 months, inspecting the flight controls and replacing any discrepant bearings. If the helicopter's age exceeds 12 months, Transport Canada requires the 12-month inspection within 30 days. Transport Canada also requires, within 30 days, performing a functional check and replacement, if applicable, of the bearings if the most recent functional check of the helicopter was performed with the alternate procedure of using a hydraulic test stand or if the inspection method is unknown.

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is

likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed Bell Helicopter Alert Service Bulletin 429–15–21, Revision B, dated May 11, 2017 (ASB), which specifies moving the cyclic stick fore, aft, and laterally, and the collective stick up and down from stop to stop to detect deteriorated pivot bearings. The ASB also specifies inspecting to determine whether the bearings in the collective, lateral, and longitudinal arm assemblies rotate freely. If discrepant arm bearings are found, the ASB specifies contacting BHTC Product Support Engineering to report the findings and replacing the discrepant parts with serviceable parts.

Proposed AD Requirements

This proposed AD would require within 12 months after the helicopter was manufactured or 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6 months:

- Disconnecting the forward ends of the collective control tube, longitudinal stability and control augmentation system (SCAS) actuator, and lateral SCAS actuator and stowing the collective control tube and each SCAS actuator to prevent binding.
- Slowly moving the cyclic fore/aft and laterally, and the collective up/down from stop to stop to determine if there is any roughness. If there is any roughness in the flight control system, before further flight, replace the six pivot bearings in the collective/lateral bellcrank assembly and the longitudinal bellcrank assembly.
- Inspecting each arm end bearing at the end of the collective, lateral, and longitudinal arm assemblies by rotating each bearing and ensuring each bearing rotates freely. If there is any binding in any arm end bearing or on the longitudinal bellcrank assembly, before further flight, replace each arm end bearing.

Differences Between This Proposed AD and the Transport Canada AD

Transport Canada provides requirements if the most recent functional procedure was performed using a hydraulic test stand as an alternate procedure. This AD provides no such alternate procedure.

Interim Action

The FAA considers this proposed AD to be an interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this proposed AD would affect 64 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, the FAA expects the following costs:

- Inspecting the cyclic and the collective for roughness would require 3 work-hours and no parts for a total cost of $255 per helicopter, and $16,320 for the U.S. fleet.
- Replacing six pivot bearings would require 3 work-hours for a labor cost of $255. Parts would cost $624 for a total cost of $879 per helicopter.
- Replacing 3 arm end bearings would require 3 work-hours for a labor cost of $255. Parts would cost $135 for a total cost of $390 per helicopter.

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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada Limited: Docket No. FAA–2018–0334; Product Identifier 2017–SW–133–AD.

(a) Applicability

This AD applies to Bell Helicopter Textron Canada Limited (BHTC) Model 429 helicopters with a bellcrank assembly part number (P/N) 429–001–523–101, 429–001–523–103, 429–001–532–101 or 429–001–532–103 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as precipitation in the forward portion of the roof structure that can lead to pooling at the bellcrank assembly and corrosion of the bearings. This condition could result in restrictions in the collective, directional or pitch control systems, and subsequent loss of helicopter control.

(c) Comments Due Date

The FAA must receive comments by May 19, 2020.

(d) Compliance

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

(e) Required Actions

Within 12 months after the helicopter was manufactured or 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6 months:

(1) Disconnect the forward ends of the collective control tube, longitudinal stability and control augmentation system (SCAS) actuator, and lateral SCAS actuator. Stow the collective control tube and each SCAS actuator to prevent binding.

(2) Slowly move the cyclic stick fore/aft and laterally, and the collective stick up/down from stop to stop to determine if there is any roughness. If there is any roughness in the flight control system, before further flight, replace all six pivot bearings, P/N MS27646–41, in the collective lateral bellcrank assembly and the longitudinal bellcrank assembly.

(3) Inspect the collective arm assembly P/N 429–001–525–101, the lateral arm assembly P/N 429–001–527–101, and the longitudinal arm assembly P/N 429–001–530–101, by rotating each bearing and ensuring each bearing rotates freely. If there is any binding in any arm end bearing or on the longitudinal bellcrank assembly, before further flight, replace each arm end bearing.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

(1) Bell Helicopter Alert Service Bulletin 429–15–21, Revision B, dated May 11, 2017, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone 450–437–2862 or 800–363–8023; fax 450–433–0272; or at *https://www.bellcustomer.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in Transport Canada Civil Aviation (Transport Canada) AD No. CF–2016–11R2, dated October 18, 2017. You may view the Transport Canada AD on the internet at *https://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2700, Flight Control System.

Issued on March 11, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–05379 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2018–9]

Registration Modernization

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Statement of policy and notification of inquiry; extension of comment period.

SUMMARY: The U.S. Copyright Office is extending the deadline for the submission of written comments in response to its March 3, 2020, statement of policy and notification of inquiry regarding registration modernization.

DATES: The comment period for the notification of inquiry published March 3, 2020, at 85 FR 12704, is extended. Written comments must be received no later than 11:59 p.m. Eastern Time on June 1, 2020.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office's website at *https://www.copyright.gov/rulemaking/online-publication/.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, *regans@copyright.gov;* Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, *rkas@copyright.gov;* Kevin Amer, Deputy General Counsel, *kamer@copyright.gov;* Erik Bertin, Deputy Director of Registration Policy and Practice, *ebertin@copyright.gov;* or Jalyce E. Mangum, Attorney-Advisor, *jmang@copyright.gov.* They can be reached by telephone at 202–707–3000.

SUPPLEMENTARY INFORMATION: Following an extensive public inquiry,[1] on March 3, 2020, the U.S. Copyright Office issued a statement of policy and notification of inquiry announcing several intended practice updates to be adopted with the deployment of a new Enterprise Copyright System (ECS) and soliciting further comment on additional proposed reforms under consideration. 85 FR 12704 (Mar. 3, 2020).

To ensure that members of the public have sufficient time to comment, and to ensure that the Office has the benefit of a complete record, the Office is extending the deadline for the submission of comments to no later than 11:59 p.m. Eastern Time on June 1, 2020.

Dated: March 13, 2020.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2020–05696 Filed 3–19–20; 8:45 am]

BILLING CODE 1410–30–P

[1] Registration Modernization, 83 FR 52336 (Oct. 17, 2018).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0686; FRL–10006–62–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-By-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 26 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rulemaking action, EPA is only proposing to approve source-specific (also referred to as ''case-by-case'') RACT determinations for 19 of the 26 major sources submitted by PADEP. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0686 at *https://www.regulations.gov,* or via email to *opila.marycate@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ms. Emily Bertram, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5273. Ms. Bertram can also be reached via electronic mail at *bertram.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 31, 2019 EPA proposed to approve 21 case-by-case RACT determinations for sources in Pennsylvania (Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards; Part 1; 84 FR 37167 (July 31, 2019)). On August 30, 2019, the last day of the comment period, EPA became aware through a comment submitted to *Regulations.gov* that one of the files contained in the SIP submission—which EPA made public in the docket for that rulemaking proposing to approve the submission (Docket No. EPA–R03–OAR–2017–0290–0064)—contained potential CBI. EPA restricted public access in *Regulations.gov* to that file containing potential CBI the same day, prior to the end of the comment period. On September 30, 2019, EPA became aware through additional comments submitted to *Regulations.gov* during the comment period that additional potential CBI was contained in other files EPA had posted to Docket No. EPA–R03–OAR–2017–0290–0064. EPA restricted public access in *Regulations.gov* to the entire docket that same day. In accordance with EPA's CBI regulations at 40 CFR part 2, subpart B, EPA has contacted each business affected by the inclusion of potential CBI in the docket files to inform them that potential CBI was made publicly available on *Regulations.gov*, and afforded each business an opportunity to assert a claim of business confidentiality for any of their information posted by EPA to Docket No. EPA–R03–OAR–2017–0290–0064.

EPA is now proposing to approve 19 of the 21 Pennsylvania case-by-case RACT determinations in this new rulemaking.[1] EPA has established a docket for this new rulemaking that does not include any materials claimed as CBI (Docket ID No. EPA–R03–OAR–2019–0686). Commenters must submit any comments they have on EPA's proposed approval of these 19 case-by-case RACT determinations to this new docket number. Because this is a new rulemaking, EPA will not consider any comments on its prior proposal made at Docket ID No. EPA–R03–OAR–2017–0290–0064. Any prior comments will need to be resubmitted to Docket ID No. EPA–R03–OAR–2019–0686 during the comment period for this proposed rulemaking for EPA to consider them. The commenters are reminded that their comments should not include or rely on any information considered to be CBI or other information whose disclosure is restricted by statute. If a comment includes any CBI or other restricted information, EPA will redact the comment or withhold from the public docket those submissions (or those portions containing the restricted information) as appropriate.

On multiple dates, PADEP submitted multiple revisions to its SIP to address case-by-case NO_X and/or VOC RACT for 26 major facilities. These SIP revisions are intended to address the NO_X and/or VOC RACT requirements under sections 182 and 184 of the CAA for the 1997 and 2008 8-hour ozone NAAQS. Table 1 below lists each SIP submittal date and the facilities included in its submittals. Although submitted in multiple packages by PADEP, EPA views each facility as a separable SIP revision and may take separate final action on one or more facilities. In this rulemaking action, EPA is only proposing to approve case-by-case RACT determinations for 19 of the 26 sources submitted to EPA by PADEP. The remaining seven major sources are either now exempt from the source-specific RACT requirements or will be acted on in a future rulemaking action, once resubmitted to EPA by PADEP.

For additional background information on Pennsylvania's ''presumptive'' RACT II SIP see 84 FR 20274 (May 9, 2019) and on Pennsylvania's source-specific or ''case-by-case'' RACT determinations see the appropriate technical support document (TSD) which is available online at *https://www.regulations.gov,* Docket No. EPA–R03–OAR–2019–0686.

TABLE 1—PADEP SIP SUBMITTALS FOR MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO SOURCE–SPECIFIC RACT UNDER THE 1997 AND 2008 8-HOUR OZONE STANDARD

SIP submittal date	Major source (county)
8/14/2017	Exelon Generation—Fairless Hills (Bucks).
11/21/2017	The Boeing Co. (Delaware).
	Cherokee Pharmaceuticals, LLC (Northumberland).
	Dominion Transmission—Finnefrock Station (Clinton).[a]
	First Quality Tissue, LLC (Clinton).
	JW Aluminum Company (Lycoming).
	Transco—Salladasburg Station 520 (Lycoming).[b]

[1] In this action, EPA is proposing approval of 19 of the 21 sources it proposed approval of on July 31, 2019. EPA will take action on the remaining two facilities in a different rulemaking action.

TABLE 1—PADEP SIP SUBMITTALS FOR MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO SOURCE–SPECIFIC RACT UNDER THE 1997 AND 2008 8-HOUR OZONE STANDARD—Continued

SIP submittal date	Major source (county)
	Ward Manufacturing, LLC (Tioga).
	Wood-Mode Inc. (Snyder).
4/26/2018	Foam Fabricators Inc. (Columbia).
	Novipax (Berks). [c]
	Resilite Sports Products Inc. (Northumberland).
	Sunoco Partners Marketing & Terminals (Delaware). [d]
	Texas Eastern—Bernville (Berks).
	Truck Accessories Group (Northumberland). [e]
6/26/2018	Texas Eastern—Shermans Dale (Perry).
	Texas Eastern—Perulack (Juniata).
	Texas Eastern—Grantville (Dauphin).
	NRG Energy Center Paxton, LLC (Dauphin).
	Texas Eastern—Bechtelsville (Berks).
	Merck, Sharp & Dohme Corporation (Montgomery). [f]
10/29/2018	Containment Solutions/Mt. Union Plant (Huntingdon).
	Armstrong World Ind./Marietta Ceiling Plant (Lancaster).
	Jeraco Enterprises Inc. (Northumberland).
	Global Advanced Metals USA Inc. (Montgomery). [g]
	Blommer Chocolate Company (Montgomery).

[a] Dominion Transmission—Finnefrock Station was withdrawn from EPA consideration on August 27, 2018. PADEP determined this source was no longer subject to source-specific RACT requirements for the 1997 and 2008 8-hour ozone NAAQS.
[b] Transco—Salladasburg Station 520 will be acted on in a future rulemaking action.
[c] Novipax will be acted on in a future rulemaking action.
[d] —Sunoco Partners Marketing and Terminal will be acted on in a future rulemaking action.
[e] Truck Accessories Group was withdrawn from EPA consideration on July 11, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.
[f] Merck, Sharp & Dohme Corporation was withdrawn from EPA consideration on July 11, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.
[g] Global Advanced Metals USA Inc. will be acted on in a future rulemaking action.

I. Background

A. 1997 and 2008 8-Hour Ozone NAAQS

Ground level ozone is not emitted directly into the air but is created by chemical reaction between NO_X and VOC in the presence of sunlight. Emissions from industrial facilities, electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOC. Breathing ozone can trigger a variety of health problems, particularly for children, the elderly, and people of all ages who have lung diseases such as asthma. Ground level ozone can also have harmful effects on sensitive vegetation and ecosystems.

On July 18, 1997, EPA promulgated a standard for ground level ozone based on 8-hour average concentrations. 62 FR 38856. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. EPA has designated two moderate nonattainment areas in Pennsylvania under the 1997 8-hour ozone NAAQS, namely Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE (the Philadelphia Area) and Pittsburgh-Beaver Valley (the Pittsburgh Area). See 40 CFR 81.339.

On March 12, 2008, EPA strengthened the 8-hour ozone standards, by revising its level to 0.075 ppm averaged over an 8-hour period (2008 8-hour ozone NAAQS). On May 21, 2012, EPA designated five marginal nonattainment areas in Pennsylvania for the 2008 8-hour ozone NAAQS: Allentown-Bethlehem-Easton, Lancaster, Reading, the Philadelphia Area, and the Pittsburgh Area. 77 FR 30088; see also 40 CFR 81.339.

On March 6, 2015, EPA announced its revocation of the 1997 8-hour ozone NAAQS for all purposes and for all areas in the country, effective on April 6, 2015. 80 FR 12264. EPA has determined that certain nonattainment planning requirements continue to be in effect under the revoked standard for nonattainment areas under the 1997 8-hour ozone NAAQS, including RACT.

B. RACT Requirements for Ozone

The CAA regulates emissions of NO_X and VOC to prevent photochemical reactions that result in ozone formation. RACT is an important strategy for reducing NO_X and VOC emissions from major stationary sources within areas not meeting the ozone NAAQS.

Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment planning requirements of CAA section 172. Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for demonstrating attainment of all NAAQS, including emissions reductions from existing sources through the adoption of RACT. Further, section 182(b)(2) of the CAA sets forth additional RACT requirements for ozone nonattainment areas classified as moderate or higher.

Section 182(b)(2) of the CAA sets forth requirements regarding RACT for the ozone NAAQS for VOC sources. Section 182(f) subjects major stationary sources of NO_X to the same RACT requirements applicable to major stationary sources of VOC.[2]

Section 184(b)(1)(B) of the CAA applies the RACT requirements in section 182(b)(2) to nonattainment areas classified as marginal and to attainment areas located within ozone transport regions established pursuant to section 184 of the CAA. Section 184(a) of the CAA established by law the current Ozone Transport Region (OTR) comprised of 12 eastern states, including Pennsylvania. This

[2] A ''major source'' is defined based on the source's potential to emit (PTE) of NO_X or VOC, and the applicable thresholds for RACT differs based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

requirement is referred to as OTR RACT. As noted previously, a ''major source'' is defined based on the source's PTE of NO_X, VOC, or both pollutants, and the applicable thresholds differ based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

Since the 1970's, EPA has consistently defined ''RACT'' as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.[3]

EPA has provided more substantive RACT requirements through implementation rules for each ozone NAAQS as well as through guidance. In 2004 and 2005, EPA promulgated an implementation rule for the 1997 8-hour ozone NAAQS in two phases (''Phase 1 of the 1997 Ozone Implementation Rule'' and ''Phase 2 of the 1997 Ozone Implementation Rule''). 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005), respectively. Particularly, the Phase 2 Ozone Implementation Rule addressed RACT statutory requirements under the 1997 8-hour ozone NAAQS. See 70 FR 71652.

On March 6, 2015, EPA issued its final rule for implementing the 2008 8-hour ozone NAAQS (''the 2008 Ozone SIP Requirements Rule''). 80 FR 12264. At the same time, EPA revoked the 1997 8-hour ozone NAAQS, effective on April 6, 2015.[4] The 2008 Ozone SIP Requirements Rule provided comprehensive requirements to transition from the revoked 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS, as codified in 40 CFR part 51, subpart AA, following revocation. Consistent with previous policy, EPA determined that areas designated nonattainment for both the 1997 and 2008 8-hour ozone NAAQS at the time of revocation, must retain implementation of certain nonattainment area requirements (*i.e.,* anti-backsliding requirements) for the 1997 8-hour ozone NAAQS as specified under section 182 of the CAA, including RACT. See 40 CFR 51.1100(o). An area remains subject to the anti-backsliding requirements for a revoked NAAQS until EPA approves a redesignation to attainment for the area for the 2008 8-hour ozone NAAQS. There are no effects on applicable requirements for areas within the OTR, as a result of the revocation of the 1997 8-hour ozone NAAQS. Thus, Pennsylvania, as a state within the OTR, remains subject to RACT requirements for both the 1997 8-hour ozone NAAQS and the 2008 8-hour ozone NAAQS.

In addressing RACT, the 2008 Ozone SIP Requirements Rule is consistent with existing policy and Phase 2 of the 1997 Ozone Implementation Rule. In the 2008 Ozone SIP Requirements Rule, EPA requires RACT measures to be implemented by January 1, 2017 for areas classified as moderate nonattainment or above and all areas of the OTR. EPA also provided in the 2008 Ozone SIP Requirements Rule that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations stating that there are no sources in the nonattainment area covered by a specific control technique guidelines (CTG) source category. In the preamble to the 2008 Ozone SIP Requirements Rule, EPA clarified that states must provide notice and opportunity for public comment on their RACT SIP submissions, even when submitting a certification that the existing provisions remain RACT or a negative declaration. States must submit appropriate supporting information for their RACT submissions, in accordance with the Phase 2 of the 1997 Ozone Implementation Rule. Adequate documentation must support that states have considered control technology that is economically and technologically feasible in determining RACT, based on information that is current as of the time of development of the RACT SIP.

In addition, in the 2008 Ozone SIP Requirements Rule, EPA clarified that states can use weighted average NO_X emissions rates from sources in the nonattainment area for meeting the major NO_X RACT requirement under the CAA, as consistent with existing policy.[5] EPA also recognized that states may conclude in some cases that sources already addressed by RACT determinations for the 1979 1-hour and/or 1997 8-hour ozone NAAQS may not need to implement additional controls to meet the 2008 8-hour ozone NAAQS RACT requirement. See 80 FR 12278–12279.

C. Applicability of RACT Requirements in Pennsylvania

As indicated earlier, RACT requirements apply to any ozone nonattainment areas classified as moderate or higher (serious, severe or extreme) under CAA sections 182(b)(2) and 182(f). Pennsylvania has outstanding ozone RACT requirements for both the 1997 and 2008 8-hour ozone NAAQS. The entire Commonwealth of Pennsylvania is part of the OTR established under section 184 of the CAA and thus is subject statewide to the RACT requirements of CAA sections 182(b)(2) and 182(f), pursuant to section 184(b).

At the time of revocation of the 1997 8-hour ozone NAAQS (effective April 6, 2015), only two moderate nonattainment areas remained in the Commonwealth of Pennsylvania for this standard, the Philadelphia and the Pittsburgh Areas. As required under EPA's anti-backsliding provisions, these two moderate nonattainment areas continue to be subject to RACT under the 1997 8-hour ozone NAAQS. Given its location in the OTR, the remainder of the Commonwealth is also treated as moderate nonattainment area under the 1997 8-hour ozone NAAQS for any planning requirements under the revoked standard, including RACT. The OTR RACT requirement is also in effect under the 2008 8-hour ozone NAAQS throughout the Commonwealth, since EPA did not designate any nonattainment areas above marginal for this standard in Pennsylvania. Thus, in practice, the same RACT requirements continue to be applicable in Pennsylvania for both the 1997 and 2008 8-hour ozone NAAQS. RACT must be evaluated and satisfied as separate requirements under each applicable standard.

RACT applies to major sources of NO_X and VOC under each ozone NAAQS or any VOC sources subject to CTG RACT. Which NO_X and VOC sources in Pennsylvania are considered ''major'' and are therefore subject to

[3] See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, ''Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,'' and also 44 FR 53762 (September 17, 1979).

[4] On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court) issued an opinion on the 2008 Ozone SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist.* v. *EPA*, No. 15–1115 (D.C. Cir. Feb. 16, 2018). The D.C. Cir. Court found certain parts reasonable and denied the petition for appeal on those. In particular, the D.C. Cir. Court upheld the use of NO_X averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. However, the Court also found certain other provisions unreasonable. The D.C. Cir. Court vacated the provisions it found unreasonable.

[5] EPA's NO_X RACT guidance ''Nitrogen Oxides Supplement to the General Preamble'' (57 FR 55625; November 25, 1992) encouraged states to develop RACT programs that are based on ''area wide average emission rates.'' Additional guidance on area-wide RACT provisions is provided by EPA's January 2001 economic incentive program guidance titled ''Improving Air Quality with Economic Incentive Programs,'' available at *http://www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf.* In addition, as mentioned previously, the D.C. Cir. Court recently upheld the use of NO_X averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. *South Coast Air Quality Mgmt. Dist.* v. *EPA*, No. 15–1115 (D.C. Cir. Feb. 16, 2018).

RACT is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the ''major source'' definitions established under the CAA. In the case of Pennsylvania, sources located in any areas outside of moderate or above nonattainment areas, as part of the OTR, shall be treated as if these areas were moderate.

In Pennsylvania, the SIP program is implemented primarily by the PADEP, but also by local air agencies in Philadelphia County (the City of Philadelphia's Air Management Services [AMS]) and Allegheny County, (the Allegheny County Health Department [ACHD]). These agencies have implemented numerous RACT regulations and source-specific measures in Pennsylvania to meet the applicable ozone RACT requirements. Historically, statewide RACT controls have been promulgated by PADEP in Pennsylvania Code Title 25—Environmental Resources, part I—Department of Environmental Protection, Subpart C—Protection of Natural Resources, Article III—Air Resources, (25 Pa. Code) Chapter 129. AMS and ACHD have incorporated by reference Pennsylvania regulations, but have also promulgated regulations adopting RACT controls for their own jurisdictions. In addition, AMS and ACHD have submitted separate source-specific RACT determinations as SIP revisions for sources within their respective jurisdictions, which have been approved by EPA. See 40 CFR 52.2020(d)(1).

States were required to make RACT SIP submissions for the 1997 8-hour ozone NAAQS by September 15, 2006. PADEP submitted a SIP revision on September 25, 2006, certifying that a number of previously approved VOC RACT rules continued to satisfy RACT under the 1997 8-hour ozone NAAQS for the remainder of Pennsylvania.[6] PADEP has met its obligations under the 1997 8-hour ozone NAAQS for its CTG and non-CTG VOC sources. See 82 FR 31464 (July 7, 2017). RACT control measures addressing all applicable CAA RACT requirements under the 1997 8-hour ozone NAAQS have been implemented and fully approved in the jurisdictions of ACHD and AMS. See 78 FR 34584 (June 10, 2013) and 81 FR 69687 (October 7, 2016). For the 2008 8-hour ozone NAAQS, states were required to submit RACT SIP revisions by July 20, 2014. On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. Specifically, the May 16, 2016 SIP submittal intended to satisfy sections 182(b)(2)(C), 182(f), and 184 of the CAA for both the 1997 and 2008 8-hour ozone NAAQS for Pennsylvania's major NO_X and VOC non-CTG sources, except ethylene production plants, surface active agents manufacturing, and mobile equipment repair and refinishing.[7]

D. EPA's Conditional Approval for Pennsylvania's RACT Requirements Under the 1997 and 2008 8-Hour Ozone NAAQS

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO_X RACT requirements under the CAA for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, Additional RACT Requirements for Major Sources of NO_X and VOCs (the ''presumptive'' RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_X and VOC control measures in 25 Pa. Code 129.92–95, Stationary Sources of NO_X and VOCs, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_X sources. The requirements of the RACT I rule remain in effect and continue to be implemented as RACT.[8] On September 26, 2017, PADEP submitted a supplemental SIP revision which committed to address various deficiencies identified by EPA in their May 16, 2016 ''presumptive'' RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on PADEP's September 26, 2017 commitment letter. See 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval, specifically May 9, 2020.

Therefore, as authorized in CAA section 110(k)(3) and (k)(4), Pennsylvania shall submit the following as case-by-case SIP revisions, by May 9, 2020, for EPA's approval as a condition of approval of 25 Pa. Code 128 and 129 in the May 16, 2016 SIP revision: (1) All facility-wide or system-wide averaging plans approved by PADEP under 25 Pa. Code 129.98 including, but not limited to, any terms and conditions that ensure the enforceability of the averaging plan as a practical matter (*i.e.,* any monitoring, reporting, recordkeeping, or testing requirements); and (2) all source-specific RACT determinations approved by PADEP under 25 Pa. Code 129.99, including any alternative compliance schedules approved under 25 Pa. Code 129.97(k) and 129.99(i); the case-by-case RACT determinations submitted to EPA for approval into the SIP should include any terms and conditions that ensure the enforceability of the case-by-case or source-specific RACT emission limitation as a practical matter (*i.e.,* any monitoring, reporting, recordkeeping, or testing requirements). See May 9, 2019 (84 FR 20274).

II. Summary of SIP Revisions

In order to satisfy a requirement from EPA's May 9, 2019 conditional approval, PADEP has submitted to EPA, SIP revisions addressing case-by-case RACT requirements for major sources in Pennsylvania subject to 25 Pa. Code 129.99. As noted in Table 1, on multiple dates PADEP submitted to EPA, five separate SIP revisions pertaining to Pennsylvania's case-by-case NO_X and/or VOC RACT determinations for 26 major sources located in the Commonwealth. PADEP provided documentation in its SIP revisions to support its case-by-case RACT determinations for affected emission units at each major source subject to 25 Pa. Code 129.99. Specifically, in these SIP submittals, PADEP evaluated a total of 26 major NO_X and/or VOC sources in Pennsylvania for case-by-case RACT.[9]

In the Pennsylvania RACT SIP revisions, PADEP included a case-by-case RACT determination for the existing emissions units at each of these major sources of NO_X and/or VOC that required a source specific RACT determination. In PADEP's RACT determinations an evaluation was completed to determine if previously SIP-approved, case-by-case RACT requirements (herein referred to as RACT I) were more stringent and

[6] The September 15, 2006 SIP submittal initially included Pennsylvania's certification of NO_X RACT regulations; however, NO_X RACT portions were withdrawn by PADEP on June 27, 2016.

[8] These requirements were initially approved as RACT for Pennsylvania under the 1979 1-hour ozone NAAQS.

[9] As noted previously, EPA, in this action, is proposing approval for 19 of the 26 case-by-case RACT determinations submitted by PADEP in the applicable five SIP revisions. See Table 1 for information specific to each SIP revision.

required to be retained in the sources Title V air quality permit and subsequently, the Federally-approved SIP, or if the new case-by-case RACT requirements are more stringent and replace the previous Federally-approved provisions.

EPA, in this action, is taking action on 19 major sources of NO_X and/or VOC in Pennsylvania, subject to Pennsylvania's case-by-case RACT requirements, as summarized in Table 2.

TABLE 2—NINETEEN MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major Source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO_X and/or VOC)	RACT II permit (effective date)
Exelon Generation—Fairless Hills (Bucks)	Yes	NO_X	09–00066 (01/27/17)
The Boeing Co. (Delaware)	Yes	NO_X and VOC	23–00009 (01/03/17)
Cherokee Pharmaceuticals, LLC (Northumberland)	Yes	VOC	49–00007 (04/24/17)
First Quality Tissue, LLC (Clinton)	No	VOC	18–00030 (09/18/17)
JW Aluminum Company (Lycoming)	No	VOC	41–00013 (03/01/17)
Ward Manufacturing, LLC (Tioga)	No	VOC	59–00004 (01/10/17)
Wood-Mode Inc. (Snyder)	Yes	VOC	55–00005 (07/12/17)
Foam Fabricators Inc. (Columbia)	No	VOC	19–00002 (12/20/17)
Resilite Sports Products Inc. (Northumberland)	Yes	VOC	49–00004 (08/25/17)
NRG Energy Center Paxton, LLC (Dauphin)	Yes	NO_X	22–05005 (03/16/18)
Containment Solutions/Mt. Union Plant (Huntingdon)	Yes	VOC	31–05005 (07/10/18)
Armstrong World Ind./Marietta Ceiling Plant (Lancaster)	Yes	VOC	36–05001 (06/28/18)
Jeraco Enterprises Inc. (Northumberland)	Yes	VOC	49–00014 (01/26/18)
Blommer Chocolate Company (Montgomery)	No	VOC	46–00198 (01/26/17)
Texas Eastern—Bernville (Berks)	Yes	VOC	06–05033 (03/16/18)
Texas Eastern—Shermans Dale (Perry)	Yes	NO_X	50–05001 (03/26/18)
Texas Eastern—Perulack (Juniata)	Yes	NO_X and VOC	34–05002 (03/27/18)
Texas Eastern—Grantville (Dauphin)	Yes	NO_X	22–05010 (03/16/18)
Texas Eastern—Bechtelsville (Berks)	Yes	NO_X	06–05034 (04/19/18)

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific control requirements, if any, satisfy RACT for that particular unit. The adoption of new or additional controls or the revisions to existing controls as RACT were specified as requirements in new or revised Federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. The RACT II permits, which revise or adopt additional source-specific controls, have been submitted as part of the Pennsylvania RACT SIP revisions for EPA's approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 2, along with the permit effective date, and are part of the docket for this rulemaking, which is available online at *https://www.regulations.gov,* Docket No. EPA–R03–OAR–2019–0686.[10] EPA is proposing to incorporate by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_X and VOC emissions.

[10] The RACT II permits are redacted versions of a facility's Federally enforceable permits and reflect the specific RACT requirements being approved into the Pennsylvania SIP.

III. EPA's Evaluation of SIP Revisions

After thorough review and evaluation of the information provided by PADEP in its five SIP revision submittals for 19 major sources of NO_X and/or VOC in Pennsylvania, EPA finds that PADEP's case-by-case RACT determinations and conclusions provided are reasonable and appropriately considered technically and economically feasible controls, while setting lowest achievable limits. EPA finds that the proposed source-specific RACT controls for the sources subject to this rulemaking action adequately meet the CAA RACT requirements for the 1997 and 2008 8-hour ozone NAAQS for the major sources of NO_X and/or VOC in Pennsylvania, as they are not covered by or cannot meet Pennsylvania's presumptive RACT regulation.

EPA also finds that all the proposed revisions to previously SIP approved RACT requirements, under the 1979 1-hour ozone standard (RACT I), as discussed in PADEP's SIP revisions, will result in equivalent or additional reductions of NO_X and/or VOC emissions and should not interfere with any applicable requirement concerning attainment or reasonable further progress with the NAAQS or interfere with other applicable CAA requirement in section 110(l) of the CAA.

EPA's complete analysis of PADEP's case-by-case RACT SIP revisions is included in the TSD available in the docket for this rulemaking action and available online at *https://www.regulations.gov,* Docket number EPA–R03–OAR–2019–0686.

IV. Proposed Action

Based on EPA's review, EPA is proposing to approve the Pennsylvania SIP revisions for the 19 case-by-case RACT facilities listed in Table 2 and incorporate by reference in the Pennsylvania SIP, via the RACT II permits, source specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_X and VOC emissions. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. As EPA views each facility as a separable SIP revision, should EPA receive comment on one facility but not others, EPA may take separate, final action on the remaining facilities.

V. 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 source specific RACT determinations

via the RACT II permits as described in Sections II and III—Summary of SIP Revisions and EPA's Evaluation of SIP Revisions. 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).

VI. 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, addressing the NO_X and VOC RACT requirements for 19 case-by-case facilities for the 1997 and 2008 8-hour ozone NAAQS, 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 5, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–05662 Filed 3–19–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0689; FRL–10006–14–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Permitting Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with section 110 of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by North Dakota on May 2, 2019. The revisions contain amendments to the State's Ambient Air Quality Standards, Permit to Construct, and Prevention of Significant Deterioration (PSD) regulations.

DATES: *Comments:* Written comments must be received on or before April 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0689, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8P–ARD–QP, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us'' or ''our'' is used, we mean the EPA.

I. Background

On May 2, 2019, the State of North Dakota submitted SIP revisions containing amendments to N.D. Admin. Code Chapter 33.1–15 (Air Pollution Control). The amendments address changes to the State's Ambient Air

Quality Standard for ozone and update the State's PSD rules and permit-to-construct rules. These revisions became effective as a matter of State law on January 1, 2019. We are proposing to approve all of these revisions, except for one provision described below that we are addressing in a separate action, and another provision that we are declining to act on in anticipation of a further State submittal.

II. Analysis of North Dakota's May 2, 2019 Submittal

A. Revisions to Chapter 33.1–15–15 (Prevention of Significant Deterioration of Air Quality)

North Dakota's May 2, 2019 submittal includes updates to the State's PSD regulations at 33.1–15–15–01.2. The current SIP-approved North Dakota rule incorporates by reference 40 CFR 52.21 paragraphs (a)(2) through (e), (h) through (r), (v), (w), (aa) and (bb), as of July 1, 2015. Since that date, the EPA has promulgated revisions to 40 CFR 52.21, in response to the *Utility Air Regulatory Group (UARG)* v. *EPA* decision addressing PSD permitting and greenhouse gas (GHG) emissions.[1] In *UARG,* the Supreme Court held that the EPA may not treat GHGs as air pollutants for purposes of determining whether a source is a major new source or modification required to obtain a PSD permit. The Court also held that the EPA could continue to require that PSD permits otherwise required based on emissions of non-GHG pollutants contain limits on GHG emissions based on the application of Best Available Control Technology (BACT). In response to the *UARG* decision, and to the subsequent Amended Judgment issued by the D.C. Circuit,[2] in August 2015 the EPA revised the federal PSD rules to remove provisions vacated by the court, including 40 CFR 52.21(b)(49)(v) and 40 CFR 51.166(b)(48)(v).[3] The May 2, 2019 submittal updates the State's incorporation by reference of 40 CFR 52.21 to reflect the federal rule as of July 1, 2018, which encompasses the EPA's 2015 revisions removing the vacated provisions.

North Dakota is also correcting the following typographical errors: (1) In section 33.1–15–15–01.2, the reference to 40 CFR 52.21(23)(i) is changed to 40 CFR 52.21(b)(23)(i); and (2) in section 33.1–15–15–01.2, the reference to 40 CFR 52.21(k)(l)(l) is changed to 40 CFR 52.21(k)(l)(i). In addition, in section 33.1–15–15–01.2, the ''substitute language'' for 40 CFR 52.21(w)(l) is deleted. That is, the State is removing previously approved language containing minor changes to the federal regulation at 40 CFR 52.21(w)(1), with the result that the federal regulation as written will be incorporated by reference into the State rules.

This SIP submittal also includes an amendment to section 33–15–15–01.2, addressing PSD modeling guidance by referring to 40 CFR part 51, appendix W (Guideline on Air Quality Models) as it existed on July 1, 2018. This supersedes a comparable provision in North Dakota's January 28, 2013 SIP submittal that referenced appendix W as of January 1, 2012. The EPA has not yet acted on that provision in the 2013 submittal and will not be taking action in it now that it has been superseded.[4] We have proposed to act in a separate rulemaking on the 2019 submittal's provision amending section 33–15–15–01.2, as it relates to updating the incorporation by reference date to July 1, 2018 to be consistent with the current 40 CFR 52.21(l)(1) provision.[5] Thus, we will not be acting on that revision in this proposed rulemaking.

B. Revisions to Chapter 33–15–14 (Designated Air Contaminant Sources, Permit To Construct, Minor Source Operating Permit, Title V Operating Permit)

In its 2013 submittal, North Dakota amended chapter 33–15–14–02, *Permit to Construct,* to include a general permit provision, and the EPA approved this rule as part of the SIP.[6] On November 11, 2016, the State submitted an amended general permit regulation that included public participation language required by EPA regulations at 40 CFR 51.161. Specifically, the revised State regulation required that ''a proposed general permit, any changes to a general permit, and any renewal of a general permit shall be subject to public comment'' following specified procedures.[7] However, portions of section 6(a) of this State regulation contain provisions related to ''director's discretion'' that could allow revisions to SIP-approved emission limits with limited public process, or without further approval by the EPA. In light of those concerns, North Dakota committed to revise the reference to ''subsection 6 of 33–15–14–02'' to ''subdivision 6.b of 33–15–14–02'' in a future submittal.[8] This revision included in North Dakota's May 2, 2019 submittal revises 33.1–15–14–02.1.c by deleting the phrase ''subdivision 6'' and adding the phrase ''subdivision b of subsection 6.'' The EPA notes that ''subdivision b of subsection 6'' in section 33.1–15–14–02 refers to the same provision as ''subdivision 6.b'' of that section. Accordingly, we are approving this revised version of the State's regulation at 33.1–15–14–02 into the SIP.

North Dakota is also correcting the following typographical errors in section 33.1–15–14–02(1)(c): The reference to 33–15–13 is changed to 33.1–15–13; the reference to 33–15–15 is changed to 33.1–15–15; and the reference to 33–15–22–03 is changed to 33.1–15–22–03.

C. Revisions to Chapter 33.1–15–02 (Ambient Air Quality Standards)

In 2015, the EPA promulgated a revised ozone National Ambient Air Quality Standard (NAAQS) of 0.070 parts per million (ppm).[9] When a new or revised NAAQS is promulgated, the CAA requires each state to submit a SIP revision to incorporate the new standard. In chapter 33.1–15–02–07 (Concentrations of air contaminants in

[1] 134 S. Ct. 2427 (2014) (*UARG*).

[2] *Coalition for Responsible Regulation* v. *EPA,* 606 F. App'x 6, 7–8 (D.C. Cir. April 10, 2015).

[3] *See* Final Rule, Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements, 80 FR 50199 (August 19, 2015).

[4] The EPA has previously acted on all other portions of the 2013 submittal. *See* Final Rule, Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules, 81 FR 72716 (Oct. 21, 2016); Final Rule, Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules, 82 FR 46919 (Oct. 10, 2017); Final Rule, Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules, 84 FR 11646 (March 28, 2019).

[5] Proposed rule, Air Quality State Implementation Plans; Approvals and Promulgations: Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Colorado and North Dakota, 84 FR 36516 (July 29, 2019).

[6] *See* 82 FR at 46919.

[7] N.D. Admin. Code §§ 33–15–14–02.1.c, 33–15–14–02.6.

[8] Letter from Terry O'Clair, Director, Division of Air Quality, North Dakota Department of Health to Monica Morales, Director, EPA Region 8 Air Program (May 3, 2018). We note that the North Dakota state legislature created the North Dakota Department of Environmental Quality (NDEQ) in 2017. The EPA subsequently approved changes to the North Dakota SIP to transfer authority to implement and enforce the EPA-approved SIP from the North Dakota Department of Health (NDDH) to the new NDEQ. Final Rule, Approval and Promulgation of Implementation Plans; North Dakota; Revisions to Infrastructure Requirements for All National Ambient Air Quality Standards; Carbon Monoxide (CO); Lead (Pb); Nitrogen Dioxide (NO), 84 FR 1610 (Feb. 5, 2019). We also approved a recodification of the State's previously approved Air Pollution Control Rules, which changed the chapter number from 33 to 33.1. *Id.* The letter from Mr. O'Clair references regulations according to the previous numbering scheme. *See also* Final rule, Approvals Concerning Revisions to North Dakota's Environmental Protection Programs; Delay of Effective Dates, 84 FR 8260 (March 7, 2019).

[9] Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (Oct. 26, 2015).

the ambient air restricted), Table 1 (Ambient Air Quality Standards) was revised to reflect the 2015 ozone NAAQS of 0.070 parts per million. But the revision further states that ''[t]he standard is met when the 3-year average of the annual fourth-highest daily maximum 8-hour average concentration at an ambient air quality monitoring site is less than or equal to 0.075 ppm.'' The reference to .075 ppm is erroneous. The EPA understands that North Dakota is currently addressing this error and plans to submit a revised version of Table 1 to the EPA for approval in the future. Accordingly, we are taking no action on the revision to 33.1–15–02–07, Table 1 in this rulemaking.

III. Proposed Action

In this action, the EPA is proposing to approve SIP amendments to North Dakota's Air Pollution Control Rules, shown in Table 1, submitted by the State of North Dakota on May 2, 2019.

TABLE 1—LIST OF NORTH DAKOTA AMENDMENTS THAT THE EPA IS PROPOSING TO APPROVE

Amended sections in the May 2, 2019 submittal proposed for approval
33.1–15–14–02; 33.1–15–15–01.2.

IV. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress (RFP) toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and public hearing. The North Dakota SIP revisions that the EPA proposes to approve do not interfere with any applicable requirements of the Act. The revisions to North Dakota's Control of Air Pollution regulations submitted on May 2, 2019, ensure that the State's PSD program is in compliance with federal requirements. Therefore, CAA section 110(l) requirements are satisfied.

V. Incorporation by Reference

The 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, the EPA is proposing to incorporate by reference the amendments described in section III of this proposed action. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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 CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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).

In addition, the SIP is not proposed 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. The rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: March 9, 2020.

Gregory Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2020–05673 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0690; FRL–10006–48–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Montana; Columbia Falls, Kalispell and Libby PM_{10} Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to fully approve three Limited Maintenance Plans (LMPs), submitted by the State of Montana to the EPA on July 23, 2019, for the Columbia Falls, Kalispell and

Libby Moderate nonattainment areas (NAAs) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) and concurrently redesignate the NAAs to attainment of the 24-hour PM_{10} National Ambient Air Quality Standard (NAAQS). In order to approve the LMPs and redesignations, the EPA is proposing to determine that the Kalispell and Libby NAAs have attained the 1987 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2016–2018. The EPA is also proposing to approve the Kalispell, Columbia Falls, and Libby LMPs as meeting the appropriate transportation conformity requirements.

DATES: Written comments must be received on or before April 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0690 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6175, *gregory.kate@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

A. Description of the Columbia Falls NAA

The Columbia Falls NAA is one of three NAAs in Flathead County, is rectangularly shaped, and generally encompasses the downtown portion of Columbia Falls and the nearby surrounding areas. Columbia Falls and was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM_{10} NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM_{10} NAAQS on November 6, 1991. *See* 56 FR 56694. States containing initial Moderate PM_{10} NAAs were required to submit, by November 15, 1991, a Moderate NAA State Implementation Plan (SIP) that, among other requirements, implemented Reasonably Available Control Measures (RACM) by December 10, 1993, and demonstrated whether it was practicable to attain the PM_{10} NAAQS by December 31, 1994. *See generally* 57 FR 13498 (April 16, 1992); *see also* 57 FR 18070 (April 28, 1992).

The State of Montana submitted an initial PM_{10} SIP to the EPA on May 6, 1992, and subsequent submissions on August 26, 1994 and July 18, 1995. The State of Montana's SIP for the Columbia Falls Moderate NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM_{10} NAAQS would be achieved in Columbia Falls by December 31, 1994; Reasonable Further Progress (RFP) requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Columbia Falls NAA PM_{10} attainment plan on March 19, 1996 (61 FR 11153).

B. Description of the Libby NAA

The Libby PM_{10} NAA is an irregularly shaped portion of Lincoln County, comprising of the city of Libby, and the surrounding communities. The area was was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM_{10} NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM_{10} NAAQS on November 6, 1991. *See* 56 FR 56694.

The State of Montana submitted an initial PM_{10} SIP to the EPA on November 25, 1991, with revisions and corrections on May 24, 1993 and June 3, 1994. The State of Montana's SIP for the Libby Moderate PM_{10} NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM_{10} NAAQS would be achieved in Libby by December 31, 1994; RFP requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA approved the Libby NAA PM_{10} attainment plan, with the exception of the contingency plan, on August 30, 1994 (59 FR 44627). Revisions to the contingency plan were submitted by Montana on March 15, 1995 and subsequently approved on September 30, 1996 (61 FR 51074).

C. Description of the Kalispell NAA

The Kalispell NAA is one of three NAAs in Flathead County. It is irregularly shaped and generally encompasses the City of Kalispell and the nearby surrounding areas, including the unincorporated community of Evergreen. Kalispell was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM_{10} NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM_{10} NAAQS on November 6, 1991. *See* 56 FR 56694.

The State of Montana submitted an initial PM_{10} SIP to the EPA on November 25, 1991, and submitted three additional submittals between 1991and 1994. The State of Montana's SIP for the Kalispell Moderate NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM_{10} NAAQS would be achieved in Kalispell by December 31, 1994; RFP requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Kalispell NAA PM_{10} attainment plan on March 19, 1996 (61 FR 11153).

II. Requirements for Redesignation

A. CAA Requirements for Redesignation of NAAs

NAAs can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. *See* 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' [1] The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM_{10} NAAs

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} NAAs seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas,'' (hereafter the LMP Option memo)).[2] The LMP Option memo contains a statistical demonstration to show that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM_{10} NAAQS, based upon the most recent 5 years of air quality data at all monitors in the area, and the 24-hour design value should be at or below the Critical Design Value (CDV). The CDV is a calculated design value that indicates that the area has a low probability (1 in 10) of exceeding the NAAQS in the future. For the purposes of qualifying for the LMP option, a presumptive CDV of 98 $\mu g/m^3$ is most often employed, but an area may elect to use a site-specific CDV should the average design value be above 98 $\mu g/m^3$, while demonstrating that the area has a low probability of exceeding the NAAQS in the future. The annual PM_{10} standard was effectively revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. In addition, the area should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

C. Conformity Under the LMP Option

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to NAAs and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM_{10} NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period; and therefore, a regional emissions analysis would not be required. Similarly, federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered not limited.

III. Review of Montana's Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans

A. Have the Columbia Falls, Kalispell and Libby NAAs attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM_{10} NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM_{10} concentrations. The data should be stored in the EPA Air Quality System (AQS) database. On January 31, 2011, the EPA determined that the Columbia Falls NAA attained the PM_{10} NAAQS (76 FR 5280). Today, the EPA is proposing to determine that the Libby and Kalispell NAAs have attained the PM_{10} NAAQS based on monitoring data from calendar years 2016–2018. The 24-hour standard is attained when the expected number of days with levels above 150 $\mu g/m^3$ (averaged over a 3-year period) is less than or equal to one. 40 CFR 50.6(a). Three consecutive years of air quality data are generally necessary to show attainment of the 24-hour and annual standards for PM_{10}. *See* 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75% of the scheduled sampling days.

The Kalispell and Libby NAAs each have one State and Local Air Monitoring Station (SLAMS) monitor operated by the Montana Department of Environmental Quality (MDEQ). Tables 1 and 2 summarize the PM_{10} data collected from 2014–2018 for the Kalispell and Libby NAAs, respectively. The EPA deems the data collected from these monitors valid, and the data have been submitted by the MDEQ to be included in AQS.

[1] The ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo) outlines the criteria for redesignation. The Calcagni memo can be found at *https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf.*

[2] The ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' outlines the criteria for development of a PM_{10} limited maintenance plan and can be found at *https://www.epa.gov/sites/production/files/2016-06/documents/2001lmp-pm10.pdf.*

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM_{10} CONCENTRATIONS (μG/M³) FOR KALISPELL 2014–2018

Based on data from Flathead Valley (Soccer Complex) Site, AQS Identification Number (30–029–0049)				
Year	Maximum concentration	2nd maximum concentration	Number of exceedances	Monitoring site
2014	108	89	0	Flathead Valley Soccer Complex.
2015 [1]	146	139	0	Flathead Valley Soccer Complex.
2016	87	84	0	Flathead Valley Soccer Complex.
2017[1]	154	131	0	Flathead Valley Soccer Complex.
2018	131	99	0	Flathead Valley Soccer Complex.

[1] EPA-concurred exceptional events were are excluded from this year.

TABLE 2—SUMMARY OF MAXIMUM 24-HOUR PM_{10} CONCENTRATIONS (μG/M³) FOR LIBBY 2014–2018

Based on data from Flathead Valley (Soccer Complex) Site, AQS Identification Number (30–029–0049)				
Year	Maximum concentration	2nd maximum concentration	Number of exceedances	Monitoring site
2014	47	45	0	Courthouse Annex.
2015 [1]	143	113	0	Courthouse Annex.
2016	58	57	0	Courthouse Annex
2017 [1]	134	104	0	Courthouse Annex.
2018	112	106	0	Courthouse Annex.

[1] EPA-concurred exceptional events were are excluded from this year.

The PM_{10} concentrations reported at the Kalispell and Libby monitoring sites showed no measured exceedances of the 24-hour PM_{10} NAAQS from 2014–2018, and as such, the EPA proposes to determine that the Kalispell and Libby Moderate NAAs have attained the standard for the 24-hour PM_{10} NAAQS.

B. Do the Columbia Falls, Kalispell, and Libby NAA have a fully approved SIP under CAA Section 110(k)?

In order to qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k) and must satisfy all requirements that apply to the area. Section 189 of the CAA contains requirements and milestones for all initial Moderate NAA SIPs including: (1) Provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of Reasonably Available Control Technology—RACT) shall be implemented no later than December 10, 1993; (2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the state or the EPA. (CAA section 172(c)(9)).

The EPA approved the Columbia Falls, Kalispell and Libby Moderate area plans on March 19, 1996, March 19, 1996, and August 30, 1994, respectively; and approved the revised contingency plan for Libby on September 30, 1996. Each plan included RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the areas have fully approved NAA SIPs under section 110(k) of the CAA.

C. Has the State met all applicable requirements under Section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing a NAA must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Montana meets these requirements.

1. CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for state implementation plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the state after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling; and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements. 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Montana SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.1372, the EPA has approved Montana's plan for the attainment and maintenance of the national standards under section 110.

2. Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM_{10} NAAs must meet the general provisions of Subpart 1 and the specific PM_{10} provisions in Subpart 4,

''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Columbia Falls, Kalispell and Libby NAAs.

3. Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for NAA plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Since the EPA is proposing to determine that the Kalispell and Libby NAAs are in attainment of the PM_{10} NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

4. Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Columbia Falls, Kalispell and Libby PM_{10} NAAs. Montana included an emissions inventory for the calendar year 2014 with July 23, 2019 submittal of the LMP for the NAAs. The LMP Option memo states that an attainment inventory should represent emissions during the same 5-year period associated with the air quality data used to determine that the area meets the applicability requirements of the LMP option. The Columbia Falls, Kalispell and Libby LMPs include an emission inventory from 2014, representative of the 2013–2017 5-year period which served as the 5-year period relied upon in the LMPs as meeting the air quality data requirements of the LMP option memo.

5. Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in NAA. The CAA requires states to amend their SIPs to reflect these revisions, but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (section 189 of the CAA).

Montana has a fully approved nonattainment NSR program, most recently approved on August 30, 1995 (60 FR 45051). Montana also has a fully approved PSD program, most recently approved on August 30, 1995 (60 FR 45051). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

6. Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify attainment status of the area. The State of Montana operates one PM_{10} SLAMS in each of the NAAs. The Flathead Valley, Kalispell and Libby monitoring sites meet EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. In section 3.4 of each of the LMPs that we are proposing to approve, the State commits to continued operation of the monitoring network.

7. Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Columbia Falls, Kalispell and Libby NAAs have attained the 1987 24-hour PM_{10} NAAQS, contingency measures are no longer required under section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under section 175(a)(d). We describe the contingency provisions Montana provided in the LMP section below.

8. Part D Subpart 4

Part D subpart 4, section 189(a), (c) and (e) requirements apply to any Moderate NAA area before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative milestones which were achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994; and (d) Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determined that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA's approval of the PM_{10} Moderate area plan for the Columbia Falls, Kalispell and Libby NAAs on March 19, 1996, March 19, 1996, and August 30, 1994, respectively.

D. Has the state demonstrated that the air quality improvement is due to permanent and enforceable reductions?

The state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Columbia Falls, Kalispell and Libby NAA SIPs include RACM. Emission sources in the three NAAs have been implementing RACM for at least 10 years.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Montana has demonstrated that the air quality improvements in the Columbia Falls, Kalispell and Libby NAAs are the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Columbia Falls, Kalispell and Libby areas meet these criteria is provided in the following section.

1. Permanent and Enforceable Emission Reductions in the Columbia Falls NAA

Emissions in the Columbia Falls NAA have been reduced 87.8% since 1990. The primary controls incorporated into the SIP were rules specifying the allowed material to be placed on roads and parking lots for sanding and chip

sealing; rules specifying street sweeping and flushing requirements during the winter and summer months to reduce fugitive road dust; rules requiring the paving of new roads within the Columbia Falls Control District; and permit requirements on the Plum Creek sawmill, plywood and MDF facilities in Columbia Falls. Fugitive road dust comprised nearly 51% of the uncontrolled emissions when the area was designated nonattainment, and emissions from the Plum Creek facility accounted for 44% of the area's uncontrolled emissions. Based on the 2014 NEI, current fugitive road dust emissions are less than 8% of their 1990 levels and current emissions from the Plum Creek facility are 14% of their uncontrolled emissions.

2. Permanent and Enforceable Emission Reductions in the Kalispell NAA

Emissions in the Kalispell NAA have been reduced 74.0% since 1998. The primary controls incorporated into the SIP were rules specifying the allowed material to be placed on roads and parking lots for sanding and chip sealing; rules specifying street sweeping and flushing requirements during the winter and summer months to reduce fugitive road dust; rules requiring the paving of new roads within the Kalispell Control District; and permit requirements on 11 stationary sources in the NAA.

3. Permanent and Enforceable Emission Reductions in the Libby NAA

Emissions in the Libby NAA have been reduced 90.2% since 1989. The primary controls incorporated into the SIP were air pollution control rules in Chapter 1, Subchapters 1 through 4, addressing solid fuel burning devices, reentrained road dust control, and outdoor burning regulations. Additionally, the control plan accounted for industrial emission reductions through permit revisions. These revisions required that RACT be applied to the Champion International boilers which resulted in derating Boiler #7, reducing allowable emissions from Boiler #8, and adding new controls on Boiler #9. Changing economic conditions, ultimately saw the closure of the wood products facility after a previous sale of the facility to Stimson Lumber Company. The source specific limits on the Champion International boilers remain in the SIP.

E. Do the areas have a fully approved maintenance plan pursuant to Section 175A of the CAA?

In this action, we are proposing to approve the LMPs for the Columbia Falls, Kalispell and Libby NAAs in accordance with the principles outlined in the LMP Option.

F. Has the state demonstrated that the Columbia Falls, Kalispell, and Libby NAAs qualify for the LMP option?

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in Section III.A., the EPA has determined that the Columbia Falls, Kalispell and Libby NAAs are attaining the PM_{10} NAAQS.

Second, the average design value (ADV) for the past 5 years of monitoring data (2014–2018) must be at or below the CDV. As noted in Section II.B., the CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADV with the CDV of 98 μg/m^3 for the 24-hour PM_{10} NAAQS. A second method that applies to the 24-hour PM_{10} NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past 5 years of monitoring data. Tables 3, 4 and 5 outline the design values for the years 2014–2018, and present the ADV.

Tables 6, 7 and 8 summarize the wildfire related events that were excluded from the calculated design values in Tables 3, 4 and 5, respectively. Tables 6, 7 and 8 include all regionally concurred exceptional events, as well as values between 98 μg/m^3 and 155 μg/m^3, which were treated in a manner analogous to exceedance data under the Exceptional Events Rule (EER) for the purpose of determining the LMP option eligibility.[3] The values between 98 μg/m^3 and 155 μg/m^3 will remain in the Air Quality System (AQS) database for use in calculating DV's for every purpose besides determining LMP eligibility.[3] The EER can be found in 40 CFR 50.14 and 40 CFR 51.930, and outlines the requirements for the treatment of monitored air quality data that has been heavily influenced by an exceptional event. 40 CFR 50.1(j) defines an exceptional event as an event which affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. Exceptional events do not include stagnation of air masses or meteorological inversions, meteorological events involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance. 40 CFR 50.14(b) states that the EPA shall exclude data from use in determinations of exceedances and NAAQS violations where a state demonstrates to the EPA's satisfaction that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of section 50.14. Tables 6, 7 and 8 below include some exceptional events not formally concurred on by EPA. These exceptional events were excluded by EPA in accordance with the LMP guidance (see footnote 3). We have concurred that these values can be excluded for the sole purpose of determining PM_{10} Limited Maintenance Plan (LMP) eligibility and supporting documentation of EPA's concurrence with the wildfire related events can be found in the docket.[4]

[3] Update on Application of the Exceptional Events Rule to the PM_{10} Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009.

[4] February 8, 2019 letter to MDEQ, Re: Exceptional Events Requests Regarding Exceedances of the 24-hour PM_{10} NAAQS and the LMP Eligibility Threshold at Montana Monitoring Sites with PM_{10} Nonattainment Areas; and November 1, 2018 letter to MDEQ, Re: Request for EPA concurrence on exceptional event claims for fine ($PM_{2.5}$) and coarse (PM_{10}) particulate matter data impacted by wildfires in 2015 and 2016.

TABLE 3—SUMMARY OF 24-HOUR PM_{10} DESIGN VALUES (μG/M³) FOR COLUMBIA FALLS 2014–2018

Based on data from Flathead Valley (Soccer Complex.) Site, AQS Identification Number (30–029–0049)		
Design value years	Design concentration (μg/m³)	Monitoring site
2014–2016	60	Flathead Valley Soccer Complex.
2015–2017	66	Flathead Valley Soccer Complex.
2016–2018	74	Flathead Valley Soccer Complex.
Average Design Concentration (Of Most Recent 3 Design Concentrations)		67

TABLE 4—SUMMARY OF 24-HOUR PM_{10} DESIGN VALUES (μG/M³) FOR KALISPELL 2014–2018

Based on data from Flathead Electric. Site, AQS Identification Number (30–029–0047)		
Design value years	Design concentration (μg/m³)	Monitoring site
2014–2016	89	Flathead Electric.
2015–2017	88	Flathead Electric.
2016–2018	90	Flathead Electric.
Average Design Concentration (Of Most Recent 3 Design Concentrations)		89

TABLE 5—SUMMARY OF 24-HOUR PM_{10} DESIGN VALUES (μG/M³) FOR LIBBY 2014–2018

Based on data from Libby Courthouse Annex. Site, AQS Identification Number (30–053–0018)		
Design value years	Design concentration (μg/m³)	Monitoring site
2014–2016[1]	90	Courthouse Annex.
2015–2017[1]	92	Courthouse Annex.
2016–2018	95	Courthouse Annex.
Average Design Concentration (Of Most Recent 3 Design Concentrations)		92

TABLE 6—24-HOUR PM_{10} EVENTS EXCLUDED FROM 2014–2018 COLUMBIA FALLS DESIGN VALUES

Date	24-Hour Value (μg/m³)	Monitoring site
8/20/2015	140	Flathead Valley Soccer Complex.
8/21/2015	112	Flathead Valley Soccer Complex.
8/23/2015	112	Flathead Valley Soccer Complex.
8/24/2015	139	Flathead Valley Soccer Complex.
8/25/2015	109	Flathead Valley Soccer Complex.
8/26/2015	112	Flathead Valley Soccer Complex.
8/27/2015	136	Flathead Valley Soccer Complex.
8/28/2017	135	Flathead Valley Soccer Complex.
8/29/2015	138	Flathead Valley Soccer Complex.
9/6/2017	*182	Flathead Valley Soccer Complex.
9/7/2017	*228	Flathead Valley Soccer Complex.
9/8/2017	*225	Flathead Valley Soccer Complex.
9/9/2017	126	Flathead Valley Soccer Complex.
9/13/2017	102	Flathead Valley Soccer Complex.

*EPA-Concurred Exceptional Event [other exceptional events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

TABLE 7—24-HOUR PM_{10} EVENTS EXCLUDED FROM 2014–2018 KALISPELL DESIGN VALUES

Date	24-hour value (μg/m³)	Monitoring site
8/20/2015	125	Flathead Electric.
8/21/2015	103	Flathead Electric.
8/24/2015	139	Flathead Electric.
8/26/2015	125	Flathead Electric.
8/27/2015	123	Flathead Electric.

TABLE 7—24-HOUR PM_{10} EVENTS EXCLUDED FROM 2014–2018 KALISPELL DESIGN VALUES—Continued

Date	24-hour value (μg/m³)	Monitoring site
8/28/2017	133	Flathead Electric.
8/29/2015	146	Flathead Electric.
9/5/2017	131	Flathead Electric.
9/6/2017	*171	Flathead Electric.
9/7/2017	*194	Flathead Electric.
9/8/2017	*228	Flathead Electric.
9/9/2017	154	Flathead Electric.
9/13/2017	*158	Flathead Electric.

*EPA-Concurred Exceptional Event [other events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

TABLE 8—24-HOUR PM_{10} EVENTS EXCLUDED FROM 2014–2018 LIBBY DESIGN VALUES

Date	24-hour value (μg/m³)	Monitoring site
8/20/2015	113	Courthouse Annex.
8/24/2015	*180	Courthouse Annex.
8/25/2015	102	Courthouse Annex.
8/27/2015	109	Courthouse Annex.
8/29/2015	143	Courthouse Annex.
9/5/2017	104	Courthouse Annex.
9/6/2017	101	Courthouse Annex.
9/7/2017	134	Courthouse Annex.
9/8/2017	*158	Courthouse Annex.

*EPA-Concurred Exceptional Event [other events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

The ADV for the 24-Hour PM_{10} NAAQS for Columbia Falls, Kalispell and Libby, based on data from the SLAMS monitors for the years 2014–2018, are 67 μg/m³, 89 μg/m³, and 92 μg/m³, respectively. These values fall below the presumptive 24-Hour CDV of 98 μg/m³, and would all meet the first threshold for LMP eligibility. However, in the case of both Kalispell and Libby, these areas required the calculation of an area specific CDV in order to pass the motor vehicle regional emissions analysis test, described below and in further detail in the LMP guidance document.[5] Table 9 lists the respective CDV for each of the NAAs based on data from 2014–2018, utilized for satisfying all the LMP requirements. Calculation of the 2014–2018 CDV for Kalispell and Libby can be found in the supporting documents in the docket.[6]

TABLE 9—CRITICAL DESIGN VALUES USED FOR DETERMINING LMP ELIGIBILITY

PM_{10} NAA	24-Hour CDV (μg/m ³)	2013–2018 ADV (μg/m ³)
Columbia Falls	*98	97
Kalispell	124	89
Libby	139.9	92

*Use of presumptive CDV as described in the LMP guidance document.

In addition to having an ADV that is lower than either the presumptive or area specific CDV, in order to qualify for the LMP, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, based on monitoring data for the period 2016–2018, the EPA has determined that the Columbia Falls, Kalispell and Libby NAAs all pass the motor vehicle regional emissions analysis test, with a projected DV of 74.3 μg/m³, 109.7 μg/m³ and 100.3 μg/m³ after 10 years, respectively, attributable to motor vehicle emission growth. For the calculations used to determine how the Columbia Falls, Kalsipell and Libby NAAs passed the motor vehicle regional analysis test, see the supporting documents in the docket.[7]

The monitoring data for the period 2016–2018 shows that Columbia Falls, Kalispell and Libby have attained the 24-hour NAAQS for PM_{10}, and the 24-hour ADV for each of the areas is less than the 24-hour PM_{10} presumptive and area-specific CDV. Finally, the areas have met the regional vehicle emissions analysis test. Thus, the Columbia Falls, Kalispell and Libby NAAs qualify for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the state

[5] "Limited Maintenace Plan Option for Moderate PM_{10} Nonattainment Areas—Attachment B."

[6] Memo to file "Critical Design Value Calculations for the Kalispell and Libby PM_{10} NAAs."

[7] See memo to file dated October 24, 2018 titled "Columbia Falls, Kalispell and Libby Motor Vehicle Regional Emissions Analysis."

determines that the LMP criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify for the LMP. One possible approach the state could take is to implement contingency measures. Please see section 3.6 of each of the three LMPs for a description of contingency provisions submitted as part of the State's submittal.

G. Does the state have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

The state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same 5-year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. The state should review its inventory every 3 years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Montana completed an attainment year inventory for the attainment year 2014 for all three NAAs. The EPA has reviewed the 2014 emissions inventories and determined that they are current, accurate and complete. In addition, the emissions inventory submitted with the LMP for the calendar year 2014 is representative of the level of emissions during the time period used to calculate the ADV since 2014 is included in the 5-year period used to calculate the design values (2013–2017).

H. Does the LMP include an Assurance of Continued Operation of an appropriate EPA-approved Air Quality Monitoring Network, in accordance with 40 CFR part 58?

PM_{10} monitoring networks for the Columbia Falls, Kalispell and Libby NAAs have been developed and maintained in accordance with federal siting and design criteria in 40 CFR part 58, appendices D and E and in consultation with the EPA Region 8. In Section 3.4 of the Columbia Falls, Kalispell and Libby LMPs, Montana states that it will continue to operate its monitoring network to meet EPA requirements.

I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 3.6 of the Columbia Falls, Kalispell and Libby LMPs describe a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM_{10} NAAQS. Upon notification of a PM_{10} exceedance in any of the three areas, the MDEQ and the appropriate local government will develop contingency measures designed to prevent or correct a violation of the PM_{10} standard. This process will be completed within twelve months of the exceedance notification. Upon violating the PM_{10} standard, the MDEQ and local government will determine if the local contingency measures will be adequate to prevent further exceedances or violations. If the agencies determine that local measures will be inadequate, the MDEQ and local government will adopt state-enforceable measures.

The current and proposed contingency provisions in the Columbia Falls, Kalispell and Libby LMPs meet the requirements for contingency provisions as outlined in the LMP Option memo.

J. Has the state met transportation and general conformity requirements?

1. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA section 176(c)(1)(B)). The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule typically requires a demonstration that emissions from the applicable Regional Transportation Plan and the Transportation Improvement Program are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). The EPA notes that a MVEB is usually defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance areas. MVEBs are, however, treated differently with respect to LMP areas.[8]

Our LMP Option memorandum does not require that MVEBs be identified in the maintenance plan. While the EPA's LMP Option memorandum does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate transportation conformity without identifying and submitting a MVEB. The basis for this provision is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, for transportation conformity purposes, the EPA has concluded that mobile source emissions in LMP areas need not be capped, with respect to a MVEB, for the maintenance period and a regional emissions analysis (40 CFR 93.118), for transportation conformity purposes, is also not required.

However, since LMP areas are still maintenance areas, certain aspects will continue to be required for transportation projects located within the Columbia Falls, Kalispell and Libby PM_{10} maintenance areas. Specifically, for conformity determinations, projects will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and timely implementation (as applicable) of Transportation Control Measures (40 CFR 93.113). In addition, projects located within the Columbia Falls, Kalispell and Libby PM_{10} LMP areas will be required to be evaluated for potential PM_{10} hot-spot issues in order to satisfy the ''project level'' conformity determination requirements. As appropriate, a project may then need to address the applicable criteria for a PM_{10} hot-spot analysis as provided in 40 CFR 93.116 and 40 CFR 93.123.

Finally, our proposed approval of the Columbia Falls, Kalispell and Libby PM_{10} LMPs affect future PM_{10} project-level transportation conformity determinations as prepared by the Montana Department of Transportation in conjunction with the Federal Highway Administration and the Federal Transit Administration. *See* 40 CFR 93.100. As such, the EPA is proposing to approve the Columbia Falls, Kalispell and Libby LMPs as meeting the appropriate transportation

[8] Further information concerning the EPA's interpretations regarding MVEBs can be found in the preamble to the EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193–62196).

conformity requirements found in 40 CFR part 93, subpart A.

2. General Conformity

Federal actions, other than transportation conformity, that meet specific criteria need to be evaluated with respect to the requirements of 40 CFR part 93, subpart B. The EPA's general conformity rule requirements are designed to ensure that emissions from a federal action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. However, as noted in our LMP Option memorandum and similar to the above discussed transportation conformity provisions, federal actions subject to our general conformity requirements would be considered to satisfy the ''budget test,'' as specified in 40 CFR 93.158(a)(5)(i)(A). As discussed above, the basis for this provision in the LMP Option memorandum is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, for purposes of general conformity, a general conformity PM_{10} emissions budget does not need to be identified in the maintenance plan, nor submitted, and the emissions from federal agency actions are essentially considered to not be limited.

IV. The EPA's Proposed Action

For the reasons explained in Section III, we are proposing to approve the LMP for the Columbia Falls, Kalispell and Libby NAAs and the State's request to redesignate the Columbia Falls, Kalispell and Libby NAAs from nonattainment to attainment for the 1987 24-hour PM_{10} NAAQS. Additionally, the EPA is proposing to determine that the Kalispell and Libby NAAs have attained the NAAQS for PM_{10}. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2016–2018. The EPA is proposing to approve the Columbia Falls, Kalispell and Libby LMPs as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

V. Statutory and Executive Orders Review

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 CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 (Public Law 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 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).

In addition, 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: March 12, 2020.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2020–05671 Filed 3–19–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2019–0577; FRL–10006–77–Region 3]

Air Plan Approval; West Virginia; Redesignation and Maintenance Plan for the West Virginia Portion of the Steubenville Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to redesignate the West Virginia portion of the Steubenville, Ohio-West Virginia multi-state sulfur dioxide (SO_2) nonattainment area (referred to as the ''Steubenville Nonattainment Area'' or the ''Area'') from nonattainment to attainment. EPA is also proposing to approve West Virginia's maintenance plan for its portion of the Steubenville Nonattainment Area. Emissions of SO_2 in the Area have been reduced and ambient SO_2 readings in the nonattainment area are currently well below the 2010 1-hour SO_2 national ambient air quality standard (NAAQS).

DATES: Written comments must be received on or before April 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0577 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://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Sara Calcinore, 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) 814–2043. Ms. Calcinore can also be reached via electronic mail at *calcinore.sara@epa.gov*.

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

I. Background and Redesignation Requirements
II. Relationship Between This Rulemaking and the Attainment Plan Rulemaking
III. Determination of Attainment
IV. CAA Section 110 and Part D Requirements and Fully Approved SIP Under CAA section 110(k)
V. Permanent and eNforceable Emission Reductions
VI. Maintenance Plan
VII. Proposed Action
VIII. Statutory and Executive Order Reviews

I. Background and Redesignation Requirements

In 2010, EPA established a revised primary hourly annual SO_2 NAAQS of 75 parts per billion (ppb). 75 FR 35520, June 22, 2010; 40 CFR 50.17. EPA designated the Steubenville, Ohio-West Virginia area as nonattainment for the 2010 SO_2 NAAQS on August 5, 2013, based upon air quality monitoring data for calendar years 2009–2011. 78 FR 47191; 40 CFR 81.349, 81.336. The Steubenville Nonattainment Area is comprised of a portion of Jefferson County, Ohio and a portion of Brooke County, West Virginia. The Ohio portion of the nonattainment area includes Cross Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County. 40 CFR 81.336. The West Virginia portion of the nonattainment area is the Cross Creek Tax District in Brooke County. 40 CFR 81.349.

Ohio and West Virginia were required to prepare State Implementation Plan (SIP) revisions that provided for attainment of the SO_2 NAAQS in the Steubenville Nonattainment Area by the SO_2 attainment date of October 4, 2018. These ''attainment plans'' or ''attainment demonstrations'' were also required to meet the requirements of sections 172(c) and 191–192 of the CAA. West Virginia's attainment plan SIP revision was submitted to EPA through the West Virginia Department of Environmental Protection (WVDEP) on April 25, 2016, with a supplemental submission from WVDEP on November 27, 2017 and a clarification letter on May 1, 2019. Ohio's attainment plan SIP revision was submitted to EPA through the Ohio Environmental Protection Agency (OEPA) on April 1, 2015 with supplemental submissions on October 13, 2015, March 25, 2019, and June 25, 2019. EPA proposed to approve the attainment plans submitted by Ohio and West Virginia on June 24, 2019. 84 FR 29456. On October 22, 2019, EPA approved the attainment plans for the Steubenville Nonattainment Area. 84 FR 56385. EPA's October 22, 2019 approval also revised the West Virginia SIP to include new emissions limits, operational restrictions, and associated compliance requirements for Mountain State Carbon (MSC) and revised the Ohio SIP to include limits on emissions from Mingo Junction Energy Center (also known as ''R.G. Steel-Wheeling Mingo Junction''), the JSW Steel USA Ohio facility (JSW Steel), and the American Electric Power (AEP) Cardinal Power Plant (referred to as ''Cardinal Power Plant'').

On June 25, 2019, Ohio submitted a request to redesignate the Ohio portion of the Steubenville Nonattainment Area. EPA redesignated the Ohio portion of the Steubenville Nonattainment Area to attainment on November 29, 2019. 84 FR 65683. On August 22, 2019, West Virginia submitted a request to redesignate the West Virginia portion of the Steubenville Nonattainment Area.

Under CAA section 107(d)(3)(E), five criteria must be met before a nonattainment area may be redesignated to attainment. Although the Steubenville Nonattainment Area includes portions within two states, this action only proposes to redesignate the West Virginia portion of this area. As stated previously, the Ohio portion of the Steubenville Nonattainment Area was redesignated to attainment on November 29, 2019.

The five criteria in CAA section 107(d)(3)(E) that must be met, and EPA's interpretation of whether any of the criteria must be met in both the Ohio portion and West Virginia portion of the Steubenville Nonattainment Area or only in West Virginia, are discussed below. These criteria are:

1. EPA has determined that the area has attained the relevant NAAQS. Section 107(d)(3)(E)(i). In this rulemaking, EPA is evaluating whether the entire two-state Area is attaining the SO_2 NAAQS.
2. The applicable implementation plan has been fully approved by EPA under section 110(k) of the CAA. Section 107(d)(3)(E)(ii). In this rulemaking, EPA is evaluating redesignation for only the West Virginia portion of the Area on the basis of whether West Virginia's applicable implementation plan has been fully approved.
3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the applicable implementation plans, Federal regulations, and other permanent and enforceable reductions. Section 107(d)(3)(E)(iii). In this rulemaking, EPA is evaluating this criterion for both the Ohio and West Virginia portions of the Steubenville Nonattainment Area.
4. EPA has fully approved a maintenance plan, including a contingency plan, for the area that meets the requirements of section 175A of the CAA. Section 107(d)(3)(E)(iv). In this rulemaking, EPA is evaluating only whether West Virginia's maintenance plan provides for its share of actions to assure maintenance in the two-state Area.
5. EPA has determined that the state has met all applicable requirements for the area under section 110 and part D. Section 107(d)(3)(E)(v). In this rulemaking, EPA is evaluating redesignation for only the West Virginia portion of the Area on the basis of whether West Virginia has met these applicable requirements.

II. Relationship Between This Rulemaking and the Attainment Plan Rulemaking

Some of the criteria for this proposed redesignation are met by elements of the previously approved Ohio and West Virginia attainment plans. In particular, part of the evidence that the Area is attaining the SO_2 NAAQS is based on modeling included in the two states' attainment plans and related supplemental submittals. The SO_2 emission limits that assure the permanence and Federal enforceability of the air quality improvement in the Area were also submitted as part of the attainment plans.

As noted previously, EPA proposed to approve the Ohio and West Virginia attainment plans on June 24, 2019, at 84 FR 29456, and issued a final approval on October 22, 2019. 84 FR 56385. This rulemaking is not reopening any portion of that rulemaking. For example, this rulemaking does not solicit any additional comments on the modeling in the two states' attainment plans, on the adequacy of the limits in those plans

for assuring attainment, or generally on whether those plans warranted approval. Comments on these topics were germane to the attainment plans rulemaking and were solicited in that rulemaking. EPA addressed these topics in the attainment plans rulemaking but received no comments on these topics in that rulemaking. As stated previously, EPA's proposed approval of West Virginia's redesignation request is based in part on the final rulemaking approving the Ohio and West Virginia attainment plans.

III. Determination of Attainment

The first requirement for redesignation is to demonstrate that the 2010 1-hour SO_2 NAAQS has been attained in the entire Steubenville Nonattainment Area. As stated in EPA's April 23, 2014 ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (referred to as ''2014 SO_2 Guidance''), there are two components needed to support an attainment determination for SO_2: (1) A review of representative air quality monitoring data, and (2) a further analysis, generally requiring air quality modeling, to demonstrate that the entire area is attaining the applicable NAAQS based on current actual emissions or the fully implemented control strategy. 2014 SO_2 Guidance, p.62. West Virginia has addressed both components.

Under EPA regulations at 40 CFR 50.17, the 2010 1-hour SO_2 NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50, at all relevant monitoring sites in the subject area. EPA has reviewed the ambient air monitoring data for the Steubenville Nonattainment Area included in West Virginia's redesignation request, which consists of data from three SO_2 monitoring sites in Jefferson County, Ohio and three SO_2 monitoring sites in Brooke County, West Virginia. The data from these monitors have been certified and recorded in EPA's Air Quality System (AQS) database.

Table 1 shows the 99th percentile results and three-year average design values for the Steubenville Nonattainment Area monitors for 2016–2018, which are the most recent three years of complete, quality-assured data. The 2016–2018 design value [1] for the Steubenville Nonattainment Area is 37 ppb, which is well below the 2010 SO_2 NAAQS of 75 ppb. This design value, which was measured at the Weirton-Marland Heights monitor (Site ID 54–009–0011), in Brooke County, West Virginia, is the highest monitored design value in the Steubenville Nonattainment Area. Therefore, West Virginia has demonstrated that the Steubenville Nonattainment Area's SO_2 monitors currently show attainment of the 2010 SO_2 NAAQS. For every 3-year period starting with the 2013–2015 design value period, all six monitors have had design values below the 2010 SO_2 NAAQS of 75 ppb. Preliminary monitoring data for 2019 indicate that the Area is continuing to attain the 2010 SO_2 NAAQS.

TABLE 1—MONITORING DATA FOR THE STEUBENVILLE NONATTAINMENT AREA FOR 2016–2018

Site ID	Location	Year and 99th percentile value (ppb)			Design value: average 2016–2018 (ppb)
		2016	2017	2018	
39–081–0017	Jefferson County, OH	27	18	34	26
39–081–0018	Jefferson County, OH	31	34	9	25
39–081–0020	Jefferson County, OH	20	13	8	14
54–009–0005	Brooke County, WV	33	28	48	36
54–009–0007	Brooke County, WV	39	23	24	29
54–009–0011	Brooke County, WV	49	27	35	37

In addition to the monitoring data, West Virginia submitted a modeling analysis demonstrating that the control strategy for the Steubenville Nonattainment Area will provide for attainment of the SO_2 NAAQS in the entire Area. West Virginia's August 22, 2019 redesignation request includes dispersion modeling from the attainment plan for the Steubenville Nonattainment Area that was approved by EPA on October 22, 2019.[2] This joint modeling analysis demonstrated that the Steubenville Nonattainment Area had attained the 2010 SO_2 NAAQS based on the allowable emissions from the four primary sources in the Area: (1) The Cardinal Power Plant, located in Brilliant, Ohio; (2) JSW Steel (formerly Wheeling Pittsburgh Steel Plant and referred to by West Virginia as ''Mingo Junction Steel Works'') in Mingo Junction, Ohio; (3) the Mingo Junction Energy Center also in Mingo Junction, Ohio; and (4) MSC in Follansbee, West Virginia. The modeling analysis is discussed in detail in the June 24, 2019 (84 FR 29456) notice of proposed rulemaking for West Virginia's attainment plan.

West Virginia has confirmed that the modeled facilities are currently in full compliance with their emission limits. Current actual emissions at these facilities are therefore at or below the allowable levels used in the modeling analysis included with West Virginia's redesignation request. Because this modeling shows that compliance with the emission limits in the States' plans yields attainment in the entire nonattainment area, and the sources are complying with these limits, this modeling also supports EPA's proposed conclusion that both the Ohio portion and West Virginia portion of the two-state Area are attaining the 2010 SO_2 NAAQS.

IV. CAA Section 110 and Part D Requirements and Fully Approved SIP Under CAA Section 110(k)

In accordance with section 107(d)(3)(E)(v) of the CAA, in order to redesignate the Steubenville Area to attainment, West Virginia must meet all requirements applicable to the

[1] The ''design value'' is the 3-year average of the annual 99th percentile daily maximum 1-hour values for a monitoring site. 40 CFR part 50, Appendix T.

[2] On March 25, 2019, OEPA submitted revised modeling with a new limit and revised stack characteristics for Cardinal Power Plant as a supplement to the attainment plan for the Steubenville Nonattainment Area. West Virginia concurred with the revised modeling on May 1, 2019. The March 25, 2019 supplement was approved with the attainment plan for the Steubenville Nonattainment Area on October 22, 2019. West Virginia's August 22, 2019 redesignation request includes the approved dispersion modeling submitted by OEPA as a supplement to the attainment plan on March 25, 2019.

Steubenville Nonattainment Area under CAA section 110 (general SIP requirements) and part D of title I of the CAA (SIP requirements for nonattainment areas). In addition, in accordance with section 107(d)(3)(E)(ii) of the CAA, the West Virginia SIP for the Steubenville Nonattainment Area must be fully approved under CAA section 110(k).

The Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. *See also* Shapiro memorandum (''State Implementation Plan (SIP) requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993) and 60 FR 12459, 12465–12466, (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved but are not required as a prerequisite to redesignation. *See* CAA section 175A(c). *Sierra Club* v. *EPA,* 375 F .3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

EPA has determined that, in accordance with section 107(d)(3)(E)(v), West Virginia has met all SIP requirements under section 110 of the CAA and part D of title I of the CAA applicable for purposes of this redesignation. In making these determinations, EPA ascertained what requirements are applicable to the Area and determined that the portions of the West Virginia SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to applicable requirements. EPA's rationale is discussed in more detail in the following sections.

1. West Virginia Has Met all Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Steubenville Nonattainment Area for Purposes of Redesignation

a. Section 110 General Requirements for SIPs

Pursuant to CAA section 110(a)(1), whenever new or revised NAAQS are promulgated, the CAA requires states to submit a plan (*i.e.* ''SIP'') for the implementation, maintenance and enforcement of such NAAQS. Section 110(a)(2) of title I of the CAA contains the general requirements for a SIP, also known as ''infrastructure'' requirements. The infrastructure requirements of section 110(a)(2) include the requirements in subsections 110(a)(2)(A) through (M).

However, not every requirement of section 110(a)(2) is an applicable requirement for the purposes of redesignating the Steubenville Nonattainment Area to attainment for the SO_2 NAAQS. For example, section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. When such issues have been identified, EPA has required certain states to establish programs to address transport of air pollutants. *See* Nitrogen Oxides (NO_X) SIP Call and amendments to the NO_X SIP Call (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), and the Cross-State Air Pollution Rule (CSAPR) Update (81 FR 74504, October 26, 2016). However, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's SO_2 designation. That is, any applicable section 110(a)(2)(D) requirement continues to apply to a state regardless of the attainment designation (or redesignation) of an area. EPA has concluded that the SIP requirements linked to an area's SO_2 designation are the relevant (applicable) measures when reviewing a redesignation request for an area, and therefore the general requirements of section 110(a)(2)(D) are not applicable requirements for the purposes of a SO_2 redesignation.

Similarly, other section 110(a)(2) elements that are neither connected with attainment plan submissions nor linked with an area's SO_2 designation are not applicable requirements for purposes of redesignation. An area redesignated from SO_2 nonattainment to attainment will remain subject to these statewide requirements after redesignation to attainment. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with CAA section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Nonetheless, EPA has reviewed West Virginia's SIP and concludes that it meets the general SIP requirements of section 110 of the CAA, for those requirements that are applicable for purposes of an SO_2 redesignation. EPA approved elements of West Virginia's July 1, 2013, and June 1, 2015, SO_2 infrastructure SIP submittals on November 17, 2014 (79 FR 62022) and August 11, 2016 (81 FR 53008), respectively.[3] As explained previously, the general requirements of CAA section 110(a)(2) are statewide requirements that are not linked to the nonattainment status of the Steubenville Nonattainment Area and are therefore not ''applicable requirements'' for the purpose of reviewing West Virginia's redesignation request. Because West Virginia satisfies the general SIP elements and requirements set forth in CAA section 110(a)(2) applicable to and necessary for redesignation, EPA concludes that West Virginia has satisfied the criterion of section 107(d)(3)(E)(v) regarding section 110 of the CAA.

b. Part D Requirements

In addition to the CAA section 110 requirements, section 107(d)(3)(E)(v) requires that the state meet all the requirements applicable to the nonattainment area ''under part D of this subchapter'' in order for the nonattainment area to be redesignated. Both section 107 and part D are within subchapter 1 of the CAA. Part D, entitled ''Plan Requirements for Nonattainment Areas,'' consists of six subparts, of which only subparts 1 and 5 are applicable to SO_2 nonattainment areas. Subpart 1 (sections 171–179B) contains provisions that can apply to all nonattainment areas for all criteria

[3] West Virginia's SO_2 infrastructure SIP submittals did not address the interstate transport element of CAA section 110(a)(2)(D)(i). As explained previously, the interstate transport element of CAA section 110(a)(2)(D)(i) is not an applicable requirement for redesignation of the Steubenville Nonattainment Area.

pollutants, while subpart 5 (sections 191–192) contains additional provisions for SO_2, NO_X, or lead nonattainment areas. The requirements applicable to this redesignation are discussed below.

i. Subpart 1 Requirements

1. Section 172 Requirements

CAA section 172 requires states with nonattainment areas to submit plans that provide for timely attainment of the NAAQS. CAA section 172(c) contains general requirements for nonattainment plans. A thorough discussion of these requirements is found in the General Preamble for Implementation of Title I. 57 FR 13498, April 16, 1992.

As noted earlier, West Virginia submitted, and EPA approved, West Virginia's attainment plan for the Steubenville Nonattainment Area. 84 FR 29456, June 24, 2019; 84 FR 56385, October 22, 2019. In the proposed approval, EPA evaluated and proposed approval of the following elements of West Virginia's attainment plan: Emissions inventory (section 172(c)(3)), a determination that the control strategy for the primary SO_2 source within the Steubenville Nonattainment Area constitutes reasonably available control measures/reasonably available control technology (RACM/RACT) and an attainment demonstration (section 172(c)(1)), enforceable emissions limitations and control measures (172(c)(4)), new source review (NSR) (section 172(c)(5)),[4] reasonable further progress (RFP) (section 172(c)(2)), contingency measures (section 172(c)(9)), and compliance with the requirements of CAA section 110(a)(2) (section 172(c)(7)). EPA's proposed approval also found that West Virginia did not need to adopt other measures than those adopted within the attainment plan to achieve compliance with the 2010 1-hour SO_2 NAAQS, as potentially required by section 172(c)(6). Thus, EPA found in the final approval of the attainment plan that West Virginia had complied with all the applicable requirements of section 172 of the CAA, and this proposed approval of West Virginia's redesignation request relies upon that finding within EPA's final approval of West Virginia's attainment plan.

Because EPA's analysis of these elements of CAA section 172 were available for public comment in the proposed attainment plan approval, EPA is not seeking any further public comment in this action on the section 172 elements approved in the attainment plan approval. Comments on these elements were germane to the attainment plan approval and should have been submitted during the public comment period for the proposed attainment plan approval.

2. Section 173

Section 173 of the CAA includes requirements for permit programs that are required in a nonattainment area for new sources by section 172(c)(5). This is known as NNSR. As stated previously, West Virginia has an NSR permitting program, found at 45CSR13 and 45CSR19. EPA therefore proposes to conclude that West Virginia has an NSR permitting program meeting the requirements of section 173 for SO_2. In addition, West Virginia has a SIP-approved PSD program under 45CSR14. *See* 40 CFR 52.2520(c).

3. Section 175A

CAA section 175A requires that states seeking redesignation of an area to attainment submit a ''maintenance plan'' containing certain elements. West Virginia included a maintenance plan for the Steubenville Nonattainment Area with their August 22, 2019 redesignation request, which is discussed in detail in Section VI of this notice of proposed rulemaking.

4. Section 176 Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. On April 12, 2007, West Virginia submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on May 2, 2008 (73 FR 24175).

However, EPA interprets the conformity SIP requirements as not applicable for purposes of evaluating a redesignation request because, like other requirements listed above, state conformity rules are still required after redesignation to attainment and Federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Furthermore, due to the relatively small, and decreasing, amounts of sulfur in gasoline and on-road diesel fuel, EPA's transportation conformity rules do not apply to SO_2 unless the EPA Regional Administrator or the director of the state air agency has found that transportation-related emissions of SO_2 as a precursor are a significant contributor to a SO_2 or fine particulate matter ($PM_{2.5}$) nonattainment problem, or if the SIP has established an approved or adequate budget for such emissions as part of the RFP, attainment, or maintenance strategy. *See* 40 CFR 93.102(b)(1), (2)(v); SO_2 Nonattainment Area Guidance. Neither of these conditions have been met; therefore, EPA's transportation conformity rules do not apply to SO_2 for the Steubenville Nonattainment Area.

5. Sections 176A, 177, 178, 179 and 179B

CAA sections 176A through 179B are not applicable requirements for the purpose of redesignation for SO_2.

ii. Subpart 5 Requirements

The subpart 5 requirements, which consist of sections 191 and 192 of the CAA, are specific provisions applicable to SO_2, NO_X or lead nonattainment areas. Section 191 of the CAA requires states with areas designated nonattainment for SO_2, NO_X or lead after November 15, 1990, to submit within 18 months of the designation an implementation plan meeting the requirements of part D. West Virginia's part D SIP (attainment plan) for its portion of the Steubenville Nonattainment Area was due April 4, 2015. As stated previously, West Virginia submitted its part D SIP (attainment plan) on April 25, 2016, with a supplemental submission on November 27, 2017 and a clarification letter on May 1, 2019. In its proposed and final rulemakings on West Virginia's part D SIP (attainment plan), EPA found that West Virginia satisfied the applicable requirements under CAA

[4] EPA has a longstanding interpretation that because nonattainment new source review (NNSR) is replaced by prevention of significant deterioration (PSD) upon redesignation, nonattainment areas seeking redesignation to attainment need not have a fully approved part D NNSR program in order to be redesignated. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Nevertheless, West Virginia has a SIP-approved NSR and PSD program, found at 45CSR13, 45CSR19, and 45CSR14. *See* 40 CFR 52.2520(c). West Virginia's PSD program will become effective in the Steubenville Nonattainment Area upon redesignation to attainment.

section 110 and part D for the Steubenville Nonattainment Area. *See* 84 FR 29456 (June 24, 2019) and 84 FR 56385 (October 22, 2019). West Virginia has therefore satisfied this subpart 5, section 191 requirement for redesignation.

Section 192 sets forth attainment dates for nonattainment areas under section 191. For SO_2, section 192(a) requires that attainment plans provide for attainment of the primary standard as expeditiously as possible, but no later than five years from the date of the nonattainment designation. EPA designated the Steubenville Area as nonattainment on August 5, 2013, with an attainment date of October 4, 2018. As discussed in Section III, the Steubenville Nonattainment Area has demonstrated attainment with the 2010 SO_2 standard since the 2013–2015 monitoring period and continues to attain the SO_2 NAAQS. Therefore, EPA is proposing to find that the subpart 5, section 192 requirement has been met.

Based on the above, EPA is proposing to find that West Virginia has satisfied the applicable requirements for the redesignation of its portion of the Steubenville Nonattainment Area under section 110 and part D of title I of the CAA.

V. Permanent and Enforceable Emission Reductions

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. As stated previously, the primary sources in the Steubenville Nonattainment Area are the Cardinal Power Plant, located in Brilliant, Ohio; JSW Steel, formerly Wheeling Pittsburgh Steel Plant and referred to by West Virginia as ''Mingo Junction Steel Works'', in Mingo Junction, Ohio; the Mingo Junction Energy Center (also known as ''R.G. Steel-Wheeling Mingo Junction''), also in Mingo Junction, Ohio; and MSC, in Follansbee, West Virginia.

These facilities have all significantly reduced SO_2 emissions since the area was monitoring violations, and these emission reductions have been made permanent and enforceable by the limits that Ohio and West Virginia adopted and submitted in their respective attainment plan submittals.

MSC produces metallurgical-grade coke and coke gas byproducts from coal, which contains sulfur. A byproduct of coke production is coke oven gas, which contains SO_2. The facility burns this gas, releasing SO_2 emissions. As a result of a consent order dated September 29, 2017 (Consent Order Number CO–SIP–C–2017–9), MSC has improved its coke oven gas desulfurization equipment to reduce its SO_2 emissions. The emissions reductions, mandated by West Virginia's emission limits and work practice requirements contained in the consent order, were approved into the West Virginia SIP through the attainment plan approval and are therefore permanent and Federally enforceable. 84 FR 56385 (October 22, 2019); 40 CFR 52.2520(d).

The Cardinal Power Plant is subject to several permanent and enforceable control measures including, but not limited to, the Acid Rain Program and the Mercury and Air Toxics Standard (MATS) rule. In addition, restrictions on SO_2 emissions at the Cardinal Power Plant are approved into the Ohio SIP under Chapter 3745–18 and include a Federally-enforceable, 30-day rolling average combined SO_2 limit of 4,858.75 pound per hour (lb/hr) for the coal-fired boiler Units 1, 2, and 3. *See* 40 CFR 52.1870(c). The Cardinal Power Plant implemented flue gas desulfurization (FGD) between 2010 and 2012, resulting in a reduction of SO_2 emissions from 32,500 tons in 2010 to 9,700 tons in 2018, a reduction that Ohio's limit requires to be maintained. 84 FR 4942 (September 20, 2019). Therefore, EPA is proposing to find that the Cardinal Power Plant is subject to permanent and enforceable control measures.

Both the Mingo Junction Energy Center and Mingo Junction Steel Works (JSW Steel) have ceased operations, with JSW Steel resuming limited operations in 2018. Both Mingo Junction Energy Center and JSW Steel are subject to permanent and enforceable control measures identified in the SIP-approved attainment plan that were found to provide for attainment and maintenance of the 2010 1-hour SO_2 NAAQS in the Steubenville Nonattainment Area. These measures under Ohio rules OAC 3745–18 are approved into the Ohio SIP. In the event that these facilities resume full operations, they would remain subject to the Federally enforceable control measures in the Ohio SIP that were shown to provide for attainment and maintenance of the SO_2 NAAQS in the SIP-approved attainment plan for the Steubenville Nonattainment Area. 84 FR 29456 (June 24, 2019); 84 FR 56385 (October 22, 2019).

At the time of Steubenville's nonattainment designation, the monitored SO_2 design values (2009–2011) in the area were 109 ppb at the Jefferson County monitor (Site ID 39–081–0017) and 174 ppb at the Brooke County, West Virginia monitor (Site ID 54–009–0011). More recent monitoring data indicate that ambient SO_2 levels have improved significantly. The highest monitored design value for the Steubenville Nonattainment Area for 2016–2018 is 37 ppb. This value was measured at monitor 54–009–0011 in Brooke County, West Virginia. These monitored values are well below the SO_2 NAAQS of 75 ppb. This air quality improvement is attributable to the substantial emission reductions noted above, which the Ohio and West Virginia attainment plans require to be permanent and enforceable. Thus, EPA proposes to find that the improvement in air quality in the Steubenville Nonattainment Area can be attributed to permanent and enforceable emission reductions at facilities in Ohio and West Virginia, and that CAA section 107(d)(3)(E)(iii) has been satisfied by both Ohio and West Virginia.

VI. Maintenance Plan

As one of the criteria for redesignation to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Section 175A requires that the maintenance plan demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for an additional ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must also contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour violations. Specifically, the maintenance plan should address five requirements: (1) An attainment emissions inventory; (2) maintenance demonstration; (3) commitment for continued air quality monitoring; (4) verification of continued attainment; and (5) a contingency plan. *See* Calcagni memorandum.

In conjunction with their request to redesignate the West Virginia portion of the Steubenville Nonattainment Area, West Virginia submitted, as a revision to their SIP, a plan to provide for maintenance of the SO_2 NAAQS through 2030 in the Area, which is 10 years after the expected effective date of the redesignation to attainment. West Virginia has committed to review the maintenance plan for the Area eight years after redesignation. EPA is

proposing to find that West Virginia's maintenance plan for the Steubenville Nonattainment Area includes the necessary components per the CAA, including CAA section 175A and EPA guidance, and is proposing to approve the maintenance plan as a revision to the West Virginia SIP.

1. Attainment Inventory

The Calcagni memorandum indicates that states requesting redesignation to attainment should develop an attainment emissions inventory in order to identify the level of emissions in the area which is sufficient to attain the NAAQS. The attainment inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include the emissions during the time period associated with monitoring data showing attainment.

For the attainment inventory, West Virginia used the year 2011 as the ''nonattainment year'' since the three-year period 2009–2011 was the basis of the nonattainment designation. Although the attainment date for the Steubenville Nonattainment Area was October 4, 2018, West Virginia selected 2016 as the ''attainment year'' for its emission inventory because 2016 was one of the years contributing to the 2014–2016 and 2015–2017 design values demonstrating attainment of the SO_2 NAAQS in the Steubenville Nonattainment Area. The attainment year inventory is shown in Table 2 as well as the projected emissions of SO_2 in future years (*i.e.* 2023 and 2030).

2. Maintenance Demonstration

Pursuant to the 2014 SO_2 guidance, an air agency may demonstrate maintenance of the NAAQS by either showing that future emissions of SO_2 will not exceed the level of the attainment inventory or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. As discussed previously, West Virginia and Ohio have submitted, and EPA has approved, modeling analyses demonstrating attainment and maintenance of the SO_2 NAAQS as part of the attainment plans for the Steubenville Nonattainment Area. In addition, West Virginia has demonstrated maintenance of the SO_2 NAAQS through 2030 with emission inventories showing that future emissions of SO_2 in the Steubenville Nonattainment Area will remain at or below attainment year emission levels. West Virginia projected SO_2 emissions for an interim future year of 2023 and for 2030. The attainment and maintenance inventories, provided in Table 2, shows the projected emissions of SO_2 in 2011 (nonattainment year), 2016 (attainment year), 2023 (interim year), and 2030 and demonstrates that future emissions of SO_2 will not exceed the levels of the 2016 attainment year inventory for the Steubenville Nonattainment Area for a minimum of 10 years following redesignation.

TABLE 2—BROOKE COUNTY, WEST VIRGINIA EMISSION INVENTORY TOTALS FOR 2011, 2016, 2023, AND 2030 (TPY)

Location	Sector	2011	2016 (WV) and 2014 (OH) (attainment)	2023	2030
West Virginia Portion	EGU	0	0	0	0
	Non-EGU	730	383	382	381
	Oil & Gas	1.56	6.35	7.69	8.11
	Area	143.46	138.34	135.31	134.32
	Non-Road	0.02	0.01	0.01	0.01
	On-Road	2.07	2.02	0.79	0.74
	Total	877.11	529.72	525.80	524.18
Ohio Portion [1]	EGU	25,122.42	10,660.65	9,602.02	9,602.02
	Non-EGU	223.44	0.02	0.02	0.02
	Non-Road	0.29	0.23	0.14	0.15
	Other (Area)	62.13	57.76	56.67	56.35
	On-Road	3.52	3.46	1.38	1.32
	Total	25,411.80	10,722.12	9,660.23	9,659.86
Combined (WV & OH) Total		26,288.91	11,251.84	10,186.03	10,184.04

EPA is proposing to find that the maintenance inventory provided in Table 2 shows maintenance of the SO_2 NAAQS in the Steubenville Nonattainment Area by providing emissions information to support the demonstration that future emissions of SO_2 will remain below the 2016 emission levels (an inventory year showing attainment of the SO_2 NAAQS).

According to West Virginia's submittal, the demonstration that improvement in air quality occurred between the nonattainment and attainment years is based on permanent and enforceable emission reductions. The permanent and enforceable SO_2 emission reductions described in Section V of this notice, which includes the SIP-approved consent order CO–SIP–C–2017–9 for MSC, ensure that SO_2 emissions in the West Virginia portion of the Steubenville Nonattainment Area will not exceed the maintenance level emissions shown in Table 2. This is an acceptable method for demonstrating maintenance. *See* 2014 SO_2 Guidance, p. 67. West Virginia's maintenance plan notes that West Virginia and Ohio have comprehensive programs to identify sources of violations of the SO_2 NAAQS as well as EPA-approved compliance and enforcement programs to address violations. Therefore, EPA proposes to find that West Virginia's demonstration of maintenance of the SO_2 NAAQS in the Steubenville Nonattainment Area is based on permanent and enforceable control measures.

3. Commitment for Continued Air Quality Monitoring

In their submittal, West Virginia commits to continue monitoring SO_2 levels at the SO_2 monitoring sites in West Virginia identified in Table 1 of this notice. West Virginia also commits to consulting with EPA Region III prior to making any changes to the existing monitoring network and continuing to quality assure the monitoring data to meet the requirements of 40 CFR part 58 and all other Federal requirements.

West Virginia also notes that Consent Order Number CO–SIP–C–2017–9 for MSC and permit for the Cardinal Power Plant establish monitoring, testing, recordkeeping, and reporting requirements to assure compliance with SO_2 emission limits which have been demonstrated to not cause a violation of the SO_2 NAAQS. Therefore, EPA proposes to find that West Virginia's maintenance plan includes a commitment for continued air quality monitoring.

4. Verification of Continued Attainment

In their submittal, West Virginia commits to maintaining the aforementioned control measures after redesignation of the Steubenville Nonattainment Area and that any changes to their rules or emission limits applicable to maintenance of the 2010 1-hour SO_2 standard in the West Virginia portion of the Steubenville Nonattainment Area will be submitted to EPA for approval as a SIP revision. West Virginia states that they have the legal authority and necessary resources to actively enforce any violations of their rules or permit provisions and that they intend to continue the enforcement of all rules related to SO_2 emissions in the West Virginia portion of the Steubenville Nonattainment Area.

In addition, West Virginia commits to continue to provide updates to future emissions inventories in accordance with EPA's Air Emissions Reporting Requirements (AERR) rule and to continue to submit emission inventories every three years. EPA is proposing to find that West Virginia's maintenance plan provides for the verification of continued attainment in the Steubenville Nonattainment Area.

5. Contingency Plan

Section 175A(d) of the CAA requires that maintenance plans include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after a redesignation of the area to attainment. Pursuant to EPA's 2014 SO_2 Guidance, p. 69, in the case that attainment revolves around compliance of a single source or a small set of sources with emission limits shown to provide for attainment, EPA interprets ''contingency measures'' to mean that the state agency has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. The Steubenville Nonattainment Area is an area where attainment is dependent on the compliance of a small set of sources with emission limits shown to provide for attainment, specifically MSC in West Virginia and the Cardinal Power Plant in Ohio. In their submittal, West Virginia verifies that both West Virginia and Ohio have comprehensive enforcement programs to identify sources of violations of the SO_2 NAAQS and EPA-approved compliance and enforcement programs to undertake aggressive follow-up for any violations. Therefore, EPA proposes to find that West Virginia's maintenance plan satisfies the contingency measures requirement of CAA 175A(d).

West Virginia's contingency measures identify triggers and corresponding responses. In the event that the 99th percentile of the 1-hour daily SO_2 maximum concentration of 75 ppb occurs in a single calendar year within the Steubenville Nonattainment Area, a ''warning level response'' will be triggered. The warning level response will consist of a study to determine whether SO_2 values indicate a trend toward higher SO_2 values or whether emissions appear to be increasing, as well as the control measures necessary to reverse the trend, if needed. The implementation of necessary controls in response to a warning level response trigger will occur as expeditiously as possible, but no later than 12 months from the conclusion of the most recent calendar year. In the event that a 2-year average of the 99th percentile 1-hour SO_2 concentration of 75 ppb or greater or the violation of the SO_2 NAAQS occurs within the Steubenville Nonattainment Area, an ''action level response'' will be triggered. If the exceedance is found to not be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, West Virginia Division of Air Quality (DAQ), in conjunction with the metropolitan planning organization (MPO) or regional council of governments, will determine additional control measures needed to assure continued attainment of the 2010 SO_2 NAAQS. Selected measures will be those that can be implemented within 18 months from the close of the calendar year that prompted the action level response.

Based on the above, EPA proposes to find that West Virginia's maintenance plan adequately addresses the five requirements in section 175A that are necessary to maintain the 2010 1-hour SO_2 NAAQS in the Steubenville Nonattainment Area.

VII. Proposed Action

In accordance with West Virginia's August 22, 2019 request, EPA is proposing to redesignate the West Virginia portion of the Steubenville Nonattainment Area from nonattainment to attainment of the 2010 SO_2 NAAQS. The West Virginia portion of the nonattainment area includes Cross Creek Tax District in Brooke County. West Virginia has demonstrated that the Area is attaining the SO_2 NAAQS and that the improvement in air quality is due to permanent and enforceable SO_2 emission reductions in the Area. EPA is also proposing to approve, as a revision to the West Virginia SIP, West Virginia's maintenance plan. EPA is proposing to find that the maintenance plan demonstrates maintenance of the SO_2 NAAQS through 2030 in the Steubenville Nonattainment Area and satisfies the requirements of CAA section 175A.

VIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 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 as defined in 18 U.S.C. 1151 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 proposing approval of the redesignation of the Steubenville Nonattainment Area and associated maintenance plan does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: March 10, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020–05661 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 85, No. 55
Friday, March 20, 2020

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0006]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Live Swine, Pork, and Pork Products From Certain Regions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of live swine, pork, and pork products from certain regions free of classical swine fever in Brazil, Chile, and Mexico.

DATES: We will consider all comments that we receive on or before May 19, 2020.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020*-0006.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0006, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0006* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the importation of live swine, pork, and pork products from certain regions, contact Dr. Magde Elshafie, Senior Veterinarian Medical Officer, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 851–3300. For more information on the information collection process, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Live Swine, Pork, and Pork Products From Certain Regions.

OMB Control Number: 0579–0230.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of livestock diseases and pests. To carry out this mission, APHIS regulates the importation of animals and animal products into the United States. The regulations for the importation of animals and animal products are contained in 9 CFR parts 92 through 98.

Part 94 allows, under certain conditions, the importation of live swine, pork, and pork products from certain regions that are free of classical swine fever (CSF) to prevent the introduction of CSF into the United States. Mexico, Chile, and the State of Santa Catarina in Brazil are on the list of regions referenced in §§ 94.9 (a)(1) and 94.10 (a)(1) that are considered free of CSF. However, § 94.32 places restrictions on the importation of live swine, pork, and pork products from these regions. These restrictions are placed because these regions either supplement their pork supplies by importing fresh (chilled or frozen) pork from CSF-affected regions, supplement their pork supplies with pork from CSF-affected regions that is not processed in accordance with the requirements in part 94, share a common land border with CSF-affected regions, or import live swine from such regions under conditions less restrictive than would be acceptable for importation into the United States.

To ensure that the importation of live swine, pork, and pork products from Brazil, Chile, and Mexico do not introduce CSF into the United States, the regulations include information collection activities such as certification for importation of pork or pork products; application of seal; location and reason for breaking seal and application of new seal; termination of agreement; request for approval of defrost facility; request hearing for denial or approval of defrost facility; application for import of small amounts of pork or pork products; cooperative service agreement; notification of Customs and Border Protection inspectors for pork from specific regions; recordkeeping requirements for certificates; certificates for meat processed in tubes; certification for importation of hams; agreement for processing procedures; identification procedures; recordkeeping for processing origin of hams; and program statements.

The information collection activities of certificates, compliance agreements, and cooperative service agreements are currently approved by the Office of Management and Budget (OMB) under OMB Control Number 0579–0230 (Importation of Live Swine, Pork, and Pork Products From Certain Regions Free of Classical Swine Fever in Brazil, Chile, and Mexico). The remaining requirements were previously approved under OMB Control Number 0579–0395 (Prohibited and Restricted Importation of Fresh (Frozen or Chilled) Pork or Pork Products into the United States) and OMB Control Number 0579–0396 (Prohibited and Restricted Importation of Hams into the United States). As a result of including these additional information collection activities in this collection, APHIS has revised the title of this information collection from ''Importation of Live Swine, Pork, and Pork Products From Certain Regions Free of Classical Swine Fever in Brazil, Chile, and Mexico'' to ''Importation of Live Swine, Pork, and Pork Products From Certain Regions''. After OMB

approves this combined information collection package (0579–0230), APHIS will retire OMB control numbers 0579–0395 and 0579–0396.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1 hour per response.

Respondents: Full-time, salaried veterinary officers employed by the governments of Brazil, Chile, and Mexico; industry representatives; and U.S. importers.

Estimated annual number of respondents: 92.

Estimated annual number of responses per respondent: 640.

Estimated annual number of responses: 58,959.

Estimated total annual burden on respondents: 58,996 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 17th day of March 2020.

Michael Watson

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–05942 Filed 3–19–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2020–0010]

Notice of Request for Renewal of an Approved Information Collection (State Meat and Poultry Programs)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request renewal of the approved information collection regarding State Meat and Poultry Programs. There are no changes to the existing information collection. The approval for this information collection will expire on July 31, 2020.

DATES: Submit comments on or before May 19, 2020.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2020–0010. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: State Meat and Poultry Programs.

OMB Number: 0583–0170.

Expiration Date of Approval: 7/31/2020.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has statutory authority under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), to set national standards for meat and poultry inspection (MPI). Section 301(c) of the FMIA (21 U.S.C. 661(c)) and section 5(c) of the PPIA (21 U.S.C. 454(c)) authorize the Secretary of Agriculture (Secretary) to designate a state as one in which the provisions of Titles I and IV of the FMIA and sections 1–4, 6–11, and 12–22 of the PPIA will apply to operations and transactions wholly within the state after the Secretary has determined that requirements at least ''equal to'' those imposed under the Acts have not been developed and effectively enforced by the state. Under a cooperative agreement with FSIS, states may operate their own MPI programs (*i.e.,* meat, poultry, or both; egg products are excluded) provided they meet and enforce requirements ''at least equal to'' those imposed under the FMIA and PPIA. FSIS is responsible for certifying and monitoring that participating states meet the MPI program's ''at least equal to'' standard.[1]

FSIS is announcing its intention to request renewal of the approved information collection regarding State Meat and Poultry programs. FSIS collects information from State Meat and Poultry Inspection programs to ensure that their programs operate in a manner that is at least equal to FSIS's Federal inspection program in the protection of public interest; comply with requirements of Federal civil rights laws and regulations; meet necessary laboratory quality assurance standards and testing frequencies; and have the capability to perform microbiology and food chemistry methods that are ''at least equal to'' methods performed in

[1] FSIS also administers a voluntary cooperative inspection program under which state-inspected establishments in participating states with 25 or fewer employees are eligible to ship meat and poultry products in interstate commerce (21 U.S.C. 683 and U.S.C. 472) (9 CFR 321.3, Part 332, 381.187, and Part 381 Subpart Z). FSIS collects information for this program under OMB Control Number 0583–0143.

the FSIS laboratories. There are no changes to the existing information collection. The approval for this information collection will expire on July 31, 2020.

Twenty-seven states have MPI programs that operate under a cooperative agreement with FSIS and are subject to the comprehensive state review process. Comprehensive reviews of State MPI programs are conducted by an interdisciplinary team of FSIS Auditors from the Office of Investigation, Enforcement and Audit (OIEA), the Financial Management Division (FMD), the Civil Rights Staff (CRS), and the Office of Public Health Science Laboratory Quality Assurance Staff (LQAS). There are nine review components that make up the comprehensive state review process. The components are as follows: Component 1—Statutory Authority and Food Safety Regulations; Component 2—Inspection; Component 3—Sampling Programs; Component 4—Staffing, Training, and Supervision; Component 5—Humane Handling; Component 6—Compliance; Component 7—Laboratory Quality Assurance Program and Methods; Component 8—Civil Rights; and Component 9—Financial Accountability.

For each of the first six components, State MPI programs submit annual self-assessment documentation to FSIS to demonstrate that the State MPI program is meeting the ''at least equal to'' Federal inspection requirements. Each component of the annual self-assessment includes a written narrative statement and documentation demonstrating that the program continuously meets the criteria to be ''at least equal to'' the Federal inspection program. State MPI programs also submit sufficient documentation to demonstrate that the program either follows current FSIS statutes, regulations, applicable directives and notices, and has implemented any changes necessary to maintain the ''at least equal to'' status or that the State MPI program has an effective, analogous program that would also be ''at least equal to'' the Federal inspection program. All State MPI programs need to demonstrate they operate in a manner that protects the health and welfare of consumers by ensuring that the meat and poultry products distributed by the establishments in the program are wholesome, not adulterated, and properly marked, labeled, and packaged.

The annual self-assessment submission also includes one or more narratives describing the internal controls used by the State MPI program that: (1) Provide assurances and can measure the effectiveness of the program under the ''at least equal to'' criteria; (2) demonstrate how non-conformances will be addressed by corrective actions; and (3) demonstrate how the State MPI program will be maintained throughout the next 12 months.

For Component 7 of the comprehensive state review process, states submit documentation of their laboratory quality assurance programs and methods. States document their laboratory quality assurance program activities on the FSIS Form 5720–14, *State Meat and Poultry Inspection Program Laboratory Quality Management System Checklist.* States submit copies of new or revised laboratory analytical methods accompanied by a FSIS Form 5720–15, *Laboratory Method Notification Form.*

For Component 8 of the comprehensive state review process, states submit documentation of their Civil Rights compliance. States receive FSIS monies to operate their MPI programs, and as such, are subject to the nondiscrimination provisions of Title VI, Title IX, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. In order to assess the 27 states' compliance with these provisions, FSIS requests information on the states' civil rights programs and controls on FSIS Form 1520.1—*Civil Rights Compliance of State Inspection Programs.* This form requests information regarding nine areas of civil rights compliance, which include: (1) Civil Rights Assurances; (2) State Infrastructure and Program Accountability; (3) Public Notification; (4) Racial and Ethnic Data Collection; (5) Civil Rights Complaints of Discrimination; (6) Civil Rights Training; (7) Disability Compliance, (8) Limited English Proficiency; and (9) Compliance with the Age Discrimination Act of 1975. The form allows states to: (1) Document management controls they have implemented and maintained with regard to these nine categories and (2) document how their overall civil rights program constitutes a civil rights program ''at least equal to'' the FSIS Federal program.

FSIS requests documentation concerning all components of the self-assessment and completion of these forms annually. Submission of the completed forms is due by November 1 each year to the Coordinators from OIEA, FMD, CRS and LQAS. In each submission, states respond to all questions and report on programs and activities implemented and maintained during the prior fiscal year (October 1 through September 30).

In addition to the annual self-assessment submission, State MPI programs are subject to an on-site review at a minimum frequency of once every three years to verify the accuracy and implementation of the self-assessment submissions. In the year that a State MPI program is scheduled for an on-site review, FSIS closely examines records from the State MPI program in order to determine annually whether the program is ''at least equal to'' the Federal inspection program.

Additionally, State MPI programs submit FSIS Form 5720–15, *Laboratory Method Notification Form* whenever a state lab revises or adds a new method for MPI program testing. FSIS has made the following estimates on the basis of an information collection assessment.

Estimate of Burden: FSIS estimates that it will take each respondent an average of 255 hours to complete the forms and narratives.

Respondents: State MPI Directors, Program Managers, and/or Human Resources Officials.

Estimated No. of Respondents: 27 respondents.

Estimated No. of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,887 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paul Kiecker,

Administrator.

[FR Doc. 2020–05782 Filed 3–19–20; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs: Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals and free milk for the period from July 1, 2020 through June 30, 2021. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

DATES: Implementation July 1, 2020.

FOR FURTHER INFORMATION CONTACT: J. Kevin Maskornick, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice has been determined to be not significant and was not reviewed by the Office of Management and Budget in conformance with Executive Order 12866. The affected programs are listed in the Assistance Listings (*https://beta.sam.gov/*) under No. 10.553, No. 10.555, No. 10.556, No. 10.558, and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR part 415).

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR part 210), the Commodity School Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Summer Food Service Program (7 CFR part 225) and Child and Adult Care Food Program (7 CFR part 226) and the guidelines for free milk in the Special Milk Program for Children (7 CFR part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals and free milk in accordance with applicable program rules.

Definition of Income

In accordance with the Department's policy as provided in the Food and Nutrition Service publication Eligibility Manual for School Meals, ''income,'' as the term is used in this notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions, and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings,

investments, trust accounts and other resources that would be available to pay the price of a child's meal.

''Income'', as the term is used in this notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any statutory prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2020 through June 30, 2021. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2020 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

This notice displays only the annual Federal poverty guidelines issued by the Department of Health and Human Services because the monthly and weekly Federal poverty guidelines are not used to determine the Income Eligibility Guidelines. The chart details the free and reduced price eligibility criteria for monthly income, income received twice monthly (24 payments per year); income received every two weeks (26 payments per year) and weekly income.

Income calculations are made based on the following formulas: Monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded upward to the next whole dollar. The numbers reflected in this notice for a family of four in the 48 contiguous States, the District of Columbia, Guam and the territories represent an increase of 1.7 percent over last year's level for a family of the same size.

Authority: Section 9(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A)).

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES

Effective from July 1, 2020 to June 30, 2021

HOUSEHOLD SIZE	FEDERAL POVERTY GUIDELINES	REDUCED PRICE MEALS - 185 %					FREE MEALS - 130 %				
	ANNUAL	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY
48 CONTIGUOUS STATES, DISTRICT OF COLUMBIA, GUAM, AND TERRITORIES											
1	12,760	23,606	1,968	984	908	454	16,588	1,383	692	638	319
2	17,240	31,894	2,658	1,329	1,227	614	22,412	1,868	934	862	431
3	21,720	40,182	3,349	1,675	1,546	773	28,236	2,353	1,177	1,086	543
4	26,200	48,470	4,040	2,020	1,865	933	34,060	2,839	1,420	1,310	655
5	30,680	56,758	4,730	2,365	2,183	1,092	39,884	3,324	1,662	1,534	767
6	35,160	65,046	5,421	2,711	2,502	1,251	45,708	3,809	1,905	1,758	879
7	39,640	73,334	6,112	3,056	2,821	1,411	51,532	4,295	2,148	1,982	991
8	44,120	81,622	6,802	3,401	3,140	1,570	57,356	4,780	2,390	2,206	1,103
For each add'l family member, add	4,480	8,288	691	346	319	160	5,824	486	243	224	112
ALASKA											
1	15,950	29,508	2,459	1,230	1,135	568	20,735	1,728	864	798	399
2	21,550	39,868	3,323	1,662	1,534	767	28,015	2,335	1,168	1,078	539
3	27,150	50,228	4,186	2,093	1,932	966	35,295	2,942	1,471	1,358	679
4	32,750	60,588	5,049	2,525	2,331	1,166	42,575	3,548	1,774	1,638	819
5	38,350	70,948	5,913	2,957	2,729	1,365	49,855	4,155	2,078	1,918	959
6	43,950	81,308	6,776	3,388	3,128	1,564	57,135	4,762	2,381	2,198	1,099
7	49,550	91,668	7,639	3,820	3,526	1,763	64,415	5,368	2,684	2,478	1,239
8	55,150	102,028	8,503	4,252	3,925	1,963	71,695	5,975	2,988	2,758	1,379
For each add'l family member, add	5,600	10,360	864	432	399	200	7,280	607	304	280	140
HAWAII											
1	14,680	27,158	2,264	1,132	1,045	523	19,084	1,591	796	734	367
2	19,830	36,686	3,058	1,529	1,411	706	25,779	2,149	1,075	992	496
3	24,980	46,213	3,852	1,926	1,778	889	32,474	2,707	1,354	1,249	625
4	30,130	55,741	4,646	2,323	2,144	1,072	39,169	3,265	1,633	1,507	754
5	35,280	65,268	5,439	2,720	2,511	1,256	45,864	3,822	1,911	1,764	882
6	40,430	74,796	6,233	3,117	2,877	1,439	52,559	4,380	2,190	2,022	1,011
7	45,580	84,323	7,027	3,514	3,244	1,622	59,254	4,938	2,469	2,279	1,140
8	50,730	93,851	7,821	3,911	3,610	1,805	65,949	5,496	2,748	2,537	1,269
For each add'l family member, add	5,150	9,528	794	397	367	184	6,695	558	279	258	129

Dated: February 24, 2020.

Pamilyn Miller,

Administrator, USDA Food and Nutrition Service.

[FR Doc. 2020–05982 Filed 3–19–20; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The committee is established consistent with, and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Secretary of Agriculture through the Black Hills National Forest Supervisor on a broad range of forest issues. Board information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, April 15, 2020, at 1:00 p.m. All meetings are subject to cancellation. For updated status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Forest Service Center, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–440–1409 or by email at *sjjacobson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide information on the below topics:

(1) Norbeck Wildlife Preserve 100th Anniversary;

(2) South Dakota National Guard—Golden Coyote 2020;

(3) Orientation Topic: Forest Hiring—processes and status;

(4) F3 Gold Proposal and Environmental Analysis Review;

(5) Mineral Mountain Resources (MMR) Proposal and Environmental Analysis Review;

(6) Sustainable Forest Discussion & Timber Sustainability Working Group; and

(7) 2020 Fire Season.

The meeting is open to the public. If time allows, the public may make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by April 6, 2020, to be scheduled on the agenda. Anyone who would like to bring related letters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 16, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–05832 Filed 3–19–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Alabama Advisory Committee to Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Alabama Advisory Committee (Committee) will hold a meeting on Thursday, April 9, 2020, at 1:00 p.m. (Central) for the purpose discussing the final draft of the Voting Rights report. Additionally, the Committee may discuss future topics of study.

DATES: The meeting will be held on Thursday, April 9, 2020, at 1:00 p.m. (Central).

ADDRESSES: Public Call Information: Dial: 800–367–2403, Conference ID: 6386607.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 800–367–2403, conference ID: 6386607. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 230 S Dearborn Street, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or emailed to David Barreras at *dbarreras@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they

become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Alabama Advisory Committee link (*https://www.facadatabase.gov/FACA/FACAPublicCommittee?id=a10t0000001gzlLAAQ*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion of Barriers to Voting Report
Discussion of Next Topics for study
Next Steps
Public Comment
Adjournment

Dated: March 17, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–05951 Filed 3–19–20; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Corrections: Notice of Public Meeting of the Maryland Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Correction: Mode of meeting will now be by teleconference instead of on location.

SUMMARY: The Commission on Civil Rights published a document Wednesday, March 11, 2020, announcing an upcoming Maryland Advisory Committee meeting. The document contained meeting at a venue but will now meet by teleconference.

FOR FURTHER INFORMATION CONTACT: Barbara de La Viez, DFO, at *bdelaviez@usccr.gov* or 202–376–7533.

Correction: In the **Federal Register** of Wednesday, March 11, 2020, in FR Doc. 2020–04923, on page 14185 in the first column, delete ''Ascend One Government Building, BelAir Room, 8930 Stanford Blvd., Columbia, MD 21045, in the narrative of the first paragraph and in the ''LOCATION.'' The meeting will not be held in person at a venue but by teleconference using the following numbers: 1–800–353–6461; ID: 2790767.

Correction: In Column 1 also replace **SUPPLEMENTARY INFORMATION** with the following **SUPPLEMENTARY INFORMATION**: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–367–2403 and conference ID: 3030243. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 1–800–367–2403 and conference ID: 3030243.

Dated: March 16, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–05801 Filed 3–19–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–17–2020]

Foreign-Trade Zone (FTZ) 116—Port Arthur, Texas, Notification of Proposed Production Activity, Port Arthur LNG, LLC (Liquified Natural Gas Processing), Port Arthur, Texas

Port Arthur LNG, LLC (Port Arthur LNG) submitted a notification of proposed production activity to the FTZ Board for its facility in Port Arthur, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 26, 2020.

The applicant indicates that the grantee will be submitting a separate application for FTZ designation at the company's facility under FTZ 116. The facility is used for liquified natural gas processing. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status material and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Port Arthur LNG from customs duty payments on the foreign-status material used in export production. On its domestic sales, for the foreign-status material noted below, Port Arthur LNG would be able to choose the duty rates during customs entry procedures that apply to liquified natural gas, heavy hydrocarbon stream, and stabilized gas condensate (duty rate ranges from duty-free to 10.5 cents/barrel). Port Arthur LNG would be able to avoid duty on foreign-status material which becomes scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material sourced from abroad is gaseous natural gas (duty-free). The request indicates that gaseous natural gas is subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 29, 2020.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: March 16, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–05903 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Zimo Sheng, Jinxiuyuan 17–403, Changshu, Jiangsu 215500, China and 3975 N Cramer Street, Unit 204, Milwaukee, WI 53211.

On December 13, 2018, in the U.S. District Court for the Eastern District of Wisconsin, Zimo Sheng (''Sheng'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Sheng was convicted of violating Section 38 of the AECA by knowingly and willfully attempting to export from the United States to China the complete upper assembly for a Glock 43 pistol BDEV511, designated as a defense article on the United States Munitions List, without the required U.S. Department of State licenses. Sheng was sentenced to 40 months in prison and a special assessment of $200.

The Export Administration Regulations (''EAR'' or ''Regulations'') are administered and enforced by the

U.S. Department of Commerce's Bureau of Industry and Security (''BIS'').[1] Section 766.25 of the Regulations provides, in pertinent part, that the ''Director of [BIS's] Office of Exporter Services, in consultation with the Director of [BIS's] Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of . . . section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d).[2] In addition, pursuant to Section 750.8 of the Regulations, BIS's Office of Exporter Services may revoke any BIS-issued licenses in which the person had an interest at the time of his/her conviction.[3]

BIS has received notice of Sheng's conviction for violating Section 38 of the AECA. The Regulations provide that before taking action to deny a person's export privileges under Section 766.25, BIS shall provide the person written notice of the proposed action and an opportunity to comment through a written submission, ''unless exceptional circumstances exist.'' 15 CFR 766.25(b). In this case, following sentencing in the criminal matter, Sheng fled the United States, rather than surrendering to the Bureau of Prisons to serve his sentence, and his current whereabouts are unknown to BIS. As a result, exceptional circumstances exist. However, as set forth below, the opportunity to appeal this Order pursuant to part 756 of the Regulations remains available to Sheng.

Following consultations with BIS's Office of Export Enforcement, including its Director, I have decided to deny Sheng's export privileges under the Regulations for a period of 10 years from the date of Sheng's conviction. I have also decided to revoke any BIS-issued licenses in which Sheng had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until December 13, 2028, Zimo Sheng, with last known addresses of Jinxiuyuan 17–403, Changshu, Jiangsu 215500, China, and 3975 N Cramer Street, Unit 204, Milwaukee, WI 53211, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Sheng by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Sheng may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Sheng and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 13, 2028.

Issued this 16th day of March, 2020.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2020–05993 Filed 3–19–20; 8:45 am]

BILLING CODE P

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2019). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601–4623 (Supp. III 2015) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, which is codified as amended at 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA (including as continued in effect pursuant to IEEPA) or under the EAR, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

[2] *See also* Section 11(h) of the EAA, 50 U.S.C. 4610(h) (Supp. III 2015); Sections 4819(e) and 4826 of ECRA, 50 U.S.C. 4819 and 4826; and note 1, *supra.*

[3] *See* notes 1 and 2, *supra.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–830]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; 2017

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

SUMMARY: The Department of Commerce (Commerce) determines that Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas), a producer/exporter of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) received net countervailable subsidies during the period of review March 1, 2017 through December 31, 2017.

DATES: Applicable March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Nancy Decker, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0196.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review on September 16, 2019.[1] For a history of events that occurred since the *Preliminary Results,* see the Issues and Decision Memorandum.[2] On December 2, 2019, Commerce extended the deadline for the final results of this administrative review until March 13, 2020.[3]

Scope of the Order [4]

The merchandise covered by the *Order* is steel concrete reinforcing bar (rebar). For a complete description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the issues raised by interested parties, and to which we responded in the Issues and Decision Memorandum, is provided in the Appendix to this notice.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying Commerce's conclusions, *see* the Issues and Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5), we determine the following net countervailable subsidy rate for Habas, for the period March 1, 2017 through December 31, 2017:

Company	Subsidy rate *ad valorem*
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. [6]	3.37 percent

Disclosure

We will disclose to the parties in this proceeding the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**.[7]

Assessment and Cash Deposit Requirements

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results of review, to liquidate shipments of subject merchandise produced and exported by Habas and entered, or withdrawn from warehouse, for consumption on or after March 1, 2017 through December 31, 2017, at the *ad valorem* assessment rate listed above.

In accordance with section 751(a)(1) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for Habas. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

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

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Subsidies Valuation Information
V. Analysis of Programs
VI. Discussion of the Issues

[1] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2017,* 84 FR 48583 (September 16, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2017,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension of Deadline for Final Results in 2017 Countervailing Duty Administrative Review,'' dated December 2, 2019.

[4] *See Steel Concrete Reinforcing Bar From the Republic of Turkey: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 82 FR 32531 (July 14, 2017) (*Order*).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] This rate applies only to merchandise both produced and exported by Habas. Merchandise produced by Habas, but exported by another company, or produced by another company and exported by Habas continues to be covered by *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order,* 79 FR 65926 (Nov. 6, 2014).

[7] *See* 19 CFR 351.224(b).

Comment 1: Benchmark for Provision of Natural Gas for Less Than Adequate Remuneration
Comment 2: Social Security Premium Support Programs
VII. Recommendation

[FR Doc. 2020–05810 Filed 3–19–20; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–919]

Electrolytic Manganese Dioxide From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on electrolytic manganese dioxide (EMD) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the level indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0835.

SUPPLEMENTARY INFORMATION:

Background

After publication of the notice of initiation of this sunset review of the AD order on EMD from China,[1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act) Borman Specialty Materials (Borman) and Prince Specialty Products LLC (Prince) (collectively, domestic interested parties) filed with Commerce a timely and complete notice of intent to participate in the sunset review,[2] and a timely and adequate substantive response.[3] Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(*2*), Commerce conducted an expedited (120-day) sunset review of the *Order.*[4]

Scope of the Order

The merchandise covered by the *Order* includes all manganese dioxide (MnO2) that has been manufactured in an electrolysis process, whether in powder, chip, or plate form. Excluded from the scope are natural manganese dioxide (NMD) and chemical manganese dioxide (CMD). The merchandise subject to the *Order* is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2820.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.[5]

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the dumping margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.[6] A list of the topics discussed in the Issues and Decision Memorandum is attached as an Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed on the internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 149.92 percent.

Administrative Protective Orders

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

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: March 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. History of the Order
V. Legal Framework
VI. Discussion of the Issues
1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margin of Dumping Likely to Prevail
VII. Final Results of Sunset Review
VIII. Recommendation

[FR Doc. 2020–05928 Filed 3–19–20; 8:45 am]
BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 65968 (December 2, 2019); *see also Antidumping Duty Order: Electrolytic Manganese Dioxide from the People's Republic of China,* 73 FR 58537 (October 7, 2008) (*Order*).

[2] *See* Domestic Interested Parties' Letter, ''Electrolytic Manganese Dioxide from the People's Republic of China: Notice of Intent to Participate,'' dated December 17, 2019.

[3] *See* Domestic Interested Parties' Letter, ''Electrolytic Manganese Dioxide from the People's Republic of China: Substantive Response to Notice of Initiation of Five-Year (Sunset) Review of the Antidumping Duty Order,'' dated January 2, 2020 (Substantive Response).

[4] For a complete description of the background of this sunset review of the *Order, see* Memorandum, ''Issues and Decision Memorandum for the Expedited Second Sunset Review of the Antidumping Duty Order on Electrolytic Manganese Dioxide from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

[6] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

Postpone the Asia EDGE Business Development Mission

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, is amending the notice published on September 16, 2019, regarding the Asia EDGE (Enhancing Development and Growth through Energy) Business Development Mission to Indonesia and Vietnam, scheduled for March 16–24, 2020, to amend the dates and revise the application process for the event.

SUPPLEMENTARY INFORMATION: Amendments to revise the event dates and application process.

Background

The Department of Commerce has decided to postpone the Asia EDGE Business Development Mission, which was announced September 19, 2019 (84 FR 48590), from March 16–24, 2020 to September 14–22, 2020. The Department has been closely monitoring COVID–19 developments and believes postponing the mission is the best decision for the health, safety and welfare of the participants. Mission stops will include Indonesia, Vietnam, and Thailand (optional). The Department of Commerce will accept additional applications for this mission through June 30, 2020, and plans to select a total of 20 firms and/or trade associations, including previously selected firms and new applicants. Firms and/or trade associations previously selected to participate in this mission will need to confirm their availability, but need not reapply.

The proposed schedule is updated as follows*:

***Note:** The final schedule of meetings, events, and site visits will depend on the availability of host government and business officials, specific goals of mission participants, and flight availability and ground transportation options.

Sunday Sept. 13, 2020	• Travel to BANGKOK—Optional Spin Off.
Monday Sept. 14, 2020	• *Optional Spin Off Program Commences.* • BANGKOK (Full Day Sessions).
Tuesday Sept. 15, 2020	• BANGKOK (Morning Sessions). • Travel to HO CHI MINH CITY.
Wednesday Sept. 16, 2020	• *Official Trade Mission Program Commences.* • HO CHI MINH CITY (Full Day Sessions).
Thursday Sept. 17, 2020	• Travel to HANOI. • HANOI (Evening Reception).
Friday Sept. 18, 2020	• HANOI (Full Day Sessions).
Saturday/Sunday Sept. 19–20, 2020	• Travel to JAKARTA.
Monday Sept. 21, 2020	• JAKARTA (Full Day Sessions).
Tuesday Sept. 22, 2020	• JAKARTA (Visit PowerGen Asia Show). • *Official Trade Mission Program Concludes.*

Contact Information

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Gemal Brangman,

Senior Advisor, Trade Missions, ITA Events Management Task Force.

[FR Doc. 2020–05861 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–813]

Certain Hot-Rolled Steel Flat Products From the Netherlands: Rescission of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on certain hot-rolled steel flat products (HR Steel) from the Netherlands for the period October 1, 2018, through September 30, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3477.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on HR Steel from the Netherlands for the period of review (POR) October 1, 2018, through September 30, 2019.[1] On October 31, 2019, the petitioners[2] timely requested an administrative review of the antidumping duty order with respect to Tata Steel Steel Ijmuiden BV.[3] On December 11, 2019, in accordance with section 751(a) of the Tariff Act of 1930,

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 52068 (October 1, 2019).

[2] The petitioners are AK Steel Corporation, Steel Dynamics Inc., SSAB Enterprises, LLC, Nucor Corporation, and United States Steel Corporation.

[3] *See* the petitioners' Letter, ''Re: Hot-Rolled Steel Flat Products from the Netherlands/Request For Administrative Review,'' dated October 31, 2019.

as amended (the Act) and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order on HR Steel from the Netherlands with respect Tata Steel Steel Ijmuiden BV.[4] On February 21, 2020, the petitioners timely withdrew their request for an administrative review of Tata Steel Steel Ijmuiden BV.[5] Commerce received no other requests for an administrative review of the antidumping duty order.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review ''in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' The petitioners withdrew their request for review within 90-days of the publication date of the *Initiation Notice.* Because we received no other requests for review of Tata Steel Steel Ijmuiden BV, and no other requests for the review of the order on HR Steel from the Netherlands with respect to other companies subject to the order, we are rescinding the administrative review of the order in its entirety, in accordance with 19 CFR 351.213(d)(1).

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of HR Steel products from the Netherlands during the POR at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Order

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

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: March 16, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–05811 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 67712 (December 11, 2019) (*Initiation Notice*).

[5] *See* the petitioners' Letter, ''Re: Hot-Rolled Steel Flat Products from the Netherlands/Withdrawal Of Request For Administrative Review,'' dated February 21, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–921]

Lightweight Thermal Paper From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order

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

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on lightweight thermal paper from the People's Republic of China (PRC) would be likely to lead to continuation or recurrence of countervailable subsidies.

DATES: Applicable March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dusten Hom or Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–5075 or (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2008, Commerce published the countervailing duty order on lightweight thermal paper from the People's Republic of China.[1] On December 2, 2019, Commerce published the initiation of the second sunset review of this order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On December 13, 2019, Commerce received a notice of intent to participate from Appvion Operations, Inc. (Appvion) and Kanzaki Specialty Papers Inc. (Kanzaki) within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Appvion and Kanzaki (domestic interested parties) claimed interested party status under section 771(9)(C) of the Act as producers of lightweight thermal paper in the United States.

On December 23, 2019, Commerce received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3).[4] Commerce did not receive any submissions from any other interested parties. Because Commerce did not receive a substantive response from either the Government of China (GOC) or the respondent interested parties who are producers or exporters of lightweight thermal paper, we determined that respondent interested parties provided inadequate responses to Commerce's notice of initiation.

On December 23, 2019, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)–(C), Commerce is conducting an expedited (120-day) sunset review of the *CVD Order.*

Scope of the Order

Imports covered by the *Order* are shipments of certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m^2) (with a tolerance of

[1] *See Lightweight Thermal Paper from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 70958 (November 24, 2008) (*CVD Order*).

[2] *See Initiation of Five-Year* (''*Sunset*'') *Review,* 84 FR 65968 (December 2, 2019).

[3] *See* Appvion's and Kanzaki's Letter, ''Five-Year ('Sunset') Review of Countervailing Duty Order on Lightweight Thermal Paper from the People's Republic of China: Domestic Industry Notice of Intent to Participate,'' dated December 13, 2019.

[4] *See* Appvion's and Kanzaki's Letter, ''Five-Year ('Sunset') Review of Countervailing Duty Order on Lightweight Thermal Paper from the People's Republic of China: Domestic Industry Substantive Response,'' dated December 23, 2019.

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated December 2, 2019,'' dated December 23, 2019.

± 4.0 g/m²) or less; irrespective of dimensions;[6] with or without a base coat[7] on one or both sides; with thermal active coating(s)[8] on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;[9] and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.9035, 4811.90.9080, 4811.59.2000, 4820.10.20, 4823.40.0000, 3703.10.60, 4811.90.8030, 4811.90.8040, 4811.90.8050, 4811.90.9030, 4811.90.9050, and 4811.90.9090.[10] [11] Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum,[12] which is dated concurrently with and hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum are the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(b)(1) and (3) of the Act, we determine that revocation of the *CVD Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Manufacturers/producers/exporters	Net subsidy rate (percent)
Guangdong Guanhao High-Tech Co., Ltd	13.63
Shenzhen Yuanming Industrial Development Co., Ltd	138.53
MDCN Technology Co., Ltd.	124.93
Xiamen Anne Paper Co., Ltd	124.93
All Others	13.63

Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: March 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

1. Summary
2. History of the Order
3. Background
4. Scope of the Order
5. Discussion of the Issues
   a. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
   b. Net Countervailable Subsidy Likely to Prevail
   c. Nature of the Subsidies
6. Final Results of Review
7. Recommendation

[FR Doc. 2020–05930 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–DS–P

[6] Lightweight thermal paper is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of this order.

[7] A base coat, when applied is typically made of clay and/or latex like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

[8] A thermal active coating is typically made of sensitizer, dye, and co-reactant.

[9] A top coat, when applied is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

[10] HTSUS subheading 4811.90.8000 was a classification used for lightweight thermal paper until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, anon-subject product) and 4811.90.8040 (for ''other'' including lightweight thermal paper). HTSUS subheading 4811.90.8000 was a classification for lightweight thermal paper until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for ''other'', including lightweight thermal paper).

[11] As of January 1, 2009, the International Trade Commission deleted HTSUS subheadings 4811.90.8040 and 4811.90.9090 and added HTSUS subheadings 4811.90.8030, 4811.90.8050, 4811.90.9030, and 4811.90.9050 to the Harmonized Tariff Schedule of the United States (2009). *See* Harmonized Tariff Schedule of the United States (2009), available at *www.usitc.gov.* These HTSUS subheadings were added to the scope of the order in lightweight thermal paper's LTFV investigation.

[12] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Second Expedited Five-Year Sunset Review of the Countervailing Duty Order on certain Lightweight Thermal Paper from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–880]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2018–2019, in Part

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

SUMMARY: On November 12, 2019, the Department of Commerce (Commerce) initiated an administrative review on heavy walled rectangular welded carbon steel pipes and tubes from the Republic of Korea (Korea) for the period September 1, 2018 through August 31, 2019, for 22 companies. Because interested parties timely withdrew their requests for administrative review for certain companies, we are rescinding this administrative review with respect to those companies. For a list of the companies for which we are rescinding this review, *see* Appendix I to this notice. For a list of the companies for which the review is continuing, *see* Appendix II to this notice.

DATES: Applicable March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Whitley Herndon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–6274, respectively.

Background

On September 3, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on heavy walled rectangular welded carbon steel pipes and tubes from Korea for the period September 1, 2018 through August 31, 2019.[1] In September 2019, Commerce received timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of this antidumping duty order from Independence Tube Corporation and Southland Tube Incorporated, collectively Nucor Pipe Mills (the petitioner), HiSteel Co., Ltd., Dong-A Steel Co., Ltd., and Kukje Steel Co., Ltd.. Based upon these requests, on November 12, 2019, in accordance with section 751(a) of the Act, Commerce published in the **Federal Register** a notice of initiation listing 22 companies for which Commerce received timely requests for review.[2]

In February 2020, all interested parties timely withdrew their request for an administrative review of certain companies.[3] These companies are listed in Appendix I.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, certain parties withdrew their requests for review by the 90-day deadline. Accordingly, we are rescinding this administrative review with respect to the companies listed in Appendix I.[4]

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: March 16, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Ahshin Pipe & Tube Company
Bookook Steel Co., Ltd.
Dongbu Steel Co., Ltd.
G.S. ACE Industry Co., Ltd.
Ganungol Industries Co., Ltd.
Hanjin Steel Pipe
Husteel Co., Ltd.
Hyosung Corporation
Hyundai Steel Co.
Hyundai Steel Pipe Company
K Steel Co., Ltd.
Miju Steel Manufacturing Co., Ltd.
NEXTEEL Co., Ltd.
POSCO DAEWOO
Sam Kang Industrial Co., Ltd.
Samson Controls Ltd., Co.
SeAH Steel Corporation
Shin Steel Co., Ltd.
Yujin Steel Industry Co. Ltd.

Appendix II

Dong-A Steel Co., Ltd.
HiSteel Co., Ltd.
Kukje Steel Co., Ltd.

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BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 45949 (September 3, 2019).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 61011 (November 12, 2019) (*Initiation Notice*).

[3] *See* Petitioner's Letter, ''Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Partial Withdrawal of Request for Administrative Review,'' dated February 10, 2020.

[4] We note that although we are rescinding on the companies listed in Appendix I, these companies may still be subject to this administrative review if we find them to be an affiliate of any of the mandatory respondents in this review listed in Appendix II.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR035]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Parallel Thimble Shoal Tunnel Project in Virginia Beach, Virginia

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 Chesapeake Tunnel Joint Venture (CTJV) to incidentally take, by Level A harassment and Level B harassment, five species of marine mammals during the Parallel Thimble Shoal Tunnel Project (PTST) in Virginia Beach, Virginia.

DATES: This Authorization is effective from March 10, 2020 through March 09, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, 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.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On May 24, 2019, NMFS received a request from the CTJV for an IHA to take marine mammals incidental to pile driving and removal at the Chesapeake Bay Bridge and Tunnel (CBBT) near Virginia Beach, Virginia. The application was deemed adequate and complete on October 11, 2019. The CTJV's request is for take of small numbers of harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena phocoena*) and humpback whale (*Megaptera novaeangliae*) by Level A and Level B harassment. Neither the CTJV nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Activity

Overview

The CTJV requested authorization for take of marine mammals incidental to in-water construction activities associated with the PTST project. The project consists of the construction of a two-lane parallel tunnel to the west of the existing Thimble Shoal Tunnel, connecting Portal Island Nos. 1 and 2 of the CBBT facility which extends across the mouth of the Chesapeake Bay near Virginia Beach, Virginia. Upon completion, the new tunnel will carry two lanes of southbound traffic and the existing tunnel will remain in operation and carry two lanes of northbound traffic. The PTST project will address existing constraints to regional mobility based on current traffic volume along the facility. Construction will include the installation and removal of 812 piles over 198 days as shown below in Table 1. Due to minor construction design changes, the **Federal Register** notice announcing the proposed IHA (84 FR 64847; November 25, 2019), had originally estimated that there were would be 878 piles installed and removed over 188 days.

In-water activities associated with the project include impact driving, vibratory driving and drilling with down-the-hole (DTH) hammers. Some piles will be removed via vibratory hammer. Work will occur during standard daylight hours of approximately 8–12 hours per day depending on the season. In-water work will occur every month with the exception of February 2021. In-water construction associated with this IHA will begin in winter of 2020.

The PTST project has been divided into four phases over 5 years. Phase I commenced in June 2017 and consisted of upland pre-tunnel excavation activities, while Phase IV is scheduled to be completed in May of 2022. In-water activities are limited to Phase II and, potentially, Phase IV (if substructure repair work is required at the fishing pier and/or bridge trestles and abutments). Take of marine mammals authorized under this IHA will occur for one year from the date of issuance.

A detailed description of the planned activities is provided in the **Federal Register** notice announcing the proposed IHA (84 FR 64847; November 25, 2019). Since that time the CTJV has made minor revisions to the project's construction schedule. The project is now planned to occur over 11 months with no in-water activity in February 2021. The project schedule contained in the proposed IHA was to occur over 10 months with no in-water work during September and October of 2020. The in-water activities described in the proposed IHA **Federal Register** notice generally remain the same. Any changes from the proposed IHA **Federal Register** notice are identified in this notice. Therefore, a detailed description is not provided here. Please refer to the proposed IHA **Federal Register** notice for a detailed description of the activity.

TABLE 1—PILE DRIVING ACTIVITIES ASSOCIATED WITH THE PTST PROJECT

Pile location	Pile function	Pile type	Installation/removal method	Bubble curtain (yes/no)	Number of piles below MHW	Number of days per activity (total)	Number of days per activity (per hammer type) full production	Anticipated installation date
Portal Island No. 1	Mooring dolphins	12-inch Timber piles	Vibratory (Install) Impact (if needed)	No No	120	18	18 Days (7 Piles/Day) 14 Days (9 Piles/Day).	1 May 2020 through 20 June 2020.
Portal Island No. 1	Temporary Dock	42-inch Diameter Steel Pipe Casing*.	DTH (install) Vibratory (removal)	No No	58	20	20 Days (3 Piles/day) 10 Days (6 Piles/day).	7 Feb 2019 through 7 June 2020.
		36-inch Diameter Steel Pipe Pile.	Impact	Yes		20	20 Days (3 Piles/day).	
Portal Island No. 1	Omega Trestle	36-inch Diameter Steel Pipe Piles.	DTH (Install) Impact	No Yes	18	9	9 Days (2 Piles/Day) 6 Days (3 Piles/Day).	7 Feb 2020 through 28 April 2020.
Portal Island No. 1	Berm Support of Excavation Wall—West Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (install) Impact	No Yes	133	27	27 Days (5 Piles/Day 13 Days (10 Piles/Day).	7 Feb 2020 through 1 June 2020.
Portal Island No. 1	Berm Support of Excavation Wall—East Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install) Impact	No Yes	121	25	25 Days (5 Piles/Day) 12 Days (10 Piles/Day).	7 Feb 2020 through 1 September 2020.
Portal Island No. 1	Mooring Piles and Templates.	36-inch Diameter Steel Pipe Piles.	Vibratory (Install & Removal).	No	12	3	3 Days (5 Piles/Day)	7 Feb 2020 through 31 October 2020.
Portal Island No. 2	Mooring Dolphins	12-inch Timber Piles	Vibratory (Install) Impact (if needed)	No No	60	9	9 Days (7 Piles/Day) 7 Days (9 Piles/Day).	20 June 2020 through 1 August 2020.
Portal Island No. 2	Omega Trestle	36-inch Diameter Steel Pipe Piles.	DTH (Install) Impact	No Yes	28	14	14 Days (2 Piles/Day) 12 Days (3 Piles/Day).	1 June 2020 through 30 September 2020.
Portal Island No. 2	Berm Support of Excavation Wall—West Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install) Impact	No Yes	124	25	25 Days (5 Piles/Day) 13 Days (10 Piles/Day).	1 July 2020 through 6 Feb 2021.

TABLE 1—PILE DRIVING ACTIVITIES ASSOCIATED WITH THE PTST PROJECT—Continued

Pile location	Pile function	Pile type	Installation/removal method	Bubble curtain (yes/no)	Number of piles below MHW	Number of days per activity (total)	Number of days per activity (per hammer type) full production	Anticipated installation date
Portal Island No. 2	Berm Support of Excavation Wall—East Side.	36-inch Diameter Steel Interlocked Pipe Piles.	DTH (Install) Impact	No Yes	122	25	25 Days (5 Piles/Day) 13 Days (10 Piles/Day).	10 September 2020 through 6 Feb 2021.
Portal Island No. 2	Mooring Piles and Templates.	36-inch Diameter Steel Pipe Piles.	Vibratory (Install & Removal).	No	16	3	3 Days (6 Piles/Day)	1 March 2020 through 31 October 2020.
Total					812 Piles	198 Days		

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting sections).

Comments and Responses

A notice of NMFS' proposal to issue an IHA to the CTJV was published in the **Federal Register** on November 25, 2019 (84 FR 64847). That notice described, in detail, the CTJV's planned activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. During the 30-day public comment period NMFS received a comment letter from the Marine Mammal Commission (Commission). The Commission's recommendations and our responses are provided here, and the comments have been posted online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Comment 1: The Commission recommends that NMFS refrain from publishing for public comment proposed incidental harassment authorizations which contain errors and inconsistencies in the basic underlying information and instead return such applications to action proponents as incomplete.

Response: NMFS thanks the Commission for its recommendation. NMFS reviews the notices thoroughly prior to publication and, despite certain errors noted by the Commission, publishes (in this case and others) proposals that are based on the best scientific evidence available and that are sufficient to facilitate public comment on our proposed actions under the MMPA.

Comment 2: The Commission recommended that NMFS resolve differences between Table 1 and Table 7 in the proposed IHA concerning the number of piles driven per day

Response: The CTJV revised the project schedule and has arrived at 812 total piles driven and removed over 198 days of driving operations as shown in Table 1 in this notice.

Comment 3: The Commission recommended that NMFS refrain from reducing the number of piles to be installed/removed per day by 50 percent in order to calculate take by Level A harassment. If NMFS intends to use a 50-percent reduction in the number of piles to be installed/removed per day, the Commission recommended that NMFS implement that reduction consistently for all pile sizes, types, and installation/removal methods.

Response: For purposes of estimated take by Level A harassment, NMFS assumed that the number of piles installed on a given day was 50 percent of the total planned number. Since the marine mammals proposed for authorization are highly mobile, it is unlikely that an animal would remain within an established Level A harassment zone during the installation/removal of multiple piles throughout a given day. To provide a more realistic estimate of take by Level A harassment, NMFS assumed that an animal would occur within the injury zone for 50 percent of the driving time, which equates to 50 percent of the piles planned for installation/removal. NMFS acknowledges the necessity of implementing this reduction across all pile sizes, types, and installation/removal methods and has done so as shown in Table 5.

Comment 4: In the absence of relevant recovery time data for marine mammals, the Commission recommended that animat modeling be used to inform the appropriate accumulation time to determine injury isopleths and estimate takes by Level A harassment. The Commission also recommended 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: NMFS appreciates the Commission's interest in this issue, and considers the issue a priority.

Comment 5: The Commission recommends that NMFS consult with acousticians regarding the appropriate source level reduction factor to use to minimize near-field (<100 m) and far-field (>100 m) effects on marine mammals or use the data NMFS has compiled regarding source level reductions at 10 m for near-field effects and assume no source level reduction for far-field effects for all relevant incidental take authorizations.

Response: NMFS disagrees with the Commission regarding this issue, and does not adopt the recommendation. The Commission has raised this concern before and NMFS refers readers to our full response, which may be found in a previous notice of issuance of an IHA (84 FR 64833, November 25, 2019).

Comment 6: The Commission recommended that NMFS use the untruncated seasonal densities for bottlenose dolphins from Engelhaupt *et al.* (2016), consistent with the previous authorization and the July 2019 monitoring data, to estimate the numbers of Level B harassment takes.

Response: NMFS has accepted the Commission's recommendation and will use untruncated data from Engelhaupt *et al.* (2016) to estimate take of bottlenose dolphins as shown in Table 9 of this notice of issuance.

Comment 7: The Commission reiterates programmatic recommendations regarding NMFS' potential use of the renewal mechanism for one-year IHAs.

Response: NMFS disagrees with the Commission's recommendations, as stated in our previous comment responses relating to other actions, which we incorporate here by reference (*e.g.,* 84 FR 52464; October 2, 2019).

Changes From the Proposed IHA to the Final IHA

Stock abundance updates to Table 2 (Marine Mammal Species Likely To Occur Near the Project Area) were made in this notice for North Atlantic right whale, fin whale, the coastal southern migratory stock of bottlenose dolphin, harbor porpoise, and humpback whale based on the 2019 draft Stock Assessment Report published on November 27, 2019 (84 FR 65353).

NMFS indicated in the **Federal Register** notice that the IHA would cover in-water activities beginning in the fall 2019. However, activities will not begin until the authorization is issued in winter 2019. NMFS also indicated in the proposed IHA **Federal Register** notice that up to 888 piles would be driven and/or removed. The CTJV has since clarified that 812 piles will be driven and/or removed over 198 days during the effective period of the issued IHA. The construction schedule has been revised and now includes in-water activity over 11 months, with none in February, instead of 10 months of activity, with none in September or October as indicated in the proposed IHA **Federal Register** notice. Additionally, there will be no vibratory removal of 12-in timber piles as described in the proposed IHA. Temporary 12-in timber piles will either be cut off at the mudline or undergo vibratory removal as part of future work for which a separate IHA may be requested. While vibratory installation of timber piles will occur, there are no references to vibratory removal of 12-in timber piles in this **Federal Register** notice of issuance.

NMFS indicated in the proposed **Federal Register** notice that the source level for impact driving of 12-in piles originated from the Ballena project described in Caltrans (2015). However, that referenced source level came from only a single pile. The correct source levels according to Caltrans (2015) are 180 dB re 1 μPa peak, 170 dB re 1 μPa rms, and 160 dB re 1 μPa2-sec at 10 m. NMFS has included the updated information in Table 4 and Table 5 of this notice and updated the Level A and B harassment zones and numbers of takes accordingly. NMFS incorrectly specified in Table 9 of the proposed IHA **Federal Register** notice the Level B harassment zone for impact installation of 36-in piles as 1,555 m rather than 1,585 m and for vibratory installation/removal of 12-in timber piles as 1,354 m rather than 1,359 m. NMFS has made the appropriate corrections to Table 7 of this notice and revised numbers of takes accordingly.

NMFS has included in the issued IHA a requirement that at least two protected species observers (PSOs) will be required to monitor before, during, and after the proposed pile-driving and -removal activities.

NMFS has included language requiring extrapolation of the numbers of Level A harassment takes in the issued IHA as well Level B harassment takes based on the extents of the zones that could be monitored. Finally, take numbers for all authorized species have been revised and are described in the Estimated Take section and listed in Table 10.

Description of Marine Mammals in the Area of Specified Activities

Table 2 lists all species with expected potential for occurrence near 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 (2019). 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 2018 United States Atlantic and Gulf of Mexico Marine Mammal Stock Assessments (Hayes *et al.* 2019) and draft 2019 United States Atlantic and Gulf of Mexico Marine Mammal Stock Assessments published in the **Federal Register** on November 27, 2019 (84 FR 65353). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2018 SAR and draft 2019 SAR.

TABLE 2—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale [5]	*Eubalaena glacialis*	Western North Atlantic (WNA)	E, D; Y	428 (0, 418; See SAR)	0.8	5.55
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-,-; N	1,380 (0; 1,380, see SAR)	22	12.15
Fin whale [5]	*Balaenoptera physalus*	WNA	E,D; Y	7,418 (0.25; 6,029; See SAR)	12	2.35
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	WNA Coastal, Northern Migratory.	-,-; Y	6,639 (0.41; 4,759; 2011)	48	6.1–13.2
		WNA Coastal, Southern Migratory.	-,-; Y	3,751 (0.06; 2,353; 2011)	23	0–14.3
		Northern North Carolina Estuarine System.	-,-; Y	823 (0.06; 782; See SAR)	7.8	0.8–18.2
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	95,543 (0.31; 74,034; See SAR).	851	217

TABLE 2—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	WNA	-; N	75,834 (0.1; 66,884, 2012)	2,006	350
Gray seal [4]	*Halichoerus grypus*	WNA	-; N	27,131 (0.19, 23,158, See SAR).	1,359	5,410

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000.

[5] Species are not expected to be taken or authorized for take.

A detailed description of the of the species likely to be affected by the planned 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 64847; November 25, 2019) for additional information. Since that time the draft 2019 United States Atlantic and Gulf of Mexico Marine Mammal Stock Assessments has been released (84 FR 65353; November 27, 2019). Updates from the draft SAR have been incorporated for the North Atlantic right whale, fin whale, the coastal southern migratory stock of bottlenose dolphin, harbor porpoise, and humpback whale. We are not aware of any additional 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

Underwater noise from impact pile driving, vibratory pile driving, vibratory pile removal, and drilling with a DTH hammer associated with the PTST project have the potential to result in harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (84 FR 64847; November 25, 2019) included a discussion of the potential effects of such disturbances on marine mammals and their habitat, therefore that information is not repeated in detail here; please refer to the **Federal Register** notice (84 FR 64847; November 25, 2019) for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which informs 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 will primarily be by Level B harassment, as use of the acoustic sources (*i.e.,* pile driving, DTH drilling) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, for phocids (harbor seals, gray seals) mid-frequency species (bottlenose dolphins) and high-frequency species (harbor porpoises) due to the size of the predicted auditory injury zones. The planned mitigation and monitoring measures (see Mitigation and Monitoring and Reporting sections below) are expected to minimize the severity of such taking to the extent practicable. 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 for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and

can be difficult to predict (Southall *et al.,* 2007; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. The CTJV's planned activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving, DTH drilling) sources, and therefore the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (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 CTJV's planned activity includes the use includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving, DTH drilling) sources.

These thresholds 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.*

TABLE 3—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 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. The maximum (underwater) area ensonified is determined by the topography of the Bay including shorelines to the west south and north as well as by hard structures such as portal islands.

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:

$$TL = B * \mathrm{Log}_{10} (R_1/R_2),$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 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]). A practical spreading value of 15 is often used under conditions, such as the PTST project site where water generally increases with depth as the receiver moves away from pile driving locations, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

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. In order to calculate distances to the Level A harassment and Level B harassment thresholds for the 36-inch steel piles planned in this project, the CTJV used acoustic monitoring data from other locations as described in Caltrans 2015 for impact and vibratory driving. The CTJV also conducted their

own sound source verification testing on 42-inch steel casings as described below to determine source levels associated with DTH drilling. NMFS used vibratory driving of 36-in steel pile source levels for vibratory driving of 42-inch casings source levels. The CTJV plans to employ bubble curtains during impact driving of 36-inch steel piles and, therefore, reduced the source level by 7 dB (a conservative estimate based on several studies including Austin *et al.* 2016).

Source levels for drilling with a DTH hammer were field verified at the PTST project site by JASCO Applied Sciences in July 2019 (Denes, 2019). Underwater sound levels were measured during drilling with a DTH hammer at five pile locations—three without bubble curtain attenuation and two with bubble curtain attenuation. The average SPL value at 10 m for the DTH location without a bubble curtain was 180 dB re 1μPa, while the average SEL and PK levels were 164 dB re 1μPa2·s and 190 dB re 1μPa, respectively. These values were greater than DTH testing done at a location in Alaska (Denes *et al.* 2016). The dominant signal characteristic was also found to be impulsive rather than continuous. Southall *et al.* (2007) suggested that impulsive sounds can be distinguished from non-impulsive sounds by comparing the SPL of a 0.035 s window that includes the pulse and with a 1 s window that may include multiple pulses. If the SPL of the 0.035 s window is 3 dB greater than the 1 s window, then the signal should be considered impulsive. Denes (2019) observed that at the PTST site, the SPL of the 0.035 s pulse is 5 dB higher than the SPL of the 1 s sample, so the DTH source is classified here as impulsive. Source levels associated with DTH drilling of 42-inch steel casings were assumed to be the same as recorded for installation of 36-in steel pipe by DTH.

The CTJV utilized in-water measurements generated by the Greenbusch Group (2018) from the WSDOT Seattle Pier 62 project (83 FR 39709) to establish proxy sound source levels for vibratory installation of 12-inch timber piles. NMFS reviewed the report by the Greenbusch Group (2018) and determined that the findings were derived by pooling together all steel pile and timber pile at various distance measurements data together. The data was not normalized to the standard 10 m distance. NMFS analyzed source measurements at different distances for all 63 individual timber piles that were removed and normalized the values to 10 m. The results showed that the median is 152 dB SPLrms. This value was used as the source level for vibratory installation of 12-inch timber piles. Source levels for impact driving of 12-in timber piles were from the Ballena Bay Marina project in Alameda, CA as described in Caltrans 2015 but have been revised in this document. The lower values contained in the proposed IHA notice were from a single pile at the Ballena Bay Marina and did not reflect the measurements from all of the piles that were tested. Sound source levels used to calculate take are shown in Table 4.

TABLE 4—THE SOUND SOURCE LEVELS (dB PEAK, dB RMS, AND dB sSEL) BY HAMMER TYPE

Type of pile	Hammer type	Estimated peak noise level (dB peak)	Estimated pressure level (dB RMS)	Estimated single strike sound exposure level (dB sSEL)	Relevant piles at the PTST project	Pile function
36-inch Steel Pipe	Impact [a]	210	193	183	Plumb	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
	Impact with Bubble Curtain [b].	203	186	176	Plumb	Berm Wall West, Berm Wall East, and Temporary Dock.
	DTH—Impulsive [d]	190	180	164	Plumb	Omega Trestle, Berm Wall West, and Berm Wall East.
	Vibratory [a]	NA	170	170	Pipe Piles	Mooring Piles and Templates.
12-inch Timber Pile	Vibratory [c]	NA	152	152	Plumb	Mooring Dolphins.
	Impact [a]	180	170	160	Plumb	Mooring Dolphins.
42-inch Steel Casing	DTH—Impulsive [d]	190	180	164	Steel Casing	Temporary Dock.
	Vibratory [a]	NA	170	170	Pipe Piles	Temporary Dock.

Note: sSEL = Single Strike Exposure Level; dB = decibel; N/A = not applicable.
[a] Caltrans 2015.
[b] 7 dB reduction was assumed for use an encased bubble curtain (Austin *et al.* 2016).
[c] Greenbusch Group 2018.
[d] Denes *et al.* 2019.

The CTJV used NMFS' Optional User Spreadsheet, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance,* to input project-specific parameters and calculate the isopleths for the Level A harassment zones for impact and vibratory pile driving. 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 source pile driving, the NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

Table 5 provides the sound source values and input employed in the User Spreadsheet to calculate harassment isopleths for each source type while

Table 6 shows distances to Level A harassment isopleths. Note that the isopleths calculated using the planned number of piles driven per day is conservative. PTS is based on accumulated exposure over time. Therefore, an individual animal would have to be within the calculated PTS zones when all of the piles of a single type and driving method are being actively installed throughout an entire day. The marine mammals authorized for take are highly mobile. It is unlikely that an animal would remain within the PTS zone during the installation of, for example, 10 piles over an 8-hour period. NMFS opted to reduce the number of piles driven per day by 50 percent in order to derive more realistic PTS isopleths. In cases where the number of planned piles per day was an odd number, NMFS used the next largest whole number that was greater than 50 percent. These are shown in Table 5 in the row with the heading *Number of piles/day.* Table 6 contains calculated distances to PTS isopleths and Table 7 depicts distances to Level B harassment isopleths.

TABLE 5—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING HARASSMENT ISOPLETHS

Model parameter	12-in timber		36-in and 42-in steel				
	Vibratory	Impact	Vibratory	Impact	Impact—with bubble	DTH	DTH—simultaneous
Spreadsheet Tab	A.1	E.1	A.1	E.1	E.1	E.1	E.1
Weighting Factor (kHz)	2.5	2	2.5	2.0	2.0	2.0	2.0
RMS (dB)	152	170	170	193	186	180	180
Peak/SEL (dB)	na	180/160	na	210/183	203/176	190/164	190/164
Number of piles/day *	4	5	3	5	5	3	3
Duration to drive a pile (minutes)	30	na	12.0	na	na	na	na
Propagation	15	15	15	15	15	15	15
Distance from source (meters)	10	10	10	10	10	10	10
Strikes per pile	na	1000	na	1,000	1000	25,200	50,400

* Represents 50% of piles planned per day.

TABLE 6—RADIAL DISTANCE TO PTS ISOPLETHS (METERS)

Hammer type		Low-frequency cetaceans		Mid-frequency cetaceans		High-frequency cetaceans		Phocid pinnipeds		Pile location in the PTST project
	Pile type	Island 1	Island 2	Island 1	Island 2	Island 1	Island 2	Island 1	Island 2	
Impact	12-in. Timber	86	86	3	3	102	102	46	46	Mooring Dolphins.
Impact with Bubble Curtain.	36-in. Steel	2,920	2,920	104	104	3,478	3,478	1,563	1,563	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Impact with Bubble Curtain.	36-in. Steel	997	997	36	36	1,188	1,188	534	534	Berm Wall West, Berm Wall East, and Temporary Dock.
DTH—Impulsive	36 and 42-in. Steel.	966	966	34	34	1,151	1,151	517	517	Casing for Temporary Dock.
DTH Simultaneous		1,534	1,534	55	55	1,827	1,827	821	821	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
DTH & Impact Hammer (Bubble Curtain) Simultaneous.	36-and 42-in. Steel.	1,963	1,963	70	70	2,399	2,399	1,051	1,051	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Continuous (Vibratory)	12-in. Timber	3	3	0.2	0.2	4	4	2	2	Mooring Dolphins.
	36-in. Steel	19	19	2	2	29	29	12	12	Mooring Piles and Templates.
	42-in. Steel	19	.....	2	.....	29	.....	12	.....	Casing for Temporary Dock.

TABLE 7—RADIAL DISTANCE (METERS) TO LEVEL B HARASSMENT MONITORING ISOPLETHS

Driving method	Pile type	Distance from Island 1 & 2	Pile location
Impact	12-in. Timber	22	Mooring Dolphins.
	36-in. Steel	1,585	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Impact with Bubble Curtain	36-in. Steel	541	Berm Wall West, Berm Wall East, and Temporary Dock.
DTH—Impulsive	42-in. Steel	*215	Casing for Temporary Dock.
	36-in. Steel	215	Omega Trestle, Temporary Dock, Berm Wall West, and Berm Wall East.
Continuous (Vibratory)	12-in. mooring	1,359	Mooring Dolphins.
	36-in. Steel	21,544	Mooring Piles and Templates.
	42-in. Steel	*21,544	Casing for Temporary Dock.

* Activity will not occur on Portal Island 2.

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 and describe how it is brought together with the information above to produce a quantitative take estimate. When available, peer-reviewed scientific publications were used to estimate marine mammal abundance in the project area. In some cases population estimates, densities, and other quantitative information are lacking. Local observational data and estimated group size were utilized where applicable.

Humpback Whale

Humpback whales are relatively rare in the Chesapeake Bay and density data for this species within the project vicinity were not available nor able to be calculated. Populations in the mid-Atlantic have been estimated for humpback whales off the coast of New Jersey with a density of 0.000130 per square kilometer (Whitt *et al.* 2015). Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.* 2016) represent the best available information regarding marine mammal densities offshore near the mouth of the Chesapeake Bay. At the closest point to the PTST project area, humpback densities ranged from a high of 0.107/100 km² in March to 0.00010/100 km² in August. Furthermore, the CTJV conducted marine mammal monitoring during SSV testing for 5 days in July 2019. During that time there were no sightings or takes of humpback whales.

Because humpback whale occurrence is low as demonstrated above, the CTJV and NMFS estimated that there will be a single humpback sighting every two months for the duration of in-water pile driving activities. Only 10 months of in-water construction were anticipated when the proposed IHA was published, resulting in the proposed take of 10 animals. A revised construction schedule has been developed by the CTJV and includes 11 months of planned in-water pile driving activity. Using an average group size of two animals, pile driving activities over an 11-month period would result in 12 takes (rounding up) of humpback whale by Level B harassment. No takes by Level A harassment are expected or authorized.

Bottlenose Dolphin

Expected bottlenose dolphin take was estimated using a 2016 report on the occurrence, distribution, and density of marine mammals near Naval Station Norfolk and Virginia Beach, Virginia (Engelhaupt *et al.* 2016). Three years of dolphin survey data were collected from either in-shore or open ocean transects. In the proposed IHA, a subset of survey data from Engelhaupt *et al.* (2016) was used to determine seasonal dolphin densities in the Bay near the project area. A spatially refined approach was employed by plotting dolphin sightings within 12 km of the project location and then determining densities following methodology outlined in Engelhaupt *et al.* (2016) and Miller *et al.* (2019) using the package DISTANCE in R statistical software. The Commission believes that use of this truncated data was inappropriate since Engelhaupt *et al.* (2016) did not survey all of the area near the project site, but only surveyed within approximately 4 km of the coast. The Commission determined that this approach was flawed as it was not based on distance sampling methods and did not assume equal survey effort within the harassment zones, since the majority of the identified harassment zones had no survey effort. In response, NMFS indicated that it would use Engelhaupt *et al.* (2016) data to expand the truncated area using from 12 km to 19 km. The Commission felt that this was also inappropriate as monitoring data from the CTJV's site indicated that the densities provided by Engelhaupt *et al.* (2016) were closer to what was actually observed at the project area compared to the truncated Engelhaupt *et al.* (2016) data. The CTJV's sightings data from July 2019 recorded an average density of animals sighted of 4.37 dolphins/km². That density is actually greater than the original, untruncated Engelhaupt *et al.* (2016) density of 3.88 dolphins/km² for summer. The observed 4.37 dolphins/km² is much greater than the truncated estimate of 0.62 dolphins/km² utilized in the notice of proposed IHA which was initially used to estimate take numbers. Given this information, it is likely that the number of takes estimated in the proposed IHA is far less than what is expected to be observed. Therefore, NMFS opted to use the original seasonal density values documented by Engelhaupt *et al.* (2016). These values were broken out by month as shown Table 9. The Level B harassment area for each pile and driving type as shown in Table 8 was multiplied by the appropriate seasonal density and the anticipated number of days of a specific activity per month number to derive a total number of takes for each construction project component as shown in Table 9 (*i.e.* mooring cluster, temporary dock, omega trestle/west O-pile walls/mooring piles & templates, and omega trestle/east O-pile walls).

TABLE 8—IN-WATER AREA (km²) USED FOR CALCULATING DOLPHIN TAKES PER CONSTRUCTION COMPONENTS PER HAMMER TYPE

Construction component	Pile type	Impact hammer	Vibratory hammer	Impact + DTH hammers	DTH + DTH hammers
Mooring Cluster	12-in Timber	0.003	4.16	NA	NA
Temporary Dock	36-in and 42-in Steel	* 0.63	830	1.72	0.25
Omega Trestle and West O-pile wall	36-in and 42-in Steel		830	1.72	0.49
East O-pile Wall	36-in and 42-in Steel		NA	1.43	0.31

* Impact Hammer with Bubble Curtain.

TABLE 9—ESTIMATED TAKES OF BOTTLENOSE DOLPHIN BY LEVEL B HARASSMENT BY MONTH AND DRIVING ACTIVITY

	Month												
	March	April	May	June	July	August	September	October	November	December	January	February	
Dolphin Density (n/km²)	1	1	1	3.55	3.55	3.55	3.88	3.88	3.88	0.63	0.63	0.63	
Days/Month based on Pile Driving Activity													

TABLE 9—ESTIMATED TAKES OF BOTTLENOSE DOLPHIN BY LEVEL B HARASSMENT BY MONTH AND DRIVING ACTIVITY—Continued

	Month												
	March	April	May	June	July	August	September	October	November	December	January	February	
Mooring Cluster													
Vibratory—Timber Piles	0	0	1	1	0	0	0	0	0	0	0	0	.....
Impact—Timber Piles	0	0	2	7	6	5	5	0	0	0	0	0	
Dolphin Takes	0.0	0.0	4.2	14.8	0.1	0.1	0.1	0.0	0.0	0.0	0.0	0.0	19
Temporary Dock													
DTH+ Impact—Steel Pile	4	11	11	4	0	0	0	0	0	0	0	0	.....
Vibratory—Steel Pile	2	3	3	2	0	0	0	0	0	0	0	0	
Two DTH—Steel Pile	0	0	0	0	0	0	0	0	0	0	0	0	
Dolphin Takes	1,667	2,509	2,509	5,917	0	0	0	0	0	0	0	0	12,602
Omega Trestle/West O-pile Walls/Mooring Piles & Templates													
Vibratory—Steel Pile	0	0	0	1	1	0	2	1	0	0	0	0	.....
Two DTH—Steel Pile	1	2	2	2	2	2	2	5	0	0	0	0	
DTH+ Impact—Steel Pile	4	2	5	5	5	8	5	5	5	5	2	0	
Dolphin Takes	7	4	10	2,981	2,981	52.4	6,478.0	3,263.3	33.4	5.4	2.2	0.0	15,817
Omega Trestle/East O-Pile Walls													
DTH+ Impact—Steel Pile	0	2	2	7	8	8	8	5	5	5	2	0	.....
Two DTH—Steel Pile	0	0	0	0	2	0	1	1	1	0	0	0	
Dolphin Takes	0	3	3	36	43	41	46	29	29	5	2	0	235
Total No. of Pile Driving Days per Month	11	20	26	29	24	23	23	17	11	10	4	0	
Total Takes	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	28,674

The number of calculated takes for each of the four project components identified in Table 9 resulted in a total of 28,674 authorized takes. The authorized takes were split out among the three dolphin stocks as shown in Table 10. There is insufficient information to apportion the takes precisely to the three stocks present in the area. Given that most of the NNCES stock are found in the Pamlico Sound estuarine system, NMFS will assume that no more than 200 of the authorized takes will be from this stock. Since members of the northern migratory coastal and southern migratory coastal stocks are thought to occur in or near the Bay in greater numbers, we will conservatively assume that no more than half of the remaining animals will accrue to either of these stocks. Additionally, a subset of these takes would likely be comprised of Chesapeake Bay resident dolphins, although size of that population is unknown.

Since the largest Level A harassment isopleth is 104 m and there is a shutdown zone of 100 m, NMFS will assume that 1 percent of each designated stock will occur between 100 and 104 meters or will appear in the PTS zone without first being observed by PSOs resulting in the number of dolphin takes by Level A harassment shown in Table 10. NMFS had not proposed take by Level A harassment in the notice of proposed IHA. However, the Level A harassment isopleth for impact driving of 36-in steel piles exceeds the 100-m shutdown zone and the number of authorized takes has increased.

Harbor Porpoise

Given that harbor porpoises are uncommon in the project area, this exposure analysis assumes that there is a porpoise sighting once during every two months of operations which would equate to six sightings (rounding up) over 11 months. Assuming an average group size of two (Hansen *et al.* 2018; Elliser *et al.* 2018) over 11 months of in-water work results in a total of 12 estimated takes of porpoises. (In the proposed IHA, NMFS had assumed 10 months of driving resulting in 10 total takes.) Harbor porpoises are members of the high-frequency hearing group which have Level A harassment isopleths as large as 3,478 m during impact installation of 10 36-in steel piles per day. Given the relatively large Level A harassment zones during impact driving, NMFS assumed in the previous IHA (83 FR 36522; July 30, 2018) that 40 percent of estimated porpoises takes would be by Level A harassment. NMFS assumed the same ratio for the issued IHA resulting in five authorized takes of porpoises by Level A harassment and seven takes by Level B harassment. When the CTJV conducted marine mammal monitoring during SSV testing at the project location for 5 days in July 2019, there were no sightings of porpoises.

Harbor Seal

The number of harbor seals expected to be present in the PTST project area was estimated using survey data for in-water and hauled out seals collected by the United States Navy at the portal islands from November 2014 through April 2018 (Rees *et al.,* 2016; Jones *et al.* 2018). The survey data revealed a daily maximum of 45 animals during this period which occurred in January, 2018. The maximum number of animals observed per day (45) was multiplied by the total number of planned driving days between November and May (72) since seals are not present in the area from June through October. In the proposed IHA, NMFS had assumed 173 days of driving during this same period. Based on this revised calculation NMFS has authorized 3,240 incidental takes of harbor seal for this IHA. Note that the CTJV monitoring report did not record any seal observations over 5 days of SSV testing, but this would be expected as seals are not present during July.

The largest Level A harassment isopleth for phocid species is approximately 1,563 meters which would occur during impact driving of 36-inch steel piles. The smallest Level A harassment isopleths are 2 m and would occur during impact and vibratory driving of 12-inch timber piles. NMFS has prescribed a shutdown zone for harbor seals of 15 meters as a mitigation measure since seals are common in the project area and are known to approach the shoreline. A larger shutdown zone would likely result in multiple shutdowns and impede the project schedule. From the previously issued IHA, NMFS assumed that 40 percent of the exposed seals will occur within the Level A harassment zone specified for a given scenario and the remaining affected seals would result in Level B harassment takes. Therefore, NMFS has authorized 1,296 takes by Level A harassment and 2,124 takes by Level B harassment.

Gray Seal

The number of gray seals expected to be present at the PTST project area was estimated using survey data collected by the U.S. Navy at the portal islands from 2014 through 2018 (Rees *et al.* 2016; Jones *et al.* 2018). One seal was observed in February of 2015 and one seal was recorded in February of 2016 while no seals were observed at any time during 2017 or 2018. As part of the proposed IHA, NMFS anticipated gray seals would occur only during the 21 planned work days for February at a rate of one animal per day. Due to revisions to the construction schedule, no in-water pile driving is scheduled to occur in February under the effective period for this IHA. However, there could be delays to the construction schedule resulting in the need for in-water work in February 2021. To reduce the possibility that non-authorized take of gray seal could result in work stoppage, NMFS has conservatively authorized take of four gray seals, one by Level A harassment and three by Level B harassment.

Table 10 shows authorized take numbers for Level A and Level B harassment.

TABLE 10—AUTHORIZED TAKE BY LEVEL A AND LEVEL B HARASSMENT

Species	Stock	Level A takes	Level B takes	Percentage of stock
Humpback whale	Gulf of Maine		12	0.8
Harbor porpoise	Gulf of Maine/Bay of Fundy	5	7	<0.01
Bottlenose dolphin	WNA Coastal, Northern Migratory	142	14,095	* <33
	WNA Coastal, Southern Migratory	142	14,095	* <33
	NNCES	2	198	24
Harbor seal	Western North Atlantic	1,296	2,124	4.5
Gray seal	Western North Atlantic	1	3	<0.01

* Assumes multiple repeated takes of same individuals from small portion of each stock as well as repeated takes of Chesapeake Bay resident population (size unknown).

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.

In addition to the measures described later in this section, the CTJV will employ the following standard mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, etc.), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);
- Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, in-water pile driving will shut down immediately if such species are observed within or entering the monitoring zone (*i.e.,* Level B harassment zone); and
- If take reaches the authorized limit for an authorized species, pile installation will be stopped as these species approach the Level B harassment zone to avoid additional take.

The following measures will apply to the CTJV's mitigation requirements:

Establishment of Shutdown Zone—For all pile driving and drilling

activities, the CTJV will establish a shutdown zone. The purpose of a shutdown zone is generally to define an area within which shutdown of activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). These shutdown zones will be used to reduce incidental Level A harassment from impact pile driving for bottlenose dolphins and harbor porpoises. Shutdown zones for species authorized for take are as follows:

- 100 meters for harbor porpoise and bottlenose dolphin.
- 15 meters for harbor seal and gray seal.
- For humpback whale, shutdown distances are shown in Table 14 under low-frequency cetaceans and are dependent on activity type.

Establishment of Monitoring Zones for Level A and Level B Harassment—The CTJV will establish monitoring zones based on calculated Level A harassment isopleths associated with specific pile driving activities and scenarios. These are areas beyond the established shutdown zone in which animals could be exposed to sound levels that could result in Level A harassment in the form of PTS. The CTJV will also establish and monitor Level B harassment zones which are areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and DTH drilling and 120 dB rms threshold during vibratory driving. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. The monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. The Level A and Level B harassment monitoring zones are described in Table 11. Since some of the Level A and Level B harassment monitoring zones cannot be effectively observed in their entirety, exposures will be recorded and extrapolated based upon the number of observed take and the percentage of the Level A and Level B harassment zone that was not visible.

TABLE 11—LEVEL A AND LEVEL B HARASSMENT MONITORING ZONES DURING PROJECT ACTIVITIES (METERS)

Scenario		Level A harassment zones				Level B monitoring zones
Driving type	Pile type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	
		Island 1 & 2	Island 1 & 2	Island 1 & 2	Island 1 & 2	Island 1 & 2
Impact	12-in. Timber	90	—	105	—	25.
	36-in. Steel	2,920	105	3,480	1,565	1,585.
Impact with Bubble Curtain	36-in. Steel	1,000	—	1,190	535	545.
DTH—Impulsive	42-in. Steel	970	—	1,155	520	215.
DTH Simultaneous at same island.	42-in. Steel	1,535	—	1,830	825	215.
DTH & Impact Hammer with bubble curtain: Simultaneous at the same island.	36-and 42-in. Steel.	1,970	—	2,400	1,055	545.
DTH at PI 1. And Impact with Bubble Curtain Hammer at PI 2.	36-and 42-in. Steel.	970	—	1,155	520	215 from PI 1. 545 from PI 2.
Continuous (Vibratory)	12-in. Timber	—	—	—	—	1,360.
	36-in. Steel	20	—	—	—	21,545.
	42-in.** Steel	20	—	—	—	21,545.

— indicates that shutdown zone is larger than calculated harassment zone.
** Activity only planned at Portal Island 1 as part of project pile driving plan.

Soft Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will 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 30 minutes or longer. Soft start is not required during vibratory or DTH pile driving activities.

Use of Bubble Curtains—Use of air bubble curtain system will be implemented by the CTJV during impact driving of 36-in steel piles except in water less than 10 ft in depth. The use of this sound attenuation device will reduce SPLs and the size of the zones of influence for Level A harassment and Level B harassment. Bubble curtains will meet the following requirements:

- The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.
- The lowest bubble ring shall be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact.
- The bubble curtain shall be operated such that there is proper (equal) balancing of air flow to all bubblers.
- The applicant shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers and corrections to the attenuation device to meet the performance standards. This shall occur prior to the initiation of pile driving activities.

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-minute period. If a marine mammal

is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B harassment monitoring zone. When a marine mammal permitted for take by Level B harassment is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment and shutdown zone will commence again. Additionally, in-water construction activity must be delayed or cease, if poor environmental conditions restrict full visibility of the shut-down zone(s) until the entire shut-down zone(s) is visible.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the required mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the planned 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).
- Mitigation and monitoring effectiveness.

Marine Mammal Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring will be conducted 30 minutes before, during, and 30 minutes after pile driving activities. In addition, observers shall 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. 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 CTJV will be required to station between two and four PSOs at locations offering the best available views of the monitoring zones. At least two PSOs will be required to monitor before, during, and after the pile-driving and -removal activities. At least one PSO must be located in close proximity to each pile driving rig during active operation of single or multiple, concurrent driving devices. At least one additional PSO is required at each active driving rig or other location providing best possible view if the Level B harassment zone and shutdown zones cannot reasonably be observed by one PSO.

PSOs will scan the waters using binoculars, and/or spotting scopes, and will use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs will be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. The CTJV will adhere to the following PSO qualifications:

(i) Independent observers (*i.e.,* not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(v) The CTJV shall submit observer CVs for approval by NMFS. Additional standard observer qualifications include:

- 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 and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals

observed 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.

Observers will be required to use approved data forms. Among other pieces of information, The CTJV will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the CTJV will attempt to distinguish between the number of individual animals taken and the number of incidences of take. 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.,* percent 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, and if possible, the correlation to SPLs;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Description of implementation of mitigation measures *(e.g.,* shutdown or delay);

• Locations of all marine mammal observations; and

• Other human activity in the area.

Reporting

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets), and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the CTJV shall report the incident to the Office of Protected Resources (OPR), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

• Species identification (if known) or description of the animal(s) involved;

• Condition of the animal(s) (including carcass condition if the animal is dead);

• Observed behaviors of the animal(s), if alive;

• If available, photographs or video footage of the animal(s); and

• General circumstances under which the animal was discovered.

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 activities associated with the planned PTST project, as outlined previously, have the potential to disturb or displace marine mammals. The specified activities may result in take, in the form of Level B harassment (behavioral disturbance) or Level A harassment (auditory injury), incidental to underwater sounds generated from pile driving. Potential takes could occur if individuals are present in the ensonified zone when pile driving occurs. Level A harassment is anticipated for bottlenose dolphins, harbor porpoises, harbor seals, and gray seals.

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory driving, impact driving, and drilling with DTH hammers will be the primary methods of installation and pile removal will occur with a vibratory hammer. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact pile driving is used, implementation of bubble curtains, soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient notice through use of soft starts (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious.

The CTJV will use qualified PSOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury for most species. PSOs will be stationed on a specific Portal Island whenever pile driving operations are underway at that location. Additional PSOs will be stationed at the same Portal Island and in other locations in order to provide a relatively clear views of the shutdown zone and monitoring zones. These factors will limit exposure of animals to noise levels that could result in injury.

The CTJV's planned pile driving activities are highly localized. Only a relatively small portion of the Chesapeake Bay may be affected. Localized noise exposures produced by project activities may cause short-term

behavioral modifications in affected cetaceans and pinnipeds Moreover, the required mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

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). Individual animals, even if taken multiple times, will most likely 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. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. Furthermore, many projects similar to this one are also believed to result in multiple takes of individual animals without any documented long-term adverse effects. Level B harassment will be minimized through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that small numbers of dolphins, harbor porpoises, harbor seals and gray seals may sustain some limited Level A harassment in the form of auditory injury. However, animals that experience PTS would likely only receive 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 or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal's threshold would increase by a few dBs, which is not likely to meaningfully affect its ability to forage and communicate with conspecifics. 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.

The project is not expected to have significant adverse effects on marine mammal habitat. No important feeding and/or reproductive areas for marine mammals are known to be near the project area. Project activities would not permanently modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Limited Level A harassment exposures (dolphins, harbor porpoises, harbor seals, and gray seals) are anticipated to result only in slight PTS, within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The specified activity and associated ensonifed areas are very small relative to the overall habitat ranges of all species and does not include habitat areas of special significance (BIAs or ESA-designated critical habitat); and
- The presumed efficacy of the required mitigation measures 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 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 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.

Authorized take of marine mammal stocks comprises less than 5 percent of the Western North Atlantic harbor seal stock abundance, and less than one percent of all other authorized stocks, with the exception of bottlenose dolphins. There are three bottlenose dolphin stocks that could occur in the project area. Therefore, the estimated 28,674 dolphin takes by Level A and Level B harassment would likely be split among the western North Atlantic northern migratory coastal stock, western North Atlantic southern migratory coastal stock, and NNCES stock. Based on the stocks' respective occurrence in the area, NMFS estimated that there would be no more than 200 takes from the NNCES stock, representing 24 percent of that population, with the remaining takes split evenly between the northern and southern migratory coastal stocks. Based on consideration of various factors described below, we have determined the numbers of individuals taken would comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in Description of Marine Mammals in the Area of Specified Activities.

Both the northern migratory coastal and southern migratory coastal stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these two stocks it is unlikely that large segments of either stock would approach the project area and enter into the Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The northern migratory coastal stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in late summer and fall. During cold water

months dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia. During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Bay and waters offshore of the mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be located in the vicinity of the Bay for relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~two months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur only within some small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km^2, while the NNCES stock occupies over 8,000 km^2 (LeBrecque *et al.* 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock would depart the North Carolina estuarine system and travel to the northern extent of the stock's range and enter into the Bay. However, recent evidence suggests that there is likely a small resident community of NNCES dolphins of indeterminate size that inhabits the Chesapeake Bay year-round (Patterson, Pers. Comm).

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (Mann, *pers. comm.*). Similarly, using available photo-identification data, Engelhaupt *et al.* (2016) determined that specific individuals were often observed in close proximity to their original sighting locations and were observed multiple times in the same season or same year. Ninety-one percent of re-sighted individuals (100 of 110) in the study area were recorded less than 30 km from the initial sighting location. Multiple sightings of the same individual would considerably reduce the number of individual animals that are taken by harassment. Furthermore, the existence of a resident dolphin population in the Bay would increase the percentage of dolphin takes that are actually re-sightings of the same individuals.

In summary and as described above, the following factors primarily support our preliminary determination regarding the incidental take of small numbers of a species or stock:

- The take of marine mammal stocks authorized for take comprises less than 5 percent of any stock abundance (with the exception of bottlenose dolphin stocks);
- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it would be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Bay;
- The Bay represents the migratory boundary for each of the specified dolphin stocks and it would be unlikely to find a high percentage of any stock concentrated at such boundaries; and
- Many of the takes would be repeats of the same animal and it is likely that a number of individual animals could be taken 10 or more times.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

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 incidental harassment authorizations) 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 this IHA to the CTJV 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 incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the CTJV for the incidental take of marine mammal due to pile driving activities as part of the PTST project for a period of one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: March 10, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–05802 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA060

Caribbean Fishery Management Council; Public Meetings; Cancellation

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The Caribbean Fishery Management Council is cancelling a one-day meeting of the District Advisory Panels (DAPs) of St. Thomas/St. John, USVI.

DATES: The meeting was scheduled for Wednesday, March 25, 2020, from 9 a.m. to 5 p.m.

ADDRESSES: *Council address:* Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolón at Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The meeting notice published on March 3, 2020, (85 FR 12522). Due the COVID–19 pandemic, the meeting has been cancelled.

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

Dated: March 17, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–05950 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648–XA084

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Information and Education Advisory Panel (AP) on April 14–15, 2020 and the Snapper Grouper AP from April 15–17, 2020.

DATES: The Information and Education AP will meet from 1:30 p.m. to 5:30 p.m. on April 14 and from 8:30 a.m. until 12 p.m. on April 15, 2020. The Snapper Grouper AP will meet from 1:30 p.m. to 5 p.m. on April 15, from 8:30 a.m. until 5 p.m. on April 16, and from 8:30 a.m. until 12 noon on April 17, 2020.

ADDRESSES:

Meeting address: The meetings will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (843) 744–4472.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29406.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The AP meetings are open to the public and will be available via webinar as they occur. Registration is required. Webinar registration information, a public comment form, and other meeting materials will be posted to the Council's website at: *http://safmc.net/safmc-meetings/current-advisory-panel-meetings/* as it becomes available.

Please note that the evolving public health situation regarding COVID–19 may affect the conduct of the advisory panel meetings. At the time this notice was submitted for publication, we anticipated the advisory panel meetings would be conducted as planned, in person, and without opportunities for remote participation other than the webinar availability as noted above. Council staff will monitor COVID–19 developments and will determine if there is a need to allow some additional level of remote participation or other contingency plan such as postponement of non-essential agenda items. If such measures are deemed necessary, Council staff will post notice of them prominently on our website (*www.safmc.net*). Potential meeting participants are encouraged to check the South Atlantic Council's website frequently for such information and updates.

Information and Education Advisory Panel

Agenda items for the Information and Education AP meeting include: An update on the Council's outreach and education efforts addressing best fishing practices and new electronic reporting regulations for the for-hire sector; updates on electronic reporting, the Fish Rules mobile application for fishing regulations, and Citizen Science projects; and an overview of regulations addressing *Sargassum* in the South Atlantic.

Snapper Grouper Advisory Panel

The Snapper Grouper AP meeting agenda will include the following: An update on recent regulations and amendments to fishery management plans currently under Secretarial review; presentations on shark depredation and the South Atlantic Ecosystem Status Report; and updates on Spawning Special Management Zones, the Southeast Data, Assessment and Review (SEDAR) Stock Assessment program, the Council's Citizen Science Program, and the MyFishCount recreational fishing reporting pilot program. The AP will also receive an overview of Regulatory Amendment 34 to the Snapper Grouper Fishery Management Plan addressing Special Management Zones in North Carolina and South Carolina and provide recommendations, develop Fishery Performance Reports for species within the Snapper Grouper management complex as needed, and provide recommendations to assist in evaluating the need for conservation and management of Cubera Snapper, Margate, Sailor's Choice, Coney, Yellowfin Grouper, and Saucereye Porgy.

The advisory panels will discuss other agenda items as necessary and develop recommendations for committee consideration as appropriate.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 16, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–05789 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA080]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that a permit, has been issued to the following entity under the Marine Mammal Protection Act (MMPA).

ADDRESSES: The permit and related documents are available for review 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.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman (Permit No. 23577); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** on the date listed below that requests for a permit had been submitted by the below-named applicant. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMIT

Permit No.	RIN/RTID	Applicant	Previous **Federal Register** notice	Permit or amendment issuance date
23577	0648–XR076	BBC Studios Ltd., Natural History Unit Productions, Broadcasting House, Whiteladies Road, Bristol, BS8 2LR, UK, (Responsible Party: Rowan Crawford).	84 FR 70500; December 23, 2019	2/3/2020

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Authority: The requested permit has been issued under the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Dated: March 16, 2020.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–05831 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA067]

Gulf of Mexico Fishery Management Council; Public Meeting; Cancellation

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) is cancelling a 4-day meeting.

DATES: The meeting was to convene Monday, March 30 through Thursday, April 2, 2020; 8:30 a.m. until 4 p.m.

ADDRESSES:

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The meeting notice published on March 6, 2020, (85 FR 13143). Due the COVID–19 pandemic, the meeting has been cancelled.

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

Dated: March 16, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–05790 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XV179]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #5: Living Coastal and Marine Resources—Marine Mammals and Oysters

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),[1] the *Deepwater Horizon* Federal natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Draft Restoration Plan/Environmental Assessment (RP/EA #5): Living Coastal and Marine Resources—Marine Mammals and Oysters. The Draft RP/EA #5 proposes restoration project

[1] Consent Decree among Defendant BP Exploration & Production Inc. (''BPXP''), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig ''Deepwater Horizon'' in the Gulf of Mexico, on April 20, 2010,* MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

alternatives considered by the Louisiana TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Draft RP/EA #5 and to seek public comments on the document.

DATES: The Louisiana TIG will consider public comments received on or before April 20, 2020.

Public Webinar: The Louisiana TIG will conduct a public webinar on April 8, 2020 at 4:00 p.m. Central. The public may register for the webinar at *https://attendee.gotowebinar.com/register/4511405465865527821.* After registering, participants will receive a confirmation email with instructions for joining the public webinar. The webinar will include a presentation of the Draft RP/EA #5 and opportunity for public comment. The presentation slides will be posted on the web shortly after the public meeting is completed. Comments will also be taken through submission online or through U.S. mail (see *Submitting Comments* below).

ADDRESSES: *Obtaining Documents:* You may download the Draft RP/EA at: *http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.* Alternatively, you may request a CD of the Draft RP/EA #5 (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed in Appendix A of the Draft RP/EA #5.

Submitting Comments: You may submit comments on the Draft RP/EA #5 by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana;*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. Please note that mailed comments must be postmarked on or before the comment deadline given in **DATES**;
- *During the public webinar:* Comments may be provided in writing online during the webinar. Webinar information is provided above in **DATES**.

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.

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration—Mel Landry, NOAA Restoration Center, 225–425–0583, *mel.landry@noaa.gov.*

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 off shore 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 Deepwater Horizon Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under OPA (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. 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 time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

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.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now selected and implemented by the Louisiana TIG. The Louisiana TIG is composed of the following Federal Trustees: NOAA; DOI; EPA; and USDA.

Background

The Draft RP/EA #5 is being released in accordance with OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final PDARP/PEIS, which provided for an overall goal of ''Replenish and Protect Living Coastal Marine Resources.'' This restoration planning activity is proceeding in accordance with the PDARP/PEIS, which provided for various types of restoration, including restoration of marine mammals and oysters. Information on the Restoration Types being considered in the Draft RP/EA #5, as well as the OPA criteria against which project ideas are being evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

For the Draft RP/EA #5, the Louisiana TIG assembled a list of 193 project alternatives for the restoration of marine mammals and 36 project alternatives for the restoration of oysters. These alternatives were based on proposals

from the public as well as agencies, including projects submitted to the DWH Trustee or Louisiana TIG portals and projects submitted by individual state and Federal Trustees, including projects submitted on behalf of non-Trustee agencies. All alternatives underwent a step-wise screening process based on criteria established by OPA and the Louisiana TIG, whereby projects that did not meet the criteria were eliminated, and duplicative alternatives were combined. This resulted in two action alternatives for marine mammals and four action alternatives for oysters, each of which are evaluated in the Draft RP/EA #5. Alternatives that meet the criteria but are not carried forward as preferred alternatives may be considered in future restoration plans.

Overview of the Louisiana TIG Draft RP/EA #5

The Draft RP/EA considers two action alternatives for restoration of marine mammals. The preferred alternative is entitled, ''Increasing Capacity and Expanding Partnerships along the Louisiana Coastline for Marine Mammal Stranding Response.'' This project would enable rapid response to injured and dead cetaceans in the state and better understand the causes of mortality and morbidity by hiring a Louisiana-based Stranding Coordinator that will build partnerships and conduct outreach; and by providing infrastructure, equipment, and supplies needed to facilitate stranding response and improve rehabilitation capabilities. The project should increase the number of stranding reports and improve their quality as a result of timelier responses. The project would have a 5-year project life and a cost of $3,955,620.

The non-preferred alternative for marine mammal restoration is entitled, ''Region-wide Marine Mammal Conservation Medicine and Health Program.'' This project would improve understanding of Louisiana-specific risks for illness and death among cetaceans, and assess and implement future health intervention techniques by establishing a working group; providing regular training sessions and workshops for the stranding network and researchers; and developing and implementing a study plan for live capture and release health assessments of free-ranging cetaceans. The project would have a 5-year project life and a cost of $6,334,000.

The Draft RP/EA #5 considers four action alternatives for restoration of oysters, including three preferred alternatives. The first is entitled, ''Enhancing Oyster Recovery Using Brood Reefs.'' A network of spawning stock oyster reefs would be constructed in two phases: (1) Two reefs would be constructed in the Lake Machais/Mozambique Point area along with two reefs in the Petit Pass/Bay Boudreaux area. Each reef would be 10 acres in size and 1.2 m from bottom; and (2) up to 20 reefs would be constructed in Chandeleur Sound, with each reef 0.5 acres in size and 0.5–1.2 m from bottom. All constructed reefs would be closed to harvest but located near harvesting areas to promote connectivity. The project would have a 2-year construction period, followed by 4 years of monitoring, with a project cost of $9,701,447.

The second preferred alternative for oyster restoration is entitled, ''Cultch Plant Oyster Restoration Projects.'' This project would create oyster reefs at various sites through placement of limestone at a planting density of up to 200 tons per acre with harvest closed until certain performance criteria are met. There would be a 200-acre site at Public Oyster Seed Ground (POSG) in the Grand Banks area of Mississippi Sound; a 200-acre site at Caillou Lake Public Oyster Seed Reservation (POSR) in Terrebonne Parish; and up to 400 acres of clean limestone cultch material would be constructed at each of four historic reefs within POSGs in the Biloxi Marsh Complex in St. Bernard Parish: Drum Bay, Three Mile Bay, Karako Bay, and Morgan Harbor. Oyster reefs could be constructed at other POSGs or POSRs in the future. The project would have a 2-year construction period, followed by 4 years of monitoring, with a project cost of $10,070,000.

The third preferred alternative for oyster restoration is entitled, ''Hatchery-based Oyster Restoration Projects.'' This project would provide $5,850,000 in funding over ten years to support continued operations at the Michael C. Voisin Oyster Hatchery in Grand Isle, Louisiana with spat-on-shell deployment of hatchery-produced oysters deployment onto existing shell substrate in POSGs or POSRs that are low-producing or in need of rehabilitation. The hatchery estimates production of at least 500 million diploid oyster larvae per year, of which a minimum of 25 percent would be dedicated for use in oyster restoration activities within areas protected from harvest.

An additional action alternative for oyster restoration, entitled ''Caillou Lake Artificial Reef,'' was also evaluated. This project would provide for construction of approximately 21 miles of eight to ten-foot artificial oyster reef (using gabions with limestone or shell) along the shorelines of Caillou Lake most susceptible to erosion in order to replenish oysters and armor the shoreline. The project would involve three phases: (1) Construct approximately seven miles of reef along the northern end of the central island in the land bridge; (2) construct another seven miles consisting of two, two-mile sections to the east and west of the Phase I reef and three miles along the southern shoreline of the central island in the land bridge; (3) construct approximately five miles of reef to the west of the southern, three-mile section of Phase II, and another two miles of reef to the east. Intermittent breaks between reef segments would be constructed to allow for movement of aquatic species between the marine habitat, shoreline, and freshwater spawning and rearing habitats, and to prevent entrapment. The project would involve a 2.5-year construction period, followed by 4 years of monitoring, with a project cost of $23,595,000.

The funding proposed for implementation of oyster restoration under the trustees' proposed preferred alternative represents a commitment of all remaining available funding for oyster restoration in the Louisiana Restoration Area. The programmatic structure of the proposed oyster cultch and brood reef projects would allow the trustees to continue to construct specific reef sites in the future. In alignment with the PDARP, the trustees may propose projects in the future that benefit oysters through the wetlands, coastal, and nearshore habitats restoration allocation.

For both marine mammal restoration and oysters, the Draft RP/EA #5 evaluates a No Action Alternative, under which no project would be constructed and no additional costs would be incurred at this time.

The Louisiana TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In Draft RP/EA #5, the Louisiana TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Louisiana Restoration Area. The proposed action is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Additional restoration planning for the Louisiana Restoration Area will continue.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA #5. A public webinar to facilitate the public review and comment process, is scheduled for April 8, 2020. After the public comment period ends, the Louisiana TIG will consider and address comments received before issuing a Final RP/EA #5. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA #5 can be viewed electronically at *http://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.*) and its implementing Oil Pollution Act 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.*).

Dated: March 13, 2020.

Carrie Selberg,

Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2020–05725 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XV178]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Phase II Restoration Plan and Environmental Assessment #3.3: Large-Scale Barataria Marsh Creation: Upper Barataria Component

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),[1] the *Deepwater Horizon* Federal natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Draft Phase II Restoration Plan 3.3 and Environmental Assessment (Draft RP/EA #3.3). The Draft RP/EA #3.3 describes and proposes restoration project alternatives considered by the Louisiana TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Draft RP/EA #3.3 and to seek public comments on the document.

DATES: The Louisiana TIG will consider public comments received on or before April 20, 2020.

Public Webinar: The Louisiana TIG will conduct a public webinar on April 2, 2020 at 4:00 Central. The public may register for the webinar at *https://attendee.gotowebinar.com/register/851376447936188428.* After registering, participants will receive a confirmation email with instructions for joining the webinar. The webinar will include a presentation of the Draft RP/EA #3.3 and opportunity for public comment. The presentation slides will be posted on the web shortly after the webinar is completed. Comments will also be taken through submission online or through U.S. mail (see *Submitting Comments* below).

ADDRESSES: *Obtaining Documents:* You may download the Draft RP/EA #3.3 at: *http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.* Alternatively, you may request a CD of the Draft RP/EA #3.3 (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed in Appendix A of the Draft RP/EA #3.3.

Submitting Comments: You may submit comments on the Draft RP/EA #3.3 by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana;*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered; or
- *During the public webinar:* Comments may be provided in writing online during the webinar. Webinar information is provided above in **DATES**.

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.

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration—Mel Landry, NOAA Restoration Center, 225–425–0583, *mel.landry@noaa.gov.*

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 off shore 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 Deepwater Horizon Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under OPA (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. 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

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[1] Consent Decree among Defendant BP Exploration & Production Inc. (''BPXP''), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig ''Deepwater Horizon'' in the Gulf of Mexico, on April 20, 2010,* MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

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.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now selected and implemented by the Louisiana TIG. The Louisiana TIG is composed of the following Federal Trustees: NOAA; DOI; EPA; and USDA.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Type being considered in the Draft RP/EA #3.3, as well as the OPA criteria against which project ideas are being evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

Background

On March 20, 2018, the Louisiana TIG completed its Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA #3). In addition to identifying a restoration strategy for the Barataria Basin and confirming its 2018 decision to move forward the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project, the SRP/EA also advanced the Mid-Barataria Sediment Diversion and Large Scale Marsh Creation: Component E in northern Barataria Basin for further evaluation and planning in a future Phase II restoration plan. After approval of the SRP/EA #3, engineering and design (E&D) was initiated for the Large Scale Marsh Creation: Component E. A portion of that project, now identified as Large Scale Barataria Marsh Creation: Upper Barataria Component, is now at a stage of E&D where NEPA analyses can be conducted on the design alternatives. Therefore, tiering from the SRP/EA #3, the Louisiana TIG is proposing in RP/EA #3.3 implementation of the Large-Scale Barataria Marsh Creation: Upper Barataria Component Restoration project.

Overview of the Louisiana TIG Draft RP/EA #3.3

The Draft RP/EA #3.3 is being released in accordance with OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final PDARP/PEIS. The Draft RP/EA #3.3 focuses on an area (''the Project Area'') in the upper Barataria Basin, 15 miles (24 km) south of New Orleans, in Jefferson and Plaquemines Parishes, Louisiana, from approximately 5.4 miles (8.7km) west of the Mississippi River to the Mississippi River between river miles (RM) 64 and 67. In the Draft RP/EA #3.3, the Louisiana TIG proposes a preferred design alternative for the Large-Scale Marsh Creation Project: Component E in Upper Barataria, to be funded under the DWH Louisiana Restoration Area Wetlands, Coastal and Nearshore Habitats restoration type allocation. Three alternatives and the No Action alternative are analyzed in detail. The preferred alternative would include filling of a combination of marsh creation areas (MCAs) for the creation of approximately 1,207 acres (12.1 km^2) of intertidal marsh platform with a design life of 20 years. A total of approximately 10.6 million cubic yards (MCY) of fill (sediment), comprising 8.4 MCY of currently available material to be dredged from the borrow areas and an additional 2.2 MCY expected to accumulate at the borrow areas during the construction time frame. This alternative would require a single construction mobilization and has an estimated time frame of 26 months for an estimated total project cost of approximately $172 million, inclusive of Phase I design, construction, contingency, project management, and monitoring & adaptive management.

Alternative 2 (Non-preferred). This alternative would include filling a combination of MCAs for the creation of approximately 944 acres (3.8 km^2) of intertidal marsh platform (fewer MCAs than Alternative 1) for a project lifetime of 20 years. Approximately 8.4 MCY of sediment (currently available) would be immediately available for use from the proposed borrow areas. Project construction time is an estimated 24 months and would require a single construction mobilization for an estimated cost of approximately $126 million.

Alternative 3 (Non-preferred). This alternative would include filling a combination of MCAs for the creation of approximately 1,792 acres (7.3 km^2) of intertidal marsh platform (more acres than Alternative 1) for a project lifetime of 20 years. Approximately 13.8 MCY of sediment would be needed, which could require waiting for an additional 5.42 MCY of sediment to accumulate at the proposed borrow areas. This alternative would require two mobilizations with an anticipated project construction time of 2 to 3 years for an estimated cost of approximately $201 million.

No Action Alternative (Non-preferred). Under this alternative, the proposed project would not be constructed with the current funding.

The Louisiana TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In Draft RP/EA #3.3, the Louisiana TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Louisiana Restoration Area. The proposed alternative is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Additional restoration planning for the Louisiana Restoration Area will continue.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA #3.3. A public webinar is scheduled to facilitate the public review and comment process. After the public comment period ends, the Louisiana

TIG will consider and address the comments received before issuing a Final RP/EA #3.3. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA #3.3 can be viewed electronically at *http://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.*) and its implementing Oil Pollution Act 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.*).

Dated: March 16, 2020.

Carrie Selberg,

Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2020–05740 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request; Statement of Financial Interests, Regional Fishery Management Councils

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), on or after the date of publication of this notice. The public is invited to submit comments on this request.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0694–0192.

FOR FURTHER INFORMATION CONTACT: Copies of this submission may be obtained from Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Statement of Financial Interests, Regional Fishery Management Councils.

OMB Control Number: 0648–0192.

Form Number(s): NOAA 88–195.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 330.

Average Hours per Response: 45 minutes.

Burden Hours: 248 hours.

Needs and Uses: This request is for revision and extension of a current information collection. The Magnuson Stevens Fishery Conservation and Management Act (Magnuson Stevens Act) authorizes the establishment of Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such fishery management plans under circumstances (a) which will enable the States, the fishing industry, consumers, environmental organizations, and other interested persons to participate in the development of such plans, and (b) which take into account the social and economic needs of fishermen and dependent communities. Section 302(j) of the Magnuson Stevens Act requires that Council members appointed by the Secretary, Scientific and Statistical Committee (SSC) members appointed by a Council under Section 302(g)(1), or individuals nominated by the Governor of a State for possible appointment as a Council member, disclose their financial interest in any Council fishery. These interests include any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity. The authority to require this information and reporting and filing requirements has not changed. The Secretary is required to submit an annual report to Congress on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements, including identification of any conflict of interest problems with respect to the Councils and SSCs and recommendations for addressing any such problems.

The Act further provides that a member shall not vote on a Council decision that would have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interest of other participants in the same gear type or sector of the fishery. However, an affected individual who is declared ineligible to vote on a Council action may participate in Council deliberations relating to the decision after notifying the Council of his/her recusal and identifying the financial interest that would be affected. The form has been revised to increase clarity for the respondents; NOAA Fisheries is making minor revisions to the form by adding clearer instructions and clarifying some of the questions asked to ensure the questions are consistent with the regulatory requirements. Revisions will also include a specific check box to indicate that a Council nominee, and not a member, is completing the form. No new information is being requested.

Affected Public: Individuals or households.

Frequency: Annually or updated as needed.

Respondent's Obligation: Mandatory.

Legal Authority: Section 302(j) of the Magnuson-Stevens Act.

Dated: March 17, 2020.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–05855 Filed 3–19–20; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* April 19, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSNs—Product Names:
6515–01–NIB–0262—Gloves, Patient Examination and Treatment, Sand, Large, For CLS 6545–01–677–4906 Only
6510–01–NIB–2275—Bandage Kit, Elastic, For CLS 6545–01–677–4906 Only
6515–01–NIB–1877—Shield, Eye, Surgical with Garter Shield Cover, White, For CLS 6545–01–677–4906 Only
6510–01–NIB–2117—Bandage Gauze, For CLS 6545–01–677–4906 Only
Mandatory Source of Supply: Lighthouse Works, Orlando, FL
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT
NSNs—Product Names:
9150–00–231–6689—Lubricating Oil, Utility, 1 Qt.
9150–00–281–2060—Lubricating Oil, Utility
9150–00–231–9045—Lubricating Oil, Utility, MMPV, 1 Gal.
9150–00–231–9062—Lubricating Oil, Utility, CN/5 Gal.
Mandatory Source of Supply: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA AVIATION

Service

Service Type: Mess Attendant Service
Mandatory for: US Air Force, Fairchild Air Force Base, WA
Mandatory Source of Supply: Skils'kin, Spokane, WA
Contracting Activity: DEPT OF THE AIR FORCE, Air Force Nonappropriated Funds Purchasing Office, San Antonio, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–05937 Filed 3–19–20; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product and services from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* April 19, 2020

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

On 12/13/2020 and 12/20/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type: Custodial Service
Mandatory for: Department of Defense Education Activity, Fort Campbell Schools, Fort Campbell, KY
Mandatory Source of Supply: Global Connections to Employment, Inc., Pensacola, FL
Contracting Activity: DEPT OF DEFENSE EDUCATION ACTIVITY (DODEA), DOD EDUCATION ACTIVITY

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Custodial Service, DoDEA, Fort Campbell Schools, Fort Campbell, KY. The Federal customer contacted, and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the DoDEA will refer its business elsewhere, this addition must be effective on March 31, 2020, ensuring timely execution for a April 1, 2020, start date while still allowing 11 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee has been in contact with the affected parties, specifically the incumbent of

the expiring contract, since April 2019, and determined that no severe adverse financial impact exists. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on December 13, 2019, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large. This action will create new jobs for other affected parties, namely people with significant disabilities in the AbilityOne Program who otherwise face challenges obtaining and maintaining employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service Type: Centralized Appointment Call Center
Mandatory for: U.S. Air Force, Medical Treatment Facility, Eglin Air Force Base, FL
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA2823 AFTC PZIO

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the U.S. Air Force, Medical Appointment and Referral Call Center contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the U.S. Air Force will refer its business elsewhere, this addition must be effective on March 31, 2020, ensuring timely execution for an April 1, 2020, start date while still allowing 11 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee conducted an impact analysis on the current contractor and determined that no severe adverse financial impact will result from the Committee's decision. The incumbent graduated from the Small Business Administration's 8(a) Program, and is no longer eligible for award of the requirement, which will remain under the 8(a) Program if not placed on the Procurement List. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on December 13, 2019, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne Program who otherwise face challenges obtaining and maintaining employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service Type: Information Technology Service Desk Operations
Mandatory for: US Army, Human Resources Command, Fort Knox, KY
Mandatory Source of Supply: InspiriTec, Inc., Philadelphia, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT KNOX

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the U.S. Army, Information Technology Service Desk Operations, Human Resources Command, MICC, Fort Knox, KY contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the U.S. Army will refer its business elsewhere, this addition must be effective on March 31, 2020, ensuring timely execution for an April 1, 2020, start date while still allowing 11 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee conducted an impact analysis on the current contractor and determined there will be no severe adverse financial impact as a result of the Committee's decision. The contract value involved represents less than one-tenth of one percent (<0.01%) of the incumbent contractor's annual revenue. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on December 20, 2019, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, and will create new jobs for other affected parties—people with significant disabilities in the AbilityOne Program who otherwise face challenges obtaining and maintaining employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Deletions

On 2/14/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services deleted from the Procurement List.

End of Certification

Accordingly, the following product and services are deleted from the Procurement List:

Product

NSN—Product Name:
MR 11056—Grocery Shopping Tote Bag, Laminated, Halloween, Trick or Treat, Small
Mandatory Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: Military Resale-Defense Commissary Agency

Services

Service Type: Switchboard Operation
Mandatory for: Veterans Affairs Medical Center: 3601 South 6th Avenue, WASHIINGTON, DC
Mandatory Source of Supply: Southern Arizona Association for the Visually Impaired deleted, Tucson, AZ
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC
Service Type: Janitorial/Custodial
Mandatory for: Veterans Affairs Medical Center, Omaha, NE
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC
Service Type: Custodial Services
Mandatory for: Food and Drug Administration, 1114 Market Street (9th & 10th floors only), St. Louis, MO
Mandatory Source of Supply: MGI Services Corporation, St. Louis, MO
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA/PUBLIC BUILDINGS SERVICE

Service Type: Janitorial/Custodial
Mandatory for: U.S. Federal Building and Post Office, Bozeman, MT
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Janitorial/Custodial
Mandatory for: Federal Center: 620 Central Avenue, Alameda, CA
Mandatory Source of Supply: Rubicon Programs, Inc., Richmond, CA
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Janitorial/Custodial
Mandatory for: Southeast Federal Center: Building at 49 L Street SE, Washington, DC
Mandatory Source of Supply: Davis Memorial Goodwill Industries, Washington, DC
Contracting Activity: PUBLIC BUILDINGS SERVICE, WPHCC—WEST O&M CONTRACTS BRANCH

Service Type: Custodial Services
Mandatory for: DLA WARREN DEPOT, WARREN OH
Mandatory Source of Supply: VGS, Inc., Cleveland, OH
Contracting Activity: DEFENSE LOGISTICS

AGENCY, DLA STRATEGIC MATERIALS
Service Type: Janitorial/Custodial
Mandatory for: Social Security Administration, Clinton, MD
Mandatory Source of Supply: Davis Memorial Goodwill Industries, Washington, DC
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 271 Hedges Street Scouten, Mansfield, OH
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)

Service Type: Janitorial/Custodial Service
Mandatory for: Social Security Administration District Office Building, Montclair, New Jersey
Mandatory Source of Supply: Fedcap Rehabilitation Services, Inc., New York, NY
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA PBS R2 ACQUISITION MANAGEMENT DIVISION

Service Type: Janitorial/Custodial
Mandatory for: Fort McPherson: USARC Headquarters, Atlanta, GA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FDO FT SAM HOUSTON

Service Type: Litter Pickup
Mandatory for: Robins Air Force Base, Robins AFB, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA8501 AFSC PZIO

Service Type: Vehicle Retrofitting Srvc limited to FPI surplus
Mandatory for: Good Vocations, Inc., Macon, GA
Mandatory Source of Supply: Good Vocations, Inc., Macon, GA
Contracting Activity: BUREAU OF CUSTOMS AND BORDER PROTECTION, SBI ACQUISITION OFFICE

Service Type: Administrative Service
Mandatory for: Federal Office Building: 225 W. King Street, Martinsburg, WV
Mandatory Source of Supply: Job Squad, Inc., Bridgeport, WV
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Administrative Support, Supply and Warehousing Service
Mandatory for: Orlando Naval Training Center, Orlando, FL
Contracting Activity: DEPT OF THE NAVY, NAVAL AIR WARFARE CENTER

Service Type: Grounds Maintenance
Mandatory for: Fort Gillem: SE Army Reserve Intelligence Center, Fort Gillem, GA
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: 1011 George Boulevard, Akron, OH
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Janitorial/Custodial
Mandatory for: US Army Reserve, SGT George Lenkalis USARC, West Hazleton, PA
Mandatory Source of Supply: Portco, Inc., Portsmouth, VA
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Service Type: Janitorial/Grounds Maintenance
Mandatory for: Tucson Air Operations, Tucson, AZ
Mandatory Source of Supply: J.P. Industries, Inc., Tucson, AZ
Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CONTRACTING DIVISION

Service Type: Facility Support Services
Mandatory for: Social Security Administration: Southeastern Program Service Center, Birmingham, AL
Mandatory Source of Supply: Alabama Goodwill Industries, Inc., Birmingham, AL
Contracting Activity: SOCIAL SECURITY ADMINISTRATION, REGION 04—SOUTHEAST PROGRAM SERVICE CENTER

Service Type: Demilitarization of Military Hardware
Mandatory for: Robins Air Force Base, Robins AFB, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA8501 AFSC PZIO

Service Type: Operation of Postal Service Center
Mandatory for: Shaw Air Force Base, Shaw AFB, SC
Contracting Activity: DEPT OF THE AIR FORCE, FA4803 20 CONS LGCA

Michael R. Jurkowski,
Deputy Director, Business & PL Operations.

[FR Doc. 2020–05938 Filed 3–19–20; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2020–HQ–0001]

Submission for OMB Review; Comment Request

AGENCY: Assistant Secretary of the Army for Financial Management & Comptroller, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Supplier Self-Services (SUS); OMB Control Number 0702–0126.

Type of Request: Extension.

Number of Respondents: 8,668.

Responses per Respondent: 12.

Annual Responses: 104,016.

Average Burden per Response: 6 minutes.

Annual Burden Hours: 10,402.

Needs and Uses: The information collection requirement via SUS is necessary to reduce the amount and complexity of required input by vendors that manually enter invoice data into Wide Area Workflow (WAWF) (not those utilizing Electronic Data Interchange (EDI)). By pre-populating fields with accurate and up-to-date contract information, vendors are required to input significantly less data. Additionally, SUS simultaneously performs a front-end validation of submitted data, thus ensuring less manual intervention and fewer interest penalties incurred by the government.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05945 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0012]

Submission for OMB Review; Comment Request

AGENCY: Defense Finance and Accounting Services (DFAS), DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Former Spouse Payments From Retired Pay, DD Form 2293; OMB Number 0730–0008.

Type of Request: Extension.

Number of Respondents: 25,000.

Responses per Respondent: 1.

Annual Responses: 25,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 12,500.

Needs and Uses: The information collection requirement is necessary to provide DFAS with the basic data needed to process court orders for division of military retired pay as property or order alimony and child support payment from that retired pay per Title 10 U.S.C. 1408.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05949 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0010]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel & Readiness, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Spouse Employment Partnership (MSEP) Career Portal; OMB Control Number 0704–0563.

Type of Request: Renewal.

Number of Respondents:

Military Spouses: 22,000.

MSEP Partners: 300.

Businesses/Companies: 150.

Total Respondents: 22,450.

Responses per Respondent: 1.

Annual Responses: 22,450.

Average Burden per Response:

Military Spouses: 45 minutes.

MSEP Partners: 25 minutes.

Businesses/Companies: 15 minutes.

Annual Burden Hours:

Military Spouses: 16,500 hours.

MSEP Partners: 125 hours.

Businesses/Companies: 38 hours.

Total: 16,663 hours.

Needs and Uses: The information collection requirement is necessary to allow MSEP users to directly search for employment opportunities with MSEP business partners.

Affected Public: Business or other for-profit; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05944 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0009]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel & Readiness, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Identification Card/DEERS Enrollment; DD Form 1172–2; OMB Control Number 0704–0415.

Type of Request: Renewal.

Number of Respondents: 2,700,000.

Responses per Respondent: 1.

Annual Responses: 2,700,000.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 135,000.

Needs and Uses: The information collected is used to determine an individual's eligibility for benefits and privileges, to provide a proper identification card reflecting those benefits and privileges, and to maintain a centralized database of the eligible population.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05946 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0011]

Submission for OMB Review; Comment Request

AGENCY: Defense Finance and Accounting Services (DFAS), DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Child Annuitant's School Certification; DD Form 2788; OMB Control Number 0730–0001.

Type of Request: Extension.

Number of Respondents: 7,200.

Responses per Respondent: 1.

Annual Responses: 7,200.

Average Burden per Response: 1 hour.

Annual Burden Hours: 7,200.

Needs and Uses: Child annuitants, between the ages of 18 and 22 years of age, must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided. Without this certification, funds cannot be released to annuitant/payee.

Affected Public: Individuals or households.

Frequency: Once each semester of full time school, ages 18 to 22.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05948 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2020–HQ–0001]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Secretary of the Navy, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of

information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Naval Sea Systems Command and Field Activity Visitor Access Request; NAVSEA 5500/1 NAVSEA Visitor Sign In/Out Sheet; OMB Control Number 0703–0055.

Type of Request: Extension.

Number of Respondents: 5,200.

Responses per Respondent: 1.

Annual Responses: 5,200.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 1,300.

Needs and Uses: The information collection requirement is necessary for Naval Sea Systems Command and Naval Sea Systems Command Field Activity's at Washington Navy Yard, Washington DC to verify that visitors who have appropriate credentials, clearance level, and need-to-know are granted access to NAVSEA spaces, if they have clearance for classified information, and allows NAVSEA Security to keep record of visitors to NAVSEA spaces. Respondents are Navy support contractors, individuals from other agencies visiting the Command and Field Activities, various members of the public.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05947 Filed 3–19–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2020–HQ–0002]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Secretary of the Navy, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Enterprise Military Housing II; OMB Control Number 0703–0066.

Type of Request: Revision.

Homes.mil

Number of Respondents: 8,234.

Responses per Respondent: 5.

Annual Responses: 41,170.

Average Burden Per Response: 20 minutes.

Annual Burden Hours: 13,723.3.

Phone Responses

Number of Respondents: 4,117.

Responses per Respondent: 5.

Annual Responses: 20,585.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 6,861.7.

Heat

Number of Respondents: 1,658.

Responses per Respondent: 1.

Annual Responses: 1,658.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 276.3.

Total Number of Respondents: 14,009.

Total Number of Annual Responses: 63,413.

Total Respondent Burden Hours: 20,861.

Needs and Uses: 10 United States Code, Section 1056 requires the provision of relocation assistance to military members and their families. Requirements include provision of information on housing costs/availability and home finding services. The Enterprise Military Housing System (eMH) includes a public website (HOMES.mil) which collects information needed to facilitate military personnel searching for suitable community rental housing within close proximity to military installations.

Affected Public: Business or other for-profit; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 17, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–05953 Filed 3–19–20; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0050]

Agency Information Collection Activities; Comment Request; Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 19, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0050. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2).

OMB Control Number: 1845–0089.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 732.

Total Estimated Number of Annual Burden Hours: 762.

Abstract: The collection of this information is needed in order for the Payment Analysts in Federal Student Aid, an office of the U. S. Department of Education, to review and process the institutional payment request for Title IV funds. The Higher Education Act of 1965, as amended (HEA) requires that the Secretary prescribe regulations to ensure that any funds eligible postsecondary institutions receive under the HEA are used solely for the purposes specified in and in accordance with the provision of the applicable program. 34 CFR 668.161 and 668.162 establish the rules and procedures for a participating institution to request, maintain, disburse, and manage Title IV program funds.

Dated: March 17, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–05895 Filed 3–19–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–365–B]

Application To Export Electric Energy; Centre Lane Trading Limited

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Centre Lane Trading Limited (Applicant or CLT) has applied to renew its authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before April 20, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 29, 2015, DOE issued Order EA–365–A, which authorized CLT to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities appropriate for open access. The authorization expires on June 9, 2020. On March 5, 2020, CLT filed an application (Application or App.) with DOE for renewal of the export authorization contained in Order No. EA–365–B. CLT states that it ''is a private company organized under the *Business Corporations Act* (Ontario, Canada) with its principal place of business in Toronto, Ontario Canada'' and is ''wholly owned by Mackie Research Financial Corporation'' App. at 2. The Applicant further states that it ''will purchase the power to be exported from electric utilities and federal power marketing agencies pursuant to voluntary agreements.'' *Id.* CLT contends that its proposed exports ''will not impede the coordinated use of transmission facilities within the

meaning of [section 202(e) of the Federal Power Act],'' and that its exports of electricity ''will not impede or tend to impede the regional coordination of electric utility planning or operations.'' *Id.* at 3. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Two (2) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning CLT's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–365–B. Additional copies are to be provided directly to Jason Brandt, Centre Lane Trading Limited, 199 Bay Street, Suite 4500, Toronto, Ontario, Canada M5L 1G2.

A final decision will be made on this Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this Application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on March 16, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–05954 Filed 3–19–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Change in Meeting

Upon the affirmative votes of Chairman Chatterjee and Commissioners Glick and McNamee, this Notice hereby cancels the Commission meeting scheduled for March 19, 2020. All orders listed on the Sunshine Act Notice that was published on March 12, 2020, will be processed by notational voting.

Issued: March 13, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–05907 Filed 3–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–46–000.
Applicants: AltaGas Pomona Energy Storage Inc.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of AltaGas Pomona Energy Storage Inc.
Filed Date: 3/13/20.
Accession Number: 20200313–5245.
Comments Due: 5 p.m. ET 4/3/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–98–000.
Applicants: Johanna Energy Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status, LLC.
Filed Date: 3/13/20.
Accession Number: 20200313–5194.
Comments Due: 5 p.m. ET 4/3/20.

Docket Numbers: EG20–99–000.
Applicants: Dakota Range III, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Dakota Range III, LLC.
Filed Date: 3/16/20.
Accession Number: 20200316–5045.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: EG20–100–000.
Applicants: Triple H Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Triple H Wind Project, LLC.
Filed Date: 3/16/20.
Accession Number: 20200316–5047.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: EG20–101–000.
Applicants: Las Lomas Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Las Lomas Wind Project, LLC.
Filed Date: 3/16/20.
Accession Number: 20200316–5048.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: EG20–102–000.
Applicants: Prairie Hill Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Prairie Hill Wind Project, LLC.
Filed Date: 3/16/20.
Accession Number: 20200316–5049.
Comments Due: 5 p.m. ET 4/6/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1819–024; ER10–1820–027; ER10–1874–010; ER19–9–004.
Applicants: Northern States Power Company a Minnesota corporation, Northern States Power Company a Wisconsin corporation, Mankato Energy Center, LLC, Mankato Energy Center II, LLC.
Description: Notice of Change in Status of Northern States Power Company, a Minnesota corporation, et al.
Filed Date: 3/13/20.
Accession Number: 20200313–5205.
Comments Due: 5 p.m. ET 4/3/20.

Docket Numbers: ER17–827–004.
Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, LLC.
Description: Compliance filing: 2020–03–13_Entergy Attachment O Compliance Filing to be effective 6/1/2015.
Filed Date: 3/13/20.
Accession Number: 20200313–5154.
Comments Due: 5 p.m. ET 4/3/20.

Docket Numbers: ER20–649–001.
Applicants: AEP Energy Partners, Inc.
Description: Compliance filing: MBR Tariff, FERC Electric Tariff for Market Based Sales to be effective 1/1/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5075.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–652–001.
Applicants: Public Service Company of Oklahoma.
Description: Compliance filing: Market-Based Rates Tariff to be effective 1/1/2020.

Filed Date: 3/16/20.
Accession Number: 20200316–5071.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1282–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.
Description: Compliance filing: 2020–03–16_ATC LLC Compliance on Order 864 for Accumulated Deferred Income Taxes to be effective 1/27/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5012.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1283–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1518R19 Arkansas Electric Cooperative Corp NITSA NOA to be effective 3/1/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5025.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1284–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3164R1 Milligan 3 Wind LLC GIA to be effective 2/26/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5030.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1285–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3101R5 Heartland Consumers Power District NITSA and NOA to be effective 3/1/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5031.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1296–000.
Applicants: San Diego Gas & Electric Company.
Description: Request for One Time Waiver of San Diego Gas & Electric Company of San Diego Gas & Electric Company.
Filed Date: 3/13/20.
Accession Number: 20200313–5225.
Comments Due: 5 p.m. ET 4/3/20.

Docket Numbers: ER20–1297–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3635 Enel Trading and Evergy Kansas Central Meter Agent Agreement to be effective 2/25/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5072.
Comments Due: 5 p.m. ET 4/6/20.

Docket Numbers: ER20–1298–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2020–03–16_MISO TO Compliance Order 864 for Accumulated Deferred Income Taxes to be effective 1/27/2020.
Filed Date: 3/16/20.
Accession Number: 20200316–5081.
Comments Due: 5 p.m. ET 4/6/20.

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: March 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–05888 Filed 3–19–20; 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:

Docket Number: PR20–44–000.
Applicants: ONEOK Gas Transportation, L.L.C.
Description: Tariff filing per 284.123(b)(1)+(g): Certification Pursuant to 18 CFR Sec. 284.123(g)(9)(ii) to be effective 3/1/2020.
Filed Date: 3/12/2020.
Accession Number: 202003125100.
Comments Due: 5 p.m. ET 4/2/2020.
284.123(g) Protests Due: 5 p.m. ET 5/11/2020.

Docket Numbers: RP20–656–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Penalty Revenues Refund Report of Trailblazer Pipeline Company LLC under RP20–656.
Filed Date: 3/12/20.
Accession Number: 20200312–5173.
Comments Due: 5 p.m. ET 3/24/20.

Docket Numbers: RP20–657–000.
Applicants: Crossroads Pipeline Company.
Description: Pre-Arranged/Pre-Agreed (Settlement and Settlement Agreement) Filing of Crossroads Pipeline Company under RP20–657.
Filed Date: 3/12/20.
Accession Number: 20200312–5174.
Comments Due: 5 p.m. ET 3/24/20.

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 date(s). 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: March 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–05887 Filed 3–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX20–1–001]

City of Boulder, Colorado; Notice of Filing

Take notice that on March 13, 2020, pursuant to sections 210 and 212 of the Federal Power Act,[1] and Rules 602 of the Commission's Rules of Practice and Procedure,[2] City of Boulder, Colorado (the City) filed an application for an Offer of Settlement (Settlement) in the above-referenced proceeding. The Settlement is intended to resolve all issues raised in the City's February 6, 2020 application for Order Directing Interconnection of Facilities on Reasonable Terms and Conditions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the

[1] 16 U.S.C. 824i and 824k.
[2] 18 CFR 385.602 (2019).

appropriate action to be taken, but will not serve to make protestants parties to theproceeding. Any person wishing to become a party must file a notice of intervention ormotion to intervene, as appropriate. Such notices, motions, or protests must be filed onor before the comment date. Anyone filing a motion to intervene or protest must serve acopy of that document on the Applicant. On or before the comment date, it is notnecessary 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: 5:00 p.m. Eastern Time on April 3, 2020.

Dated: March 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–05889 Filed 3–19–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9049–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/NEPA.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed March 9, 2020, 10 a.m. EST

Through March 16, 2020, 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200067, Draft, NRC, NM, Holtec International's License Application for a Consolidated Interim Storage Facility for Spent Nuclear Fuel and High Level Waste, Comment Period Ends: 05/22/2020, Contact: Jill Caverly 301–415–7674.

EIS No. 20200068, Draft, NMFS, MA, Northeast Multispecies Fishery Management Plan Draft Amendment 23, Comment Period Ends: 05/19/2020, Contact: Mark Grant 978–281–9145.

EIS No. 20200069, Draft, BLM, NV, Yellow Pine Solar Project, Comment Period Ends: 05/04/2020, Contact: Augrelio Herman Pinales 702–515–5284.

EIS No. 20200070, Draft Supplement, BLM, AK, Willow Master Development Plan Environmental Impact Statement Supplement to the Draft, Comment Period Ends: 05/04/2020, Contact: Racheal Jones 907–290–0307.

Dated: March 17, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–05882 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10006–67–OA]

Notification of a Public Meeting of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur to discuss their Draft Report on EPA's *Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter—Ecological Criteria (Second External Review Draft—June 2018).*

DATES: The public meeting will be held on Monday, April 27, 2020, from 12:00 p.m. to 4:00 p.m. (Eastern Time).

Location: The public meeting will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning these public meetings may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), at (202) 564–2050 or at *yeow.aaron@epa.gov.* General information about the CASAC, as well as any updates concerning the meetings announced in this notice, may be found on the CASAC website at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. The CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and the National Ambient Air Quality Standards (NAAQS). The CASAC shall also: Advise the EPA Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised NAAQS; describe the research efforts necessary to provide the required information; advise the EPA Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity; and advise the EPA Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such NAAQS. The CAA requires that the Agency, at five-year intervals, review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including oxides of nitrogen, oxides of sulfur, and particulate matter. EPA is currently reviewing the secondary (welfare-based) NAAQS for oxides of nitrogen, oxides of sulfur, and particulate matter.

The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The Chartered CASAC and CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered CASAC and CASAC Secondary NAAQS Review Panel for Oxides of Nitrogen and Sulfur will hold a public meeting to discuss their Draft Report on EPA's *Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter—Ecological Criteria*

(Second External Review Draft—June 2018).

Technical contacts: Any technical questions concerning EPA's *Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter—Ecological Criteria (Second External Review Draft—June 2018)* should be directed to Dr. Tara Greaver (*greaver.tara@epa.gov*).

Availability of meeting materials: Prior to the meeting, the review documents, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/.*

Procedures for providing public input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the CASAC and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral statements: Individuals or groups requesting an oral presentation during the public meeting will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by April 20, 2020, to be placed on the list of public speakers.

Written statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by April 20, 2020. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each meeting to give EPA as much time as possible to process your request.

V. Khanna Johnston,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2020–05918 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2020–0135; FRL–10006–50]

TSCA Science Advisory Committee on Chemicals; Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) invites the public to nominate scientific experts from a diverse range of disciplines to be considered for appointment to the Toxic Substances Control Act (TSCA), Science Advisory Committee on Chemicals (SACC). The purpose of the SACC is to provide independent advice and expert consultation, at the request of the EPA Administrator, with respect to the scientific and technical aspects of issues relating to implementation of TSCA. EPA anticipates appointing multiple SACC members over the next year. Sources in addition to this **Federal Register** Notice may be utilized to solicit nominations and identify candidates.

DATES: Nominations of candidates to be considered for appointment to the SACC must be received on or before April 20, 2020.

ADDRESSES: Submit your nominations, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0135, by one of the following methods:

- *Electronically* (preferred): By email to *knott.steven@epa.gov.*
- *Mail:* Steven M. Knott, MS, Designated Federal Officer (DFO), Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steven M. Knott, MS, DFO, telephone number: (202) 564–0103; email address: *knott.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those involved in the manufacture, processing, distribution, disposal of chemical substances and mixtures, and/or those interested in the assessment of risks involving chemical substances and mixtures. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0135, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Regulatory Public Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

The SACC is a federal advisory committee, established in December 2016 pursuant to TSCA section 2625(o), and chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2. EPA established the SACC to provide independent advice and recommendations to the EPA Administrator on the scientific basis for risk assessments, methodologies, and

approaches relating to implementation of TSCA. The SACC members serve as Special Government Employees (SGEs) or Regular Government Employees (RGEs). The SACC expects to meet approximately 4 to 6 times per year, or as needed and approved by the DFO. Meetings will be held in the Washington, DC, metropolitan area.

In January 2017, the EPA Administrator appointed 18 members to the SACC. After further consideration of the objectives and scope of SACC activities, EPA decided to increase the membership of the SACC, and in March 2018, completed additional appointments resulting in a total of 26 members. Subsequently, some SACC members either resigned or declined to serve extended appointments. Currently, there are 19 SACC members, all with membership terms that will expire over the next year.

To date, SACC members and ad hoc reviewers have provided their expertise and knowledge on the first draft chemical risk evaluations. These individuals have dedicated an incredible amount of time to provide EPA with thoughtful and important recommendations for improving the risk evaluations. At times, SACC members were working on multiple chemical evaluations while also preparing for and participating in peer review meetings and writing reports. EPA greatly appreciates the dedication and commitment to service of the SACC members.

Given the foundation provided by the SACC recommendations from these first reviews, EPA is exploring different ways to use the SACC's expertise for providing independent advice and expert consultation after the peer reviews of the first 10 chemical risk evaluations are completed. The Agency is considering requesting that the SACC review significant, cross-cutting science issues on exposure, risk, and modeling, similar to how the Agency uses the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Scientific Advisory Panel (SAP) for health and safety issues related to pesticides. Therefore, EPA may not ask the SACC to peer review every single draft risk evaluation for the next 20 high priority chemicals. With this prospective change in the scope of SACC activities, EPA anticipates appointing approximately 15 members to the SACC by March 2021.

III. Nominations

EPA values and welcomes diversity and encourages nominations of women and men of all racial and ethnic groups. Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals also may self-nominate. Nominations may be submitted in electronic format (preferred) or mailed in accordance with the instructions under **ADDRESSES**.

Nominations should include candidates who have demonstrated high levels of competence, knowledge, and expertise in scientific/technical fields relevant to chemical safety and risk assessment. In particular, the nominees should include representation of the following disciplines, including, but not limited to: Human health and ecological risk assessment, biostatistics, epidemiology, pediatrics, physiologically-based pharmacokinetics (PBPK), toxicology and pathology (including neurotoxicology, developmental/reproductive toxicology, and carcinogenesis), and the relationship of chemical exposures to women, children, and other potentially exposed or susceptible subpopulations.

To be considered, all nominations should include the following information: Current contact information for the nominee (including the nominee's name, organization, current business address, email address, and daytime telephone number); the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vitae; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other federal advisory committees and national or international professional organizations. Persons having questions about the nomination process should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The DFO will acknowledge receipt of nominations. Sources in addition to respondents to this **Federal Register** Notice may be utilized to solicit nominations and identify candidates. The names and biographical sketches of all interested and available candidates will be posted in a List of Candidates in the docket at *http://www.regulations.gov* and on the SACC website at *http://www.epa.gov/tsca-peer-review.* The availability of the list also will be announced through the Office of Chemical Safety and Pollution Prevention (OCSPP)'s listservs. You may subscribe to these listservs at the following website: *https://public.govdelivery.com/accounts/USAEPAOPPT/subscriber/new?topic_id=USAEPAOPPT_101.* Public comments on the List of Candidates will be accepted for 21 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the EPA should consider in evaluating candidates.

IV. Selection Criteria

In addition to scientific expertise, in selecting members, EPA will consider the differing perspectives and the breadth of collective experience needed to address EPA's charge to the SACC, as well as the following:

- Background and experiences that would contribute to the diversity of scientific viewpoints on the committee, including professional experiences in government, labor, public health, public interest, animal protection, industry, and other groups, as the EPA Administrator determines to be advisable (*e.g.,* geographical location; social and cultural backgrounds; and professional affiliations);
- Skills and experience working on committees and advisory panels including demonstrated ability to work constructively and effectively in a committee setting;
- Absence of financial conflicts of interest or the appearance of a loss of impartiality;
- Willingness to commit adequate time for the thorough review of materials provided to the committee; and
- Availability to participate in committee meetings.

(Authority: 15 U.S.C. 2625 *et seq.;* 5 U.S.C. Appendix 2 *et seq.*)

Dated: March 13, 2020.

Hayley Hughes,

Director, Office of Science Coordination and Policy.

[FR Doc. 2020–05827 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10005–99–Region 6]

Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permit for Dow Chemical Company, Dow Salt Dome Operations, Brazoria County, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final Order on Petition for objection to Clean Air Act title V operating permit.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an Order dated February 18, 2020, granting a Petition dated August 31, 2015 from the Environmental Integrity Project and Sierra Club. The Petition requested that the EPA object to a Clean Air Act (CAA)

title V operating permit issued by the Texas Commission on Environmental Quality (TCEQ) to Dow Chemical Company (Dow) for its Dow Salt Dome Operations located in Brazoria County, Texas.

ADDRESSES: The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, the Petition, and other supporting information. You may review copies of the final Order, the Petition, and other supporting information at the EPA Region 6 Office, 1201 Elm Street, Dallas, Texas 75270–2102. You may view the hard copies Monday through Friday, from 9 a.m. to 3 p.m., excluding federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order and Petition are available electronically at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

FOR FURTHER INFORMATION CONTACT: Aimee Wilson, EPA Region 6, (214) 665–7596, *wilson.aimee@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and object to, as appropriate, operating permits proposed by state permitting authorities under title V of the CAA. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or unless the grounds for the issue arose after this period.

The EPA received the Petition from the Environmental Integrity Project and Sierra Club dated August 31, 2015, requesting that the EPA object to the issuance of the facility's Federal Operating Permit Number O2212, issued by TCEQ to Dow Chemical Company's Salt Dome Operations in Brazoria County, Texas. The Petition claims the proposed permit improperly incorporates by reference confidential operational limits even though operational limits are required to be federally enforceable by being publicly available and listed in the proposed permit.

On February 18, 2020, the EPA Administrator issued an Order granting the Petition requesting that the EPA Administrator object to the title V operating permit. The Order explains the basis for EPA's decision.

Dated: March 13, 2020.

Kenley McQueen,

Regional Administrator, Region 6.

[FR Doc. 2020–05777 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0500; FRL–10006–79]

Trichloroethylene; TSCA Science Advisory Committee on Chemicals (SACC) Meeting; Amended Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing that the March 24–26, 2020, Toxic Substances Control Act (TSCA) Science Advisory Committee on Chemicals (SACC) meeting, previously announced in the **Federal Register** on February 26, 2020, (85 FR 11079) (FRL–10005–52) is being changed to a virtual public meeting, with participation by phone and webcast only. There will be no in-person gathering for this meeting. Meeting times and dates are adjusted to accommodate this change.

DATES: *Virtual meeting:* The virtual meeting will be held on March 24–27, 2020, from 10:00 a.m. to approximately 5:00 p.m. (EDT). To make oral comments during the virtual meeting, please register by noon on March 20, 2020.

ADDRESSES: *Virtual meeting:* Please visit *http://www.epa.gov/tsca-peer-review* to register. You must register online to receive the webcast meeting link and audio teleconference information for participation.

FOR FURTHER INFORMATION CONTACT: *TSCA SACC:* Dr. Todd Peterson, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6428; email address: *peterson.todd@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA is announcing that the Toxic Substances Control Act (TSCA) Science Advisory Committee on Chemicals (SACC) meeting to consider and review the draft risk evaluation for Trichloroethylene (TCE) will be a virtual public meeting, with participation by phone and webcast only. There will be no in-person gathering for this meeting. To accommodate this change, meeting start times are adjusted, and the meeting dates are extended by one day. The topic for this meeting remains unchanged from that described in the February 26, 2020, **Federal Register** notice (85 FR 11079) (FRL–10005–52). Due to the outbreak of the novel coronavirus, SARS-CoV–2, the cause of COVID–19, the agency is implementing this change out of an abundance of caution and in response to travel restrictions imposed by some SACC members' employers and other members' concerns regarding travel.

II. How do I participate in the virtual public meeting?

Virtual meeting. The virtual meeting will be conducted via webcast and telephone. You may participate in the virtual meeting by registering to join the webcast. You may also submit written or oral comments.

i. *Registration.* You must register to participate in the virtual meeting. To participate by listening or making a comment during this meeting, please go to the EPA website to register: *http://www.epa.gov/tsca-peer-review.* Registration online will be confirmed by an email that will include the webcast meeting link and audio teleconference information.

ii. *Oral comments.* Requests to make brief oral comments to the TSCA SACC during the virtual meeting should be submitted when registering online or with the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before noon on the date set in the **DATES** section. Oral comments before the TSCA SACC during the virtual meeting are limited to approximately 5 minutes. Each speaker should email their comments and presentation to the DFO listed under **FOR FURTHER INFORMATION CONTACT**, preferably, at least 24 hours prior to the oral public comment period.

iii. *Written comments.* Please refer to the February 26, 2020, **Federal Register** notice (85 FR 11079) for detailed instructions on written comments.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 13, 2020.

Hayley Hughes,

Director, Office of Science Coordination and Policy.

[FR Doc. 2020–05826 Filed 3–19–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0770; FRS 16564]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 (FCC or the 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 May 19, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0770.

Title: Sections 1.774, 61.49, 61.55, 61.58, 69.4, 69.707, 69.713 and 69.729, Price Cap Performance.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 13 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: On occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 154(j), 201–205, 303(r), and 403.

Total Annual Burden: 130 hours.

Total Annual Cost: $12,480.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information of a confidential nature is requested. However, respondents may request materials or information submitted to the Commission to be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In the 1999 *Fifth Report and Order and Further Notice of Proposed Rulemaking* (*Pricing Flexibility Order*), 64 FR 51280, the Commission permitted price cap local exchange carriers (LECs) to introduce new services on a streamlined basis, without prior approval or cost support requirements. The Commission eliminated the public interest showing required by 47 CFR 69.4(g), and, except in the case of new loop-based switched access services, eliminated the new services test required under 47 CFR 61.49(f) and (g).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–05785 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0589; FRS 16569]

Information Collection Being Reviewed by the Federal Communications Commission

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 of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 19, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0589.

Title: FCC Remittance Advice Forms, FCC Form 159/159–C, 159–B, 159–E, and 159–W.

Form Number(s): FCC Form 159 Remittance Advice, 159–C Remittance Advice Continuation Sheet, 159–B Remittance Advice Bill for Collection, 159–E Remittance Voucher, and 159–W Interstate Telephone Service Provider Worksheet.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Individuals or

households; Not-for-profit institutions; and State, Local, or Tribal Governments.

Number of Respondent and Responses: 102,405 respondents; 102,405 responses.

Estimated Time per Response: 15 minutes (0.25 hours).

Frequency of Response: On occasion and annual reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory Authority for this information collection is contained in the Communications Act of 1934, as amended; Section 8 (47 U.S.C. 158) for Application Fees; Section 9 (47 U.S.C. 159) for Regulatory Fees; Section 309(j) for Auction Fees; and the Debt Collection Improvement Act of 1996, Public Law 104–134, Chapter 10, Section 31001.

Total Annual Burden: 25,601 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: There is no need for confidentiality, except for personally identifiable information (PII) that individuals may submit on one or more of these forms. FCC Form 159 series instructions include a Privacy Act Statement. Furthermore, while the Commission is not requesting that the respondents submit confidential information to the FCC, respondents may request confidential treatment for information they believe to be confidential under 47 CFR Section 0.459 of the Commission's rules. The Commission has a system of records notice (SORN), FCC/OMD–25, Financial Operations Information System (FOIS), to cover any PII that individuals may submit. The SORN is posted on the FCC Privacy web page at: *https://www.fcc.gov/general/privacy-act-information#systems.* Privacy Impact Assessment (PIA): A PIA is being drafted and posted on the FCC Privacy web page at: *https://www.fcc.gov/general/privacy-act-information#systems.*

Needs and Uses: The FCC supports a series of remittance advice forms and a remittance voucher form that may be submitted in lieu of a remittance advice form when entities or individuals electronically submit a payment. A remittance advice form (or a remittance voucher form in lieu of an advice form) must accompany any payment to the Federal Communications Commission (*e.g.* payments for regulatory fees, application filing fees, auctions, fines, forfeitures, Freedom of Information Act (FOIA) billings, or any other debt due to the FCC. Information is collected on these forms to ensure credit for full payment, to ensure entities and individuals receive any refunds due, to service public inquiries, and to comply with the Debt Collection Improvement Act of 1996. On August 12, 2013, the Commission released a Report and Order (R&O), In the Matter Assessment and Collection of Regulatory Fee for Fiscal Year 2013 and Procedures for Assessment and Collection of Regulatory Fees, MD Docket Nos. 13–140 and 12–201, FCC 13–110. In this R&O, the Commission requires that beginning in FY 2014, all regulatory fee payments be made electronically and that the Commission will no longer mail out initial regulatory fee assessments to CMRS providers.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–05788 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 16562]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Amendment to notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its second meeting via live internet link.

DATES: March 25, 2020.

ADDRESSES: The meeting will be held via conference call and available to the public via live feed from the FCC's web page at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Jesse Jachman, Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418–2668, or email: *Jesse.Jachman@fcc.gov;* Erin Boone, Deputy Designated Federal Officer, Federal Communications Commission, Wireless Telecommunications Bureau, (202) 418–0736, or email: *Erin.Boone@fcc.gov;* or Celia Lewis, Deputy Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418–7456, or email *Celia.Lewis@fcc.gov.*

SUPPLEMENTARY INFORMATION: The notice of this meeting was first published in the **Federal Register** on March 5, 2020. This amendment is to inform the public that the meeting will be held electronically only.

The meeting will be held on March 25, 2020, at 9:30 a.m. EDT and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *PrecisionAgTF@fcc.gov* and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the Task Force should be filed in GN Docket No. 19–329. The meeting is being moved to a wholly electronic format in light of travel restrictions affecting members of the Task Force related to the ongoing increase in coronavirus (COVID–19) cases.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Proposed Agenda: At this meeting, the Task Force will provide updates on Task Force administration; review and discuss programs and policies relevant to the Task Force's duties; and discuss recent agricultural industry-wide events related to broadband deployment and precision agriculture technologies. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Good Cause for Late Notice: This Amendment to Notice of public meeting is being published less than 15 days before the meeting date of March 25, 2020. There is good cause for this late notice. Specifically, travel restrictions affecting members of the Task Force related to the ongoing increase in COVID–19 cases, have led the Commission to conclude that, in an abundance of caution, an electronic meeting is appropriate. The Commission has also announced this amendment to the public meeting by Public Notice posted on *https://www.fcc.gov/task-force-reviewing-connectivity-and-*

technology-needs-precision-agriculture-united-states.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison.

[FR Doc. 2020–05829 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Amendment to Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Technological Advisory Council (TAC) will hold its fourth meeting via live internet link.

DATES: Tuesday March 24, 2020.

ADDRESSES: The Meeting will be held via conference call and available to the public via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Michael Ha, Chief, Policy and Rules Division 202–418–2099; *michael.ha@fcc.gov.*

SUPPLEMENTARY INFORMATION: The notice of this meeting was first published in the **Federal Register** on March 5, 2020. This amendment is to inform the public that the meeting will be held electronically only. The meeting will be held on Tuesday, March 24, 2020, from 10:00 a.m. to 3:00 p.m. EDT and may be viewed live, by the public, at *http://www.fcc.gov/live.* The meeting is being moved to a wholly electronic format in light of travel restrictions affecting members of the TAC related to the ongoing increase in coronavirus (COVID–19) cases.

At the March 24th meeting, the FCC Technological Advisory Council will hear presentations from its four working groups: 5G/IOT/V–RAN, Future of Unlicensed Operations, Artificial Intelligence, and 5G Radio Access Network Technology. The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to: Michael Ha, the FCC's Designated Federal Officer for Technological Advisory Council by email: *michael.ha@fcc.gov* or U.S. Postal Service Mail (Michael Ha, Federal Communications Commission, Room 2–A665, 445 12th Street SW, Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted, but may not be possible to accommodate.

Good Cause for Late Notice: This Amendment to Notice of public meeting is being published less than 15 days before the meeting date of March 24, 2020. There is good cause for this late notice. Specifically, the recent developments in the spread of COVID–19 have led the Commission to conclude that, in an abundance of caution, an electronic meeting is appropriate. The Commission has also announced this amendment to the public meeting by Public Notice posted on the Commission's website at *https://www.fcc.gov/document/fcc-announces-next-meeting-technological-advisory-council-0.*

Federal Communications Commission.

Ronald T. Repasi,

Acting Chief, Office of Engineering and Technology.

[FR Doc. 2020–05899 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1149; FRS 16558]

Information Collection Being Reviewed by the Federal Communications Commission

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 of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 19, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1149.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents and Responses: 259,600 respondents and 259,600 responses.

Estimated Time per Response: .166 hours (10 minutes).

Frequency of Response: One-time reporting requirement.

Obligation To Respond: Voluntary.

Total Annual Burden: 43,267 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: Responses to feedback instruments will be confidential.

Privacy Act Impact Assessment: There is no Privacy Act impact as personally identifiable information (PII) will not be collected.

Needs and Uses: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or change in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods of assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–05784 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1270; FRS 16565]

Information Collection Being Reviewed by the Federal Communications Commission

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 of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 19, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

OMB Control Number: 3060–1270.

Title: Protecting National Security Through FCC Programs.

Form Number: N/A.

Type of Review: Extension of currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 2,257 respondents; 2,257 responses.

Estimated Time per Response: 3 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1.4(b)(1), 1.103(a), 151–154, 201(b), 229, 254, and 1004.

Total Annual Burden: 6,771 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission will consider the potential confidentiality of any information submitted, particularly where public release of such information could raise security concerns (*e.g.,* granular location information). We expect, however, that the public interest in knowing whether a carrier uses or owns equipment or services from Huawei or ZTE would significantly outweigh any interest the carrier would have in keeping such information confidential. Respondents may request materials or information submitted to the Commission or to the Universal Service Administrative Company be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as an extension during this comment period to obtain the full three-year clearance from OMB. Under this information collection, the Commission proposes to collect information to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. The Communications Act of 1934, as amended, requires the ''preservation and advancement of universal service.'' 47 U.S.C. 254(b). The information collection requirements reported under this collection are the result of Commission actions to promote the Act's universal service goals. On November 22, 2019, the Commission adopted a Report and Order, Further Notice of Proposed Rulemaking, and Order, WC Docket No. 18–89, FCC 19–121 (*Protecting Against National*

Security Threats to the Communications Supply Chain Through FCC Programs). The *Report and Order* prohibits future use of Universal Service Fund (USF) monies to purchase, maintain, improve, modify, obtain, or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain. It also initially designated two entities—Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), along with their affiliates, subsidiaries, and parents—as covered companies posing such a national security threat. In the *Further Notice,* the Commission proposed to make the requirement to remove covered equipment and services from carriers' networks contingent on the availability of a funded reimbursement program, in an effort to mitigate the impact on affected entities. This information collection is designed to collect data from eligible telecommunication carriers (ETCs) and other carriers to determine the extent of which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. The data will aid the Commission's review of the record and guide our next steps in this proceeding.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–05786 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1081, 3060–1224; FRS 16567]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 (FCC or the 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 May 19, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1081.

Title: Section 54.202, 54.209, 54.307, 54.313, 54.314, and 54.809, Telecommunications Carriers Eligible for Universal Service Support.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 40 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in sections 201(b), 214(e)(6), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 201(b), 214(e)(6), 303(r).

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 800 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature of Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: Designation as an Eligible Telecommunications Carrier (ETC) makes a telecommunications carrier eligible to receive support from the universal service high-cost and low-income programs, which supports the extension of telecommunications services to underserved rural communities. In the absence of this information collection, the Federal Communications Commission's (the Commission's) ability to fulfill its statutory obligation and to oversee the use of federal universal service funds and to combat waste, fraud, and abuse in the use of federal funds would be compromised. Section 54.202 of the Commission's rules requires carriers seeking designation from the Commission to submit an application that certifies that the carrier will comply with the service requirements applicable to the support that it receives, 47 CFR 54.202(a)(1)(i). Additionally, applicants must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area, with estimates of the area and population that will be served as a result of the improvements, § 54.202(a)(1)(ii). An applicant must demonstrate its ability to remain functional in emergency situations, including: A demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source; is able to reroute traffic around damaged facilities; is capable of managing traffic spikes resulting from emergency situations, § 54.202(a)(2); and a demonstration that it will satisfy applicable consumer protection and service quality standards, § 54.202(a)(3).

A commitment by wireless applicants to comply with the Cellular Telecommunications and internet Association's Consumer Code for Wireless Service will satisfy this requirement and other commitments will be considered on a case-by-case basis. If the common carrier is seeking designation as an ETC under section 214(e)(6) for any part of Tribal lands, it shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Commission. In addition, the

Commission will send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available, § 54.202(c).

OMB Control Number: 3060–1224.

Title: Reverse Auction (Auction 1001) Incentive Payment Instructions from Reverse Auction Winning Bidder.

Form Number: FCC Form 1875.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions and State, Local or Tribal government.

Number of Respondents and Responses: 750 respondents; 1,500 responses.

Estimated Time per Response: 2.5 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) § 6403(a)(1).

Total Annual Burden: 3,750 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: The information collection includes information identifying bank accounts and providing account and routing numbers to access those accounts. FCC considers that information to be records not routinely available for public inspection under 47 CFR 0.457, and exempt from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)).

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Spectrum Act mandates ''a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding''.[1]

The Commission conducted notice-and-comment rulemaking to implement the Spectrum Act, and ruled in the Incentive Auction Report and Order that: ''we adopt the Commission's proposal to require successful bidders in the reverse auction to submit additional information to facilitate incentive payments. As mentioned in the NPRM, we envision that the information would be submitted on standardized incentive payment forms similar to the Automated Clearing House (''ACH'') forms unsuccessful bidders in typical spectrum license auctions use to request refunds of their deposits and upfront payments. This information collection is necessary to facilitate incentive payments and should not be burdensome to successful bidders. Specifically, without further instruction and bank account information from successful bidders, the Commission would not know where to send the incentive payments.'' [footnotes omitted][2]

The information collection for which we are requesting approval is the standardized incentive payment form referred to in the paragraph above.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–05787 Filed 3–19–20; 8:45 am]

BILLING CODE 6712–01–P

[1] Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) § 6403(a)(1).

[2] Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12–268, Report and Order, 29 FCC Rcd 6567 (2014) (''Incentive Auction R&O'') at 537.

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 21, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Arbor Bancorp, Inc., Ann Arbor, Michigan;* to merge with FNBH Bancorp, Inc., and thereby indirectly acquire First National Bank in Howell, both of Howell, Michigan.

Board of Governors of the Federal Reserve System, March 17, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–05915 Filed 3–19–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 6, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Matthew J. Lujano, Carroll, Iowa; and Margaret A. White, Westside, Iowa;* to acquire and to retain, respectively, voting shares of Halbur Bancshares, Inc., and thereby indirectly acquire or retain voting shares of Westside State Bank, both of Westside, Iowa, and acting in concert with James J. White, Westside,

Iowa, to form the White Family Control Group.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Angel Reyes, Taos, New Mexico; Christopher Romero, San Cristobal, New Mexico; and Rebeca Romero Rainey, Arlington, Virginia;* to be approved as members acting in concert with the Romero Family Control Group to acquire voting shares of Centinel Bank Shares, Inc. and thereby indirectly acquire voting shares of Centinel Bank of Taos, both of Taos, New Mexico.

Board of Governors of the Federal Reserve System, March 17, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–05916 Filed 3–19–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of March 23, 2020 FRTIB Board Member Meeting: Correction

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice, Correction.

SUMMARY:

Due to the COVID–19 pandemic, the March 23, 2020 FRTIB Board Member meeting will be conducted telephonically and not at the Agency's 77 K St., Washington, DC location. Members of the public who are interested in the meeting can listen to the meeting by calling 1–877–446–3914 and using passcode 8249934.

Issues caused by national higher-than-normal usage of phone lines may limit the number of individuals able to listen in on the meeting. Material relating to FRTIB Board meetings is available at frtib.gov.

Contact Person for More Information: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: March 17, 2020.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2020–05892 Filed 3–19–20; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–5364]

Submission of Plans for Cigarette Packages and Cigarette Advertisements; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry entitled ''Submission of Plans for Cigarette Packages and Cigarette Advertisements.'' This guidance is intended to assist those required to submit cigarette plans for cigarette packages and cigarette advertisements by providing content, timing, and other recommendations related to those submissions.

DATES: The announcement of the guidance is published in the **Federal Register** on March 20, 2020.

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–5364 for ''Submission of Plans for Cigarette Packages and Cigarette Advertisements.'' 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 office 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.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management

Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the guidance may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Lauren Belcher or Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, email: *AskCTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Submission of Plans for Cigarette Packages and Cigarette Advertisements.'' The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) was enacted on June 22, 2009, and granted FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products. The Tobacco Control Act also amended section 4 of the Federal Cigarette Labeling and Advertising Act (FCLAA) to direct FDA to issue regulations requiring each cigarette package and advertisement to bear a new textual warning label statement accompanied by color graphics depicting the negative health consequences of smoking (section 201 of the Tobacco Control Act). In enacting this legislation, Congress also provided that FDA may adjust the required warnings if FDA found that such a change would promote greater public understanding of the risks associated with the use of tobacco products (section 202 of the Tobacco Control Act). The Tobacco Control Act also modified the requirements of the FCLAA regarding the submission of cigarette plans for the random and equal display and distribution of required warnings on cigarette packages and quarterly rotation of required warnings in cigarette advertisements. It also requires that such cigarette plans be submitted to FDA for review and approval, rather than to the Federal Trade Commission.

FDA issued a rule entitled ''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements'' on March 18, 2020. The rule specifies the color graphics that must accompany the new textual warning label statements and establishes marketing requirements for cigarette packages and advertisements. The marketing requirements include, among other things, submission of a cigarette plan that provides for the random and equal display and distribution of the required warnings on cigarette packages and quarterly rotation of the required warnings in cigarette advertisements, as described under section 4 of FCLAA.

This guidance provides recommendations related to preparing and submitting those cigarette plans. It discusses the regulatory requirements to submit cigarette plans as well as:

- Who submits a cigarette plan;
- the scope of a cigarette plan;
- when to submit a cigarette plan;
- what information should be submitted as part of a cigarette plan;
- where to submit a cigarette plan; and
- what approval of a cigarette plan means.

FDA previously published a draft version of the guidance and sought public comment (84 FR 71957, December 30, 2019) (announcing the availability of the draft guidance). Among other things, comments express some concerns, such as about printing processes, as well as the difficulty of achieving random and equal display and distribution of required warnings. FDA has considered the comments it received, and included revisions in the final guidance that: (1) Discuss, per the final rule, that manufacturers may print different required warnings on front and rear panels of a cigarette package; (2) recognize that some level of deviation is appropriate given the language of the FCLAA; and (3) provide updated examples in an appendix to the guidance that demonstrate how random and equal display and distribution may be achieved with various printing methods, including those used by small manufacturers.

II. Significance of Guidance

FDA is issuing this guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA regarding the submission of cigarette plans for cigarette packages and advertisements. 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.

III. Paperwork Reduction Act of 1995

This guidance refers to collections of information described in FDA's rule on ''Tobacco Products; Required Warnings for Cigarette Packages and Advertisements,'' which this guidance is intended to interpret. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The information collection provisions in the final rule have been submitted to OMB for review as required by section 3507(d) of the Paperwork Reduction Act of 1995.

IV. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidance at either *https://www.regulations.gov* or *https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm.*

Dated: March 17, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–05936 Filed 3–19–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Council on Blood Stem Cell Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's Advisory Council on Blood Stem Cell Transplantation (ACBSCT) has scheduled a public meeting. Information about ACBSCT and the agenda for this meeting can be found on the ACBSCT website at *https://bloodstemcell.hrsa.gov/about/advisory-council*

DATES: April 27, 2020, 8:00 a.m.–4:00 p.m. Eastern Time (ET).

ADDRESSES: This meeting will be held by webinar and conference call. The webinar link, conference call-in number, registration information, and meeting materials can be accessed

through the registration link on the ACBSCT website at *https://bloodstemcell.hrsa.gov/about/advisory-council.*

FOR FURTHER INFORMATION CONTACT: Robert Walsh, Designated Federal Official, (DFO), at Division of Transplantation, HRSA, 5600 Fishers Lane, 8W60, Rockville, Maryland 20857; 301–443–6839; or *RWalsh@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACBSCT provides advice and recommendations to the Secretary of HHS (Secretary) and the HRSA Administrator on the activities of the C.W. Bill Young Cell Transplantation Program (CWBYCTP) and the National Cord Blood Inventory (NCBI) Program. The principal purpose of these programs is to make blood stem cells from adult donors and cord blood units available for patients who need a transplant to treat life-threatening conditions such as leukemia, and who lack a suitably matched relative who can be the donor.

During the April 27, 2020, meeting, the ACBSCT will discuss issues related to increasing access to transplantation (including the utilization of cord blood and other types of cellular therapy). Agenda items are subject to change as priorities dictate. Refer to the ACBSCT website for any updated information concerning the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to ACBSCT should be sent to Robert Walsh, DFO, using the contact information above at least 3 business days prior to the meeting.

Individuals planning to participate who need special assistance or another reasonable accommodation should notify Robert Walsh at the address and phone number listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–05921 Filed 3–19–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis/Chronic Fatigue Syndrome.

Date: April 14, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, (301) 435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Human Aging.

Date: April 14, 2020.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 18–731 Cancer Workforce Diversity.

Date: April 16, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–6009, *lin.reigh-yi@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: March 16, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05816 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, March 30, 2020, 05:00 p.m. to March 31, 2020, 05:00 p.m., The Bethesdan Hotel, Tapestry Collection by Hilton, 8120 Wisconsin Ave, Bethesda, MD, 20814 which was published in the **Federal Register** on February 11, 2020, 85 FR 7772.

The meeting notice is amended to change the Meeting Format from Regular Meeting on March 30–31, 2020 to a Teleconference Meeting on March 30–31, 2020. The meeting is closed to the public.

Dated: March 16, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05822 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Child Health and Human Development Special Emphasis Panel, Fertility and Infertility Preservation for Patients with Diseases that Previously Precluded Reproduction, April 15, 2020, 08:00 a.m. to April 15, 2020, 05:00 p.m., NICHD Offices, 6710B Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on March 06, 2020, 85 FR 10707.

The meeting format has changed from an in-person meeting to a teleconference. The meeting is closed to the public.

Dated: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05821 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases.

Date: March 23–24, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05814 Filed 3–19–20; 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 Institute Special Emphasis Panel, April 14, 2020, 08:30 a.m. to April 14, 2020, 04:00 p.m., The William F. Bolger Center, 9600 New Bridge Drive, Potomac, MD 20854 which was published in the **Federal Register** on March 04, 2020, 85 FR 12799.

The NHLBI Special Emphasis Panel meeting is being amended due to a change in the meeting format. This one day meeting to be held on April 14, 2020 will be a teleconference meeting. The meeting is closed to the public.

Dated: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05819 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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 purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; FEB2020 Cycle 34 NExT SEP Committee Meeting.

Date: April 21, 2020.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Room 3A44, Bethesda, MD 20892, Teleconference Call.

Contact Persons: Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program, National Cancer Institute, NIH 31 Center Drive, Room 3A44, Bethesda, MD 20817, (301) 496–4291, *mroczkoskib@mail.nih.gov*; Toby Hecht, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH 9609, Medical Center Drive, Room 3W110, Rockville, MD 20850, (240) 276–5683, *toby.hecht2@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 16, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05817 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, RM18–009: NIH Transformative Research Awards (R01) Review, April 7, 2020, 8:00 a.m. to 6:00 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814, which was published in the **Federal Register** on March 13, 2020, 85 FR 14687.

The meeting will be held at National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20872. The meeting date remains the same. The meeting is closed to the public.

Dated: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05815 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Child Health and Human Development Special Emphasis Panel, IDDRC Review Intellectual and Developmental Disabilities Research Centers 2020, April 21, 2020, 08:00 a.m. to April 22, 2020, 05:00 p.m. which was published in the **Federal Register** on March 06, 2020, 85 FR 10707.

The meeting format has changed from in-person meeting to a teleconference meeting. The meeting is closed to the public.

Dated: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05820 Filed 3–19–20; 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 Institute Special Emphasis Panel, April 7, 2020, 08:00 a.m. to April 7, 2020, 12:30 p.m., Embassy Suites—Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015 which was published in the **Federal Register** on March 04, 2020, 85 FR 12799.

The NHLBI Special Emphasis Panel meeting is being amended due to a change in the meeting format. This one day meeting to be held on April 7, 2020 will be a teleconference meeting. The meeting is closed to the public.

Dated: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–05818 Filed 3–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; High-End Instrumentation (HEI) Grant Program (S10 Clinical Trial Not Allowed).
Date: April 6, 2020.
Time: 4:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Songtao Liu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, Bethesda, MD 20817, 301–827–6828, *songtao.liu@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RM18–009: NIH Transformative Research Awards (R01) Review.
Date: April 7, 2020.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.
Date: April 7, 2020.
Time: 9:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9448, *shinako.takada@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.
Date: April 7, 2020.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–MH–20–520: Implementation Research in HRSA Ryan White Sites.
Date: April 8, 2020.
Time: 9:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301–827–7480, *dimitrios.vatakis@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Population Sciences and Epidemiology.
Date: April 8, 2020.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Social Psychology, Personality, and Interpersonal Processes.
Date: April 8, 2020.
Time: 1:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.
Date: April 8, 2020.
Time: 12:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Sarita Kandula Sastry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20782, *sarita.sastry@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Chronic Neurodegenerative and Neurodevelopment Disorders.

Date: April 9, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–GM–19–001: Methods to Improve Reproducibility of Human iPSC Derivation, Growth and Differentiation (SBIR).

Date: April 9, 2020.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Autoimmunity, Transplantation and Tumor.

Date: April 9, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, *alok.mulky@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Toxicology and Pharmacology.

Date: April 9, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Julia Spencer Barthold, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–3073, *julia.barthold@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–NS–20–005: Mechanistic Basis of TDP–43-Dependent Pathobiology in Common Dementias.

Date: April 14, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, (301) 435–1203, *laurent.taupenot@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA panel: A2CPS—Multisite Clinical Centers.

Date: April 14, 2020.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@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: March 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–1084]

RIN 1625–ZA39

Navigation and Vessel Inspection Circular (NVIC) 01–20; Guidelines for Addressing Cyber Risks at Maritime Transportation Security Act (MTSA) Regulated Facilities

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of Navigation and Vessel Inspection Circular (NVIC) 01–20, titled *Guidelines for Addressing Cyber Risks at Maritime Transportation Security Act (MTSA) Regulated Facilities.* This NVIC clarifies the existing MTSA requirements related to computer system and network vulnerabilities of MTSA-regulated facilities. It also provides owners and operators of the facilities with guidance on how to analyze these vulnerabilities in their required Facility Security Assessment (FSA) and address them in the Facility Security Plan (FSP).

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email, CDR Brandon Link, U.S. Coast Guard; telephone 202–372–1107, email *Brandon.M.Link@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Discussion

As discussed in the United States Coast Guard Cyber Security Strategy, released in June 2015,[1] and the draft NVIC,[2] published for public comment on July 12, 2017 (82 FR 32189), cyber security is one of the most serious economic and national security challenges for the maritime industry and our nation. Maritime facility safety and security systems, such as security monitoring, fire detection, and general alarm installations increasingly rely on computer systems and networks. While these computer systems and networks create benefits, they are inherently vulnerable and introduce new vulnerabilities.

There are many resources, technical standards, and recommended practices available to the maritime industry that can help with identifying vulnerabilities to facility computer systems and networks and subsequently incorporating those vulnerabilities into FSPs. However, recent Coast Guard experience suggests the maritime industry may not be aware of or utilizing these resources. Therefore, this NVIC recommends how MTSA-regulated facilities can address and mitigate cyber security risks while ensuring the continued operational capability of the nation's Marine Transportation System (MTS).

The Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295, November 25, 2002, as codified in 46 U.S.C. Chapter 701) addresses the security of the MTS and authorizes the Coast Guard to prescribe regulations. Under the authority of MTSA, the Coast Guard promulgated regulations in subchapter H of Title 33 of the Code of Federal Regulations (CFR). These

[1] *https://www.uscg.mil/Portals/0/Strategy/Cyber%20Strategy.pdf.*

[2] The Coast Guard assigns NVICs based on the year and order in which they are issued in the final form. The draft version of this NVIC was assigned NVIC number 05–17. However, since the final version of the NVIC will be issued in the year 2020, we have assigned it a new number 01–20.

regulations established general requirements for facility security and provided facility owners and operators discretion to determine the details of how they will comply with those requirements.

This NVIC provides recommended practices for MTSA-regulated facilities to address computer system and network vulnerabilities, more commonly referred to as cyber security vulnerabilities.[3] Based on industry comments, the Coast Guard has revised the NVIC and its Enclosures. We revised the NVIC to clarify its advisory nature and applicability. The Coast Guard also changed the title of the draft NVIC Enclosure (1) from *Cyber Security and MTSA: 33 CFR parts 105 and 106* to *Cyber Security and MTSA.* The Coast Guard made this change because the revised Enclosure (1) consists of two separate sections: The first section advises on the nature and purpose of the MTSA regulations and the second section discusses specific provisions of 33 CFR parts 105 and 106 that may apply to a Facility Security Plan (FSP) if a Facility Security Assessment (FSA) identifies any computer system and network vulnerabilities. In addition, the revised Enclosure (1) clarifies that MTSA regulations in 33 CFR parts 105 and 106 include a facility's obligation to assess cyber security vulnerabilities while retaining the discretion over the ways to address and mitigate them. We note in the Enclosure that MTSA-regulated facilities must comply with MTSA regulations, but it is up to each facility to determine how to identify, assess, and address the vulnerabilities of their computer systems and networks. We added a line about discussing backup means of communication, which are required by 33 CFR 105.235(d) and 106.240(c) and are part of the information considered when developing the FSA. We also corrected two typos on page 1–4. In the paragraph titled *Security measures for access control,* we corrected the citation from ''33 CFR 105.260'' to ''33 CFR 106.260'' and in the paragraph titled *Security measures for restricted areas,* we corrected the citation from ''33 CFR 105.265'' to ''33 CFR 106.265''.

The draft NVIC contained an Enclosure (2) titled *Cyber Governance and Cyber Risk Management Program Implementation Guidance.* This Enclosure provided recommended practices, including the National Institute of Standards and Technology (NIST) Cyber Security Framework (CSF) and NIST Special Publication 800–82. For the reasons described below, we have removed Enclosure (2) from the NVIC.

The Coast Guard sought public comments on the draft NVIC's necessity, robustness, and its costs. Specifically, we sought comments on the feasibility of the implementation of the NVIC's guidance, its flexibility and usefulness in addressing the broad scope of vulnerabilities and risk facing regulated facilities, and its ability to remain valid when technology and industry's use of technology changes. In addition, the Coast Guard sought comments on whether this guidance aligned with activities that industry has already implemented. After the 90-day public comment period closed on October 11, 2017,[4] the Coast Guard reviewed and analyzed the comments contained in 25 letters received. Below we summarize and respond to the public comments.

Comments Received

1. Comments on NVIC's Enclosure (2)

Many of the comments described concerns with Enclosure (2). Enclosure (2) described best practices and expectations for all MTSA regulated entities, and cited to the National Institute of Standards and Technology's Cyber Security Framework (NIST CSF) to promote effective self-governance. Some commenters perceived Enclosure (2) as overly detailed and not suitable for application by small owners and operators. Other commenters suggested that the Coast Guard simply direct all owners and operators to use the NIST framework. Based on these comments, we have concluded that Enclosure (2) created more confusion than benefit for the owners and operators of MTSA-regulated facilities. For example, some commenters mistook the described examples and the framework for recommended parts of an FSA. Others expressed an expectation for more specific recommendations on various technical specifications. Therefore, the Coast Guard has removed Enclosure (2) from the NVIC. However, in response to several comments supporting the NIST CSF, which was discussed in Enclosure (2), we added a sentence to paragraph (2) of the NVIC encouraging the use of the NIST CSF as a means to improve a facility's cyber posture above what is outlined in the NVIC.

2. Comments on Flexibility and Adaptability

Many commenters stated cyber security guidance should be flexible and should allow each facility to create solutions that fit its specific needs and changing risks. The Coast Guard agrees. This NVIC does not include a checklist or otherwise prescribe cyber security solutions. This NVIC emphasizes that existing regulations require MTSA-regulated facilities to assess and address vulnerabilities in computer systems and networks and provides guidance on how to mitigate those cyber security vulnerabilities identified in the facility's FSA.

3. Comments on the Implementation of the NVIC

A. The draft NVIC stated that once it was finalized, facility owners and operators could demonstrate their compliance with MTSA regulations by including cyber security risks and a general description of cyber security measures in their FSPs.

In response to that statement, many commenters expressed concerns regarding potential delays in re-inspections and re-approvals of new FSPs, and economic burdens for ports and facilities (including small ports and facilities with a limited number of employees), that might have to perform new FSAs and re-write existing FSPs immediately after the NVIC's issuance. Similarly, one other commenter suggested that a separate cyber section be added to FSAs and FSPs instead of using all other sections for cyber information. One of the commenters also suggested that smaller facilities with a limited number of employees should have more general roles when it comes to cyber security.

The Coast Guard emphasizes this NVIC applies to MTSA-regulated facilities only and does not apply to ports. However, those ports that manage MTSA-regulated facilities are required to ensure that the facilities comply with MTSA requirements.

This NVIC does not impose any new burdens or requirements on MTSA-regulated facilities. As discussed above, current Coast Guard regulatory authority in 33 CFR parts 105 and 106 already requires MTSA-regulated facilities to evaluate their computer system and network vulnerabilities in their FSAs and address them in the FSPs. Thus, all owners or operators of MTSA-regulated facilities, regardless of size, have to comply with MTSA regulations. As the draft NVIC indicated, the owners and

[3] The existing regulatory requirement for assessing and addressing vulnerabilities to ''computer systems and networks'' is written broadly enough to encompass the more common term ''cyber security'' and to account for advances in technology. Under current regulations, facility owners must regularly update their FSAs and FSPs (*see, e.g.,* 33 CFR 105.310, 105.410, and 105.415) to address new or previously unidentified security vulnerabilities.

[4] The Coast Guard extended the initial comment period end date from September 11, 2017, to October 11, 2017 (82 FR 42560).

operators could comply with the MTSA regulations by either revising current FSPs or attaching a cyber-annex to the FSP. If the owner or operator elects to create a cyber-annex, it would be the only part of the FSP subject to re-inspection and re-approval. Likewise, if the owner or operator chooses to incorporate cyber security vulnerabilities into the FSP, then only those new parts would be subject to re-inspection and re-approval. The MTSA regulations governing FSP amendments can be found in 33 CFR 105.415 and 106.415.

As to the general roles of employees at small MTSA-regulated facilities, this NVIC does not prescribe individual roles within a facility's organization. It is the facility's responsibility to determine the individual roles of its employees and how they can address cyber security risks identified by the FSA.

Based on comments received, we have revised the final text of the NVIC and Enclosure (1) to clarify the NVIC's advisory nature and a facility's obligations under the MTSA regulations. We also added a sentence to Enclosure (1) stating that the Coast Guard would only review the newly added cyber-annex or FSP parts related to cyber security.

B. The draft NVIC recommended facility owners and operators describe the roles and responsibilities of facility cyber security personnel, and provide facility cyber security information to Coast Guard personnel conducting FSP reviews or approvals.

Based on those recommendations, some commenters expressed concerns about the new methods of evaluation and approval of their FSAs and FSPs; the role and level of cyber security knowledge and training of Coast Guard personnel in reviewing FSAs and FSPs; and the level of knowledge, required qualifications, and duties of a Facility Security Officer (FSO). Some of the commenters also asked the Coast Guard to provide training and conduct exercises for inspectors and port personnel. In addition, the commenters asked if a facility's IT department should become a part of the facility personnel with security duties; if the IT data stored offsite would be subject to the MTSA requirements; and if an FSA would be expected to extend to the building where critical cyber systems are housed.

This NVIC does not alter the process the Coast Guard uses to conduct FSA and FSP evaluations and approvals. This NVIC provides guidance to facility owners and operators in complying with current statutory and regulatory requirements to assess, document, and address computer system and network vulnerabilities. Therefore, facility owners and operators whose FSAs and FSPs do not currently address cyber security vulnerabilities should revise them in compliance with MTSA regulations, which require the FSAs and FSPs to be re-evaluated and re-approved. Facility owners and operators are encouraged to work with the local Captain of the Port to determine a suitable timeframe for MTSA-regulated facilities to update their FSAs with computer system and network security vulnerabilities.

Some comments suggested that the Coast Guard personnel lacked cyber security knowledge and training necessary to assess cyber security vulnerabilities. The Coast Guard will assess its needs and may address this issue in the future through internal policy or guidance to Coast Guard personnel. However, it remains the legal obligation of the facility owner or operator to assess and address computer system and network vulnerabilities in the FSA and FSP. In our discussion of FSAs in the 2003 final rule, we explained that a facility's security depends in large part on how well the owner or operator assess vulnerabilities that only he or she would know about.[5] The rule requires that those involved in a FSA be able to draw upon expert assistance in variety of areas including current security threats, techniques used to circumvent security measures, and radio and telecommunications systems including computer systems and networks.[6] The Coast Guard believes this includes the expertise needed to self-assess risk and establish security measures to counter the risks involved with a MTSA-regulated facility's computer systems and networks.

The level of cyber security knowledge and training of facility personnel is the responsibility of a facility's owner or operator, as performed through their FSO. The FSO's responsibilities are provided in MTSA regulations, 33 CFR 105.205 and 106.210. They include the responsibility to ensure the completion of an FSA and completeness of an FSP, which should capture all items identified by the FSA, including existing computer system and network vulnerabilities. At this time, the Coast Guard is not planning to provide specific cyber training nor lead cyber exercises for MTSA-regulated facilities or their personnel. However, in May 2018 the Coast Guard, in coordination with the American Bureau of Shipping (ABS) group, created a ''Marine Transportation System Cyber Awareness'' webinar. The webinar provides basic cyber awareness with a focus on maritime facility and vessel operations and provides personnel at all levels of an organization with an understanding of cyber terms and issues that may be encountered in the MTS. A recording of the webinar is available online.[7] Maritime industry personnel are encouraged to reach out to their local Area Maritime Security Committee (AMSC) Executive Secretaries for additional information on this webinar.

In response to the question regarding a facility IT department's inclusion into facility personnel with cyber security duties, the Coast Guard notes this NVIC is not intended to dictate the structure of a facility organization. Each individual facility should determine its appropriate organizational structure and determine whether making a facility's IT department a part of the security personnel would help the facility address its cyber security risks.

In response to the question about offsite storage of IT data, the Coast Guard agrees with the commenter that the Coast Guard's MTSA jurisdiction ends at the facility's fence-line in the physical domain. The Coast Guard notes that the regulations found in 33 CFR part 105 or 106 are not drafted to exert regulatory control over computer systems physically located outside the regulated facility's footprint (for example, in a building outside the facility footprint where the critical cyber system is housed). However, if an FSA identifies vulnerabilities to the facility, including to the onsite computer systems, originating from or via computer systems and networks outside of the MTSA-regulated facility's footprint, then the owner or operator needs to address how they will mitigate those vulnerabilities.

Based on the comments received, the Coast Guard added text on pages 1–1 and 1–2 of the NVIC's Enclosure (1) to give the facility owners and operators an example of what they should consider within their broad discretion in addressing their facility cyber security vulnerabilities, including the facility's structure, and its personnel training, roles and responsibilities.

C. Several commenters stated that the NVIC should be revised to use only common cyber security language, and

[5] 68 FR 60533. In the same paragraph we added that the facility owner or operator must assume that threats will increase against the vulnerable part of the facility and develop progressively increasing security measures, as appropriate.

[6] 33 CFR 105.300(d) and 106.300(d).

[7] *http://mariners.coastguard.dodlive.mil/2018/06/08/6-8-2018-marine-transportation-system-cyber-awareness-webinar-recording-available-online/.*

reference specific standards (for example, the International Association of Drilling Contactors (IADC) Guidelines for Assessing and Managing Cyber Security Risks at Drilling Assets, and IADC Guidelines for Network Segmentation) to assist owners and operators in addressing computer system and network vulnerabilities.

The Coast Guard recognizes the draft NVIC interchangeably used various terms such as, ''cyber systems,'' ''cyber risks,'' ''cyber/computer system security,'' and ''cyber security.'' We agree that the NVIC should use common cyber security language. Based on these comments, the Coast Guard revised the NVIC and its Enclosure (1) to clarify the meaning of provisions of 33 CFR parts 105 and 106. These MTSA regulations require facilities to evaluate their radio and telecommunication equipment, including computer systems and networks, for vulnerabilities. These provisions require facility owners and operators of MTSA-regulated facilities to analyze cyber security vulnerabilities within their facilities.

In regard to the use of specific cyber security references and standards, the Coast Guard encourages facilities to use the NIST CSF, but does not prescribe any particular references or standards at this time. This is to avoid limiting facility owners and operators in the ways they may address computer system and network vulnerabilities at a specific facility. The Coast Guard did not make any edits to the text of the final NVIC in regards to specific references or standards. However, in response to several public comments supporting the NIST CSF, we added a sentence to paragraph (2) of the NVIC encouraging the use of the NIST CSF as a means to improve a facility's cyber posture.

D. The draft NVIC's Enclosure (1) recommended facility owners and operators establish security measures to control access to the facility.

Based on that recommendation, some industry commenters expressed concerns about the NVIC's focus on physical security rather than cyber security. At the same time, other commenters indicated that MTSA was meant to address only physical security of computer systems and networks and did not apply to cyber security.

MTSA requires that security plans address both physical security and communications systems, to deter to the maximum extent practicable a transportation security incident.[8] MTSA regulations in 33 CFR parts 105 and 106 require MTSA-regulated facilities to analyze their ''radio and telecommunications equipment, including computer systems and networks.''[9] As such, the FSAs must identify vulnerabilities to the facility computer systems and networks, and, if any exist, the FSP must address mitigation for those identified vulnerabilities. Moreover, in the time since the Coast Guard solicited public comment on the draft NVIC, Congress has amended MTSA to explicitly state that FSAs and FSPs must cover cyber security risks.[10] We disagree with assertions that the existing requirement to assess vulnerabilities to computer systems and networks refers only to physical security. In addition to the plain language of ''computer systems and networks'' used in the 2003 rule, the preamble to the rule specifically discussed camera monitoring as an alternative to human patrols, showing that the Coast Guard had contemplated electronic systems as part of the facility security systems covered by the rule.[11] The existing regulatory text contemplates a regularly updated plan for responding to existing and developing threats the facility owner or operator identifies. When developing an FSA the facility security officer is expected to either be able to, or draw upon third parties that have expertise to, identify security vulnerabilities, including vulnerabilities to computer systems and networks.[12] This requirement has been in place since 2003. It is not limited to physical threats, and the preamble said that the facility owner or operator must assume that threats will increase, and must develop progressively increasing security measures as appropriate.[13] While initial FSAs and FSPs did focus primarily on physical security issues because those were readily identifiable, the Coast Guard has continually raised cyber security as an emerging issue for over a decade[14] and the NVIC issued today is another form of outreach to industry about this threat to facilities. We think it is clear, therefore, that the existing requirement to assess and mitigate vulnerabilities to computer systems and networks encompasses cyber security.

Moreover, to the extent facility owners and operators have automated physical security measures—for example by controlling access gates with card readers and cameras instead of guards—MTSA's physical security provisions encompass those electronic or virtual tools. The regulations specifically enumerate requirements to consider vulnerabilities to access, identification systems, utilities, and similar functions that, if automated, may be vulnerable to cyber security threats. At some facilities, operations and security are so reliant on networks to operate, that cyber security and physical security may be inextricably linked. We recognize that this is not true of all facilities; some facilities may have no computer systems or networks at all. The focus of this NVIC, therefore, is to highlight each facility's responsibility to determine the existence of computer and network vulnerabilities and address them in their FSAs and FSPs.

In response to these and other similar comments, the Coast Guard made clarifying changes to both the NVIC and its Enclosure (1). We added a sentence linking computer systems and networks to the term ''cyber security.'' We indicated that vulnerabilities in computer systems and networks, as referenced in 33 CFR parts 105 and 106, mean cyber security vulnerabilities. We also noted that it was up to each facility to identify, assess, and address the vulnerabilities of their computer systems and networks.

E. Three commenters asked the Coast Guard to recommend specific cyber security technology (including state-of-

[8] 46 U.S.C. 70103(c)(3). We note that Congress was aware of cyber security issues as early as the 1980s, and specifically addressed viruses and Trojan horses the year after passing MTSA. See, *e.g.,* the Computer Fraud and Abuse Act of 1986, 18 U.S.C. 1030 (1986) (addressing malicious code and hacking, and under which successful prosecution was brought in the early 1990s for damage caused by internet-based worms); and the CAN–SPAM Act of 2003, 15 U.S.C. 7701, 7703(c)(1) (2003) (aiming to curb spam email containing viruses, spyware, and other malicious code).

[9] See 33 CFR 105.305(c)(1)(v), 105.400(a)(3), and 105.405(a)(17) for Facilities and 33 CFR 106.305(c)(1)(v), 106.400(a)(3), and 106.405(a)(16) for Outer Continental Shelf Facilities.

[10] Maritime Security Improvement Act of 2018, sec. 1801 *et seq.,* Public Law 115–254, 132 Stat. 3186 (2018) (the Act is Division J of the FAA Reauthorization Act of 2018). The Coast Guard views this as a reaffirmation and an indication of congressional emphasis, rather than a new authority—a view supported by the House Report accompanying an earlier version of the Act, which said the language is clarifying and ''removes ambiguity'' as to the Coast Guard's authority under MTSA (H. Rep. No. 115–356 (2018)).

[11] 68 FR 60531.

[12] 33 CFR 105.305(c) and (d). In the preamble to the 2003 rule, while discussing current security threats and patterns the Coast Guard stated that ''Expertise in assessing risk is crucial for establishing security measures to accurately counter the risk'' (68 FR 60515).

[13] 68 FR 60533.

[14] See, *e.g.,* Maritime Transportation System Security Recommendations (October 2005) *available at https://www.dhs.gov/sites/default/files/publications/HSPD_MTSSPlan_0.pdf* (''Use industry outreach to help commercial operators understand what private information could be exploited by terrorists and what cybersecurity controls are appropriate for protecting the information.'').

the art market cyber security solutions) that a facility would need to have, and steps it would need to take, to implement the guidance described in the NVIC. At the same time, some commenters noted that mandating specific cyber risk management tools would not benefit MTSA-regulated facilities as those tools would not be tailored to each individual site.

This NVIC is not intended to inform facilities which cyber security technology they need to use. Rather, it is intended to offer awareness of MTSA regulatory requirements while allowing each facility the discretion to determine the best way to assess and address any computer system and network vulnerabilities. The NVIC does not mandate that facilities use specific cyber security technology or take specific actions to mitigate a computer system or network vulnerabilities. It simply reminds facility owners and operators of existing MTSA regulations that require the assessment of computer system and network vulnerabilities in their FSAs and incorporation, where applicable, in their FSPs. Therefore, for an owner and operator of an MTSA-regulated facility to comply with the MTSA regulations referenced in the NVIC, they would need to ensure the FSA assesses and FSP addresses computer system and network vulnerabilities of their facility. Based on these comments, the Coast Guard added clarifying language in the final NVIC and its Enclosure (1). We stated that it is up to each facility to identify, assess, and address the vulnerabilities of their computer systems and networks.

F. The draft NVIC's Enclosure (1) recommended that facility owners and operators describe additional cyber-related measures to be taken during changes in MARSEC levels.

In response to that recommendation, several commenters stated that requiring enhanced cyber security measures as a result of a MARSEC level increase would be impractical, and asked the Coast Guard to eliminate this expectation of the facilities. One of the commenters also asked the Coast Guard to inform the industry on the level of cyber security and any necessary response, as it does for physical security, including changes in MARSEC levels.

Although both 33 CFR 105.230 and 33 CFR 106.235 require facility owners and operators to implement additional security measures in the event of a MARSEC level change, the Coast Guard agrees that it may not always be practical to do the same with cyber security. Some changes in MARSEC level could involve cyber security threats but others may not, and a change in cyber security posture may not always be appropriate. In response to public comments, the Coast Guard revised the NVIC's Enclosure (1) to remove the language related to changes in MARSEC levels and references to 33 CFR 105.230 and 106.235. Under existing regulations including those at 33 CFR 105.405 and 106.405, however, the FSP must indicate how the facility will respond to a changing MARSEC level.

G. The draft NVIC's Enclosure (1) indicated that if any cyber security vulnerabilities were identified in an FSA, owners and operators could choose to provide that information in a variety of formats, such as a stand-alone cyber annex to an FSP, or by incorporating the vulnerabilities into the existing FSP. In response to this statement, some commenters expressed confusion regarding multiple formats in which the Coast Guard will require an incident report. The Coast Guard notes that an FSA, a stand-alone cyber annex, or an amendment to an approved FSP addressing computer system or network vulnerabilities, are documents completely separate from a cyber-incident report. This NVIC addresses MTSA cyber security requirements related to FSAs and FSPs. For more information on reporting a cyber security incident, please consult the CG–5P Policy Letter 08–16 titled ''Reporting Suspicious Activity and Breaches of Security,'' available at *https://homeport.uscg.mil.* The Coast Guard did not revise the NVIC in response to these comments because this NVIC does not impose any new reporting requirements on owners and operators of MTSA-regulated facilities.

H. The draft NVIC's Enclosure (1) stated that security patches should be installed as they become available.

One commenter had a question as to the intervals with which security patches should be installed at their facility.

The draft NVIC's Enclosure (1) indicated that it was best to install security patches as they became available. The Coast Guard notes that facilities can choose the intervals with which to install security patches. However, waiting for scheduled intervals to install security patches and other updates instead of performing such actions immediately provides opportunities for system exploitation. However, we have modified the paragraph titled *Security systems and equipment maintenance* in the NVIC's Enclosure (1) to clarify that cyber-related procedures for managing software updates and patch installations should be described in the FSP.

I. One commenter asked about reporting a cyber security incident to a police department as an alternative to the established reporting requirements.

Contacting a local police department does not meet the reporting requirements described in the MTSA regulations at 33 CFR 101.305 (''Reporting''). As noted above, the requirements for reporting suspicious cyber related activity or breaches of security for MTSA-regulated entities are outlined in CG–5P Policy Letter 08–16 titled ''Reporting Suspicious Activity and Breaches of Security,'' available at *https://homeport.uscg.mil.*

J. Because the draft NVIC referred to various responsibilities of facility employees, two commenters expressed concerns about access facility employees may have to sensitive information and requested more clarity on the access process for such employees. One of the commenters also expressed concerns over making a company's cyber security program more vulnerable to attack by including it into an FSP. Two other commenters specifically asked about the interplay between this NVIC and the Coast Guard's TWIC regulations. Another commenter was concerned about the Coast Guard interfering with facility business models, which reflect facility operations.

MTSA regulations require the inclusion of computer system and network vulnerabilities into an FSA and an FSP (See 33 CFR 105.305(c)(1)(v) and 105.405(a)(17) for Facilities and 33 CFR 106.305(c)(1)(v) and 33 CFR 106.405(a)(16) for OCS Facilities). This NVIC simply reminds owners and operators of the existence of MTSA regulations related to computer system and network vulnerabilities. These requirements are intended to reduce security risks, not create them. Although the process of granting access to facility employees was not meant to be addressed in this NVIC or prescribed by the Coast Guard, we note that it should be determined by each facility depending on its specific cyber security risks. This NVIC does not change any legal requirements including the existing requirements to operate in accordance with TWIC requirements (see, *e.g.,* 33 CFR 105.115(c)).

As to the comment regarding the inclusion of a facility's cyber security risks into an FSP, the Coast Guard notes that FSPs are considered Sensitive Security Information under 49 CFR 1520.5(b), which can only be accessed by a covered person with a need to know. The risk of adding cyber

mitigation measures to an FSP is not higher than the risk currently posed for FSPs that address physical security mitigation measures. FSPs are not released to the public by the Coast Guard,[15] nor should they be released by the facilities.

In regard to the comment about the interplay between TWIC regulations and this NVIC, the Coast Guard notes that this NVIC has no direct impact on the TWIC regulations. MTSA-regulated facilities should continue to follow current TWIC regulations as written.

We also note that this NVIC is not intended to interfere with facility business models, but reminds facility owners and operators of their responsibilities under the MTSA regulations, which are meant to help keep their facilities safe from transportation security incidents, including Transportation Security Incidents (TSI) caused by cyber security vulnerabilities.

We made no changes to the final NVIC in response to these comments.

K. Two commenters asked to see a national and port vulnerability assessment for better understanding of the Coast Guard's expectations for individual operators.

The Coast Guard does not believe that a national or port vulnerability assessment is necessary for an individual facility to assess its own cyber security vulnerabilities to comply with MTSA regulations. However, local AMSCs led by Coast Guard Captains of the Port, acting in their capacity as Federal Maritime Security Coordinators, address, discuss, and share maritime security information with the industry. The Coast Guard highly encourages personnel with security duties at MTSA-regulated facilities to participate and collaborate with local AMSCs to gain more insight into port level security issues.

The Coast Guard made no changes to the final NVIC in response to these comments.

4. Comments on the Enforcement of the NVIC

The draft NVIC's Enclosure (1) noted that the italicized text of the enclosure provided general guidance on MTSA regulations that may apply to an FSP, if an FSA identifies any computer system and network vulnerabilities

Based on that statement, many commenters believed the NVIC contained mandatory language. Some of those commenters also asked to clarify the purpose of the italicized text, and how the Coast Guard intended to enforce the NVIC and allocate its resources for this purpose.

The Coast Guard clarifies that the NVIC itself is an advisory document and is not subject to enforcement as a regulation. MTSA regulations, however, are enforceable. Although the Coast Guard will not change the enforcement process as a result of the NVIC, we will verify that facility FSAs and FSPs address cyber security vulnerabilities as required by 33 CFR 105.305(c)(1)(v), 33 CFR 105.400(a)(3), 33 CFR 105.405(a)(17), 33 CFR 106.305(c)(1)(v), 33 CFR 105.40(a)(3), and 33 CFR 106.405(a)(16).

The purpose of the bold text in Enclosure (1) is to provide the industry with a list of regulatory citations that may apply to a facility's FSP. The Coast Guard's recommendation on each regulatory citation, for both FSA and FSP, is contained in italics under each citation.

Based on these comments, the Coast Guard has revised the NVIC and its Enclosure (1) to clarify that although the MTSA regulations in 33 CFR parts 105 and 106 are mandatory, it is up to each facility to identify, assess, and address the vulnerabilities of their computer systems and networks. We also added a sentence to the introduction of Enclosure (1) to explain the purpose of the italicized text.

5. Comments Suggesting New Provisions or Clarifying Language

A. Several commenters asked the Coast Guard to add cyber security recommendations on monitoring activity. In response to these comments, the Coast Guard added the paragraph titled *Security measures for monitoring* to Enclosure (1) of the NVIC.

B. The draft NVIC's Enclosure (1) stated that facility owners and operators may utilize a security plan under the Alternative Security Program (ASP).

In response to that statement, one commenter stated that requiring a focused cyber security plan to go through the ASP program would require facilities to design their own access control, restricted area, cargo handling, and other measures that are not directly related to cyber security. One other commenter suggested that the Coast Guard should allow amendments to the FSP to be submitted under an ASP at the time of the next scheduled revision of the ASP. One of the commenters also asked to clarify if a facility could reference their existing cyber security plan documents as an alternative to the Coast Guard's review.

The ASP does not require a detailed cyber security plan. Nor does it impose any new or different requirements. The ASP is an option that owners and operators may use to comply with the MTSA regulations. In response to the comment about referencing an existing cyber security plan, we note that a facility owner or operator may reference other documents in the ASP, but they would need to be reviewed and considered in the Coast Guard's approval of the ASP.

We revised the NVIC's Enclosure (1) to clarify that the information contained in the NVIC also applies to the ASP, per 33 CFR 101.120(b), which means that the Coast Guard will accept documentation showing equivalent levels of security required by MTSA regulations.

C. Some commenters asked us to use different wording in various parts of the NVIC and its Enclosure (1), and we discuss those changes here.

1. ''*[P]revent unauthorized loading/unloading cargo*'' instead of ''prevent cargo that is not meant for carriage from being accepted''; we made that change.

2. ''FSPs are in place and are *considered* to be appropriate and effective'' instead of ''FSPs are in place and are *believed* to be appropriate and effective''; we made that change.

3. ''Describe how those systems are protected and an alternative means of communication *as well as the communication responsibility* should the system be compromised or degraded'' instead of ''describe how those systems are protected and an alternative means of communication should the system be compromised or degraded.'' We made this change with some modifications.

4. ''Describe cyber-related procedures for interfacing with vessels to include any network interaction, portable media exchange, or wireless access sharing or *remote vendor servicing*'' instead of ''Describe cyber-related procedures for interfacing with vessels to include any network interaction, portable media exchange, or wireless access sharing.'' Similarly, another commenter suggested that we add the term ''remote access'' before the words ''portable media exchange'' in the original sentence. We added the term ''remote access'' and believe it captures the intent of both commenters.

5. ''Describe cyber-related procedures for managing software updates and patch installations of systems used to perform or support functions identified in the FSP (*e.g.,* identification of needed security updates, planning and testing of patch installations)'' instead of ''Cyber systems used to perform or support functions identified in the FSP should be maintained, tested, calibrated,

[15] See 33 CFR 105.400(c) and (d) and 33 CFR 106.400(c) and (d).

and in good working order (*e.g.,* conduct regular software updates and install security patches as they become available).'' We made this change.

6. ''Describe how cyber security is included as part of personnel training, policies and procedures *and how the cyber security training material will be kept current and monitored for effectiveness*'' instead of ''Describe how cyber security is included as part of personnel training, policies and procedures.'' We added language about keeping training material current.

7. Another commenter asked the Coast Guard to add the following sentence to the paragraph titled ''Communications'' in Enclosure (1): ''During crew or shift changes, handover notes should include cyber security related information and updates.'' The Coast Guard agrees that this recommendation may be useful to other facilities. We have added this recommendation as an example under the paragraph titled ''Communications'' in Enclosure (1).

8. One of these commenters also asked us to add the following sentence ''*In case gaps are identified, corrective actions should be taken in order for the provisions in the FSP to be satisfied.*'' to the end of ''The audit should include the name, position, and qualification of the person conducting the audit.'' We did not incorporate the new audit sentence into the NVIC because it is expected that the FSPs should account for gaps in security.

D. One commenter requested that we add guidelines applicable to MTSA-regulated vessels.

The Coast Guard notes this NVIC was not meant to address vessels. It addresses MTSA-regulated facilities only. We will consider addressing cyber security vulnerabilities for vessels in the future.

Based on this comment, we have revised the text of the final NVIC to clarify its applicability to MTSA-regulated facilities only.

E. Another commenter asked us to clarify where the abbreviation ''N/A'' was supposed to be placed as asked in the following sentence of Enclosure (1): ''If the area or function has no cyber nexus, indicate ''N/A.''

We have added the clarification as requested and added the following to the end of the sentence: '''N/A'' *in the FSA and FSP.*''

F. The Coast Guard was also asked to re-number the draft NVIC's Enclosure (1) to preserve traditional NVIC formatting, which we have done.

G. Five commenters asked us to clarify the definition of the term ''general documentation'' in the paragraph titled *MTSA regulations in 33 CFR parts 105 and 106* in the NVIC's Enclosure (1).

The Coast Guard used the term ''general documentation'' to indicate that owners and operators would not have to use any specific forms or indicate the use of any specific technology when demonstrating compliance with the MTSA regulations. In addition, the Coast Guard's intent was to highlight that facility owners and operators could use an ASP to submit documentation showing equivalent levels of security required by MTSA.

Based on these comments, we deleted the word ''general'' from Enclosure (1) and added a footnote stating ''[i]n addition, facility owners and operators may rely on the Coast Guard Alternative Security Program to submit documentation showing equivalent levels of security required by MTSA.''

H. Three other commenters requested a clarification of security requirements for ports, transportation sector facilities, seaport systems, offshore facilities, and individual operators, based on their operating environment.

We note that this NVIC was not intended to address security requirements for ports, transportation sector facilities, or seaport systems. This NVIC applies to MTSA-regulated facilities, including offshore facilities, and individual operators subject to MTSA. The NVIC's Enclosure (1) references MTSA regulations that may apply to MTSA-regulated facilities, depending on a facility's operating environment and structure. It is each facility's responsibility to determine what computer system and network vulnerabilities may be created by their operating environment and address those vulnerabilities in their FSAs and FSPs.

Based on these comments, we have revised the final text of the NVIC and its Enclosure (1) to clarify the NVIC's applicability.

I. Two industry commenters asked the Coast Guard to provide additional language on Global Positioning Systems (GPS) and Internet of Things (IoT) devices. Specifically, one of the commenters asked the Coast Guard to include into the NVIC the following language: ''A powerful but little recognized method of cyberattack, GPS disruption can disable end-use devices, interfere with communications links, and provide hazardously misleading information to users and databases. Because GPS signals undergird nearly every technology, DHS officials have called GPS a single point of failure for critical infrastructure.''

If GPS systems or IoT devices present a vulnerability to a MTSA-regulated facility's computer or network system, they fall within the existing regulations at 33 CFR parts 105 and 106, and should be addressed in the FSP. However, these concerns are broad and, in the case of IoT, still developing, and so we don't think it is appropriate to devote a section of the NVIC to them at this time.

Therefore, the Coast Guard did not make edits to the text of the final NVIC based on these two comments

J. One other industry commenter asked for the NVIC to address the risks of third party contractor access to critical cyber systems and networks.

These concerns are valid. However, it is up to the owner or operator of a particular facility to determine if a third party having access to the facility's computer systems and networks presents a risk that should be mentioned in the facility's FSA and FSP.

We made no changes to the final NVIC in response to this comment.

K. Three commenters suggested that we classify MTSA facilities as ''critical control systems/controls'' and require them to be air-gapped from business network systems. Two other commenters requested more clarity on mitigation of cyber security risks.

This NVIC is not meant to impose requirements on the owners and operators of MTSA-regulated facilities or suggest specific ways cyber risks should be mitigated. This NVIC is meant to make facility owners and operators aware of the existence of the MTSA regulations, which are meant to assist them in protecting their facilities. It is up to each facility to determine if computer system and network vulnerabilities existing at the facility require air-gapping to mitigate vulnerabilities.

We made no changes to the final NVIC in response to this comment.

6. Other Comments About the NVIC

A. The draft NVIC stated: ''[u]ntil specific cyber risk management regulations are promulgated, facility operators may use this document as guidance to develop and implement measures and activities for effective self-governance of cyber vulnerabilities.''

Based on these statements, two commenters expressed concerns as to the Coast Guard's regulatory authority to control how companies execute their cyber risk management and its authority to issue this NVIC without a notice of proposed rulemaking (NPRM). Another commenter asked the Coast Guard to perform a risk assessment and cost benefit analysis as a next step in the NVIC's development.

The Coast Guard acknowledges the comments and notes that this NVIC is not a rule. As explained in detail earlier in this notice, the Coast Guard is also not using its regulatory authority to issue this NVIC or control how companies execute their cyber risk management decisions. To the contrary, this NVIC constitutes advisory guidance meant to assist facility owners and operators in complying with existing MTSA regulations. The NVIC emphasizes that a facility is already obligated by existing MTSA regulations to assess and address vulnerabilities in computer systems and networks, but it has discretion to determine how it will comply with the regulations and address its own cyber security risks.

Based on these comments, we have revised the text of the NVIC and its Enclosure (1) to clarify the advisory nature of the NVIC.

B. The U.S. Chamber of Commerce asked us to keep the NVIC in the draft form and to have an ongoing dialog facilitating input from industry stakeholders. The Chamber suggested that the Coast Guard present the NVIC as a voluntary risk management tool, which might become a beacon around which cyber security efforts could orient.

The Coast Guard acknowledges this comment and agrees that the NVIC is a voluntary risk management tool, in that it informs owners and operators about their existing regulatory obligations, and provides suggestions for fulfilling those obligations. However, the Coast Guard believes that finalizing the NVIC will provide owners and operators with needed guidance on how to comply with the MTSA regulations relating to computer and network security. Dialogue about cyber risk management will continue to occur in a variety of forms, and the NVIC provides contact information should the regulated public wish to contact the Coast Guard with questions or concerns.

Based on this comment, we did not make any revisions to the final NVIC.

C. The draft NVIC stated the Coast Guard had the regulatory authority to instruct MTSA-regulated facilities to analyze computer systems and networks for potential vulnerabilities within their required FSA and, if necessary, address those vulnerabilities in their FSP.

In response to that statement, three commenters suggested the Coast Guard state that the facilities, to comply with MTSA, could limit their cyber security measures to those information technology systems and networks that have a direct maritime nexus. One of the commenters also asked the Coast Guard to develop clear guidelines on cyber TSIs and connections to MTSA facilities.

The Coast Guard is vested with authority to verify that MTSA-regulated facilities comply with MTSA regulations, including the ones relating to computer systems and networks regardless of whether that system or network has a direct maritime nexus. In regards to a TSI and connections to MTSA facilities, the Coast Guard notes that this NVIC was not intended to discuss TSIs. However, we note that a TSI, as defined in 33 CFR 101.105, is not limited to incidents with a specific maritime cause. A TSI may result from a physical or cyber security incident which originates from outside of the maritime environment. For example, plausible TSIs caused by cyber threats could include: Deliberate disabling of a facility's fire detection equipment, security cameras, or security locks; a hack or ransomware that leaves such systems inaccessible; damage to computer-controlled ventilation or temperature control features at chemical facilities; or tampering with or disabling the automated supply chain in a way that causes significant economic disruption.

For the reasons stated, we did not make any changes to the text of the final NVIC.

D. The draft NVIC's Enclosure (1) recommended that owners and operators address cyber security vulnerabilities in their FSPs.

In response to that recommendation, some commenters expressed general concerns about regulating fast-paced cyber security demands of the commercial industry, the NVIC's focus on cyber vulnerabilities rather than cyber risk management, and provided a suggestion for the government to protect private companies from cyber-attacks.

These comments are general in nature and do not raise any specific issues within the NVIC. The Coast Guard acknowledges these comments and will consider them as part of the general on-going dialog on how to improve cyber security at maritime facilities. We did not make any changes to the final NVIC based on these comments.

The Coast Guard appreciates all the comments received. We will continue to study this issue in light of the comments received before issuing other notices or policy letters on this matter.

Dated: February 26, 2020.

Karl L. Schultz,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2020–05823 Filed 3–19–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2019–0028; OMB No. 1660–0080]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Application for Surplus Federal Real Property Public Benefit Conveyance and BRAC Program for Emergency Management Use

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 20, 2020.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Anna Page Campbell, Realty Specialist, FEMA, Installations & Infrastructure Division, (202) 212–3631, *Annapage.Campbell@FEMA.dhs.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on December 19, 2019, at 84 FR 69758 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify

the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Application for Surplus Federal Real Property Public Benefit Conveyance and BRAC Program for Emergency Management Use.

Type of Information Collection: Extension, with changes, of a currently approved information collection.

OMB Number: 1660–0080.

FEMA Forms: FEMA Form 119–0–1, Surplus Federal Real Property Application for Public Benefit Conveyance.

Abstract: Use of the Application for Surplus Federal Real Property Public Benefit Conveyance and Base Realignment and Closure (BRAC) Program for Emergency Management Use is necessary to implement the processes and procedures for the successful, lawful, and expeditious conveyance of real property from the Federal Government to public entities such as State, local, county, city, town, or other like government bodies, as it relates to emergency management response purposes, including fire and rescue services. Utilization of this application will ensure that properties will be fully positioned for use at their highest and best potentials as required by GSA and Department of Defense regulations, public law, Executive Orders, and the Code of Federal Regulations.

Affected Public: State, local, or Tribal Government.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15.

Estimated Total Annual Burden Hours: 75.

Estimated Total Annual Respondent Cost: $4,868.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $2,979.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Maile Arthur,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–05940 Filed 3–19–20; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2021]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alaska: Juneau	City and Borough of Juneau (19–10–1198P).	The Honorable Beth Weldon, Mayor, City and Borough of Juneau, 155 South Seward Street, Juneau, AK 99801.	Community Development Department, 155 South Seward Street, Juneau, AK 99801.	*https://msc.fema.gov/portal/advanceSearch.*	May 26, 2020	020009
Colorado:						
Larimer	City of Fort Collins (19–08–0751P).	The Honorable Wade Troxell, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.	Utilities Department, 700 Wood Street, Fort Collins, CO 80522.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 15, 2020	080102
Larimer	Unincorporated areas of Larimer County (19–08–0751P).	The Honorable Steve Johnson, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Fort Collins, CO 80521.	Larimer County Engineering Department, 200 West Oak Street, 3rd Floor, Fort Collins, CO 80521.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 15, 2020	080101
Connecticut: Fairfield.	Town of Greenwich (19–01–1421P).	The Honorable Peter J. Tesei, First Selectman, Town of Greenwich Board of Selectmen, 101 Field Point Road, Greenwich, CT 06830.	Planning and Zoning Department, 101 Field Point Road, Greenwich, CT 06830.	*https://msc.fema.gov/portal/advanceSearch.*	May 26, 2020	090008
Florida:						
Collier	City of Marco Island, (20–04–0464P).	Mr. Michael T. McNees, City of Marco Island Manager, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	*https://msc.fema.gov/portal/advanceSearch.*	May 29, 2020	120426
Monroe	Village of Islamorada, (20–04–0305P).	The Honorable Mike Forster, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	*https://msc.fema.gov/portal/advanceSearch.*	May 28, 2020	120424
Monroe	Village of Islamorada, (20–04–0572P).	The Honorable Mike Forster, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 18, 2020	120424
Orange	City of Orlando (19–04–3438P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	City Hall, 400 South Orange Avenue, Orlando, FL 32801.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 17, 2020	120186
Volusia	City of New Smyrna Beach (19–04–6280P).	The Honorable Russ Owen, Mayor, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, FL 32168.	Engineering Department, 2650 North Dixie Freeway, New Smyrna Beach, FL 32168.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 26, 2020	125132
Georgia: Bryan	Unincorporated areas of Bryan County (19–04–3361P).	Mr. Carter Infinger, Chairman, Bryan County Board of Commissioners, P.O. Box 430, Pembroke, GA 31321.	Bryan County Department of Community Development, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 19, 2020	130016
Montana:						
Butte-Silver Bow.	Unincorporated areas of Butte-Silver Bow County (19–08–0805P).	The Honorable Dave Palmer, Chief Executive, Butte-Silver Bow County, 155 West Granite Street, Room 106, Butte, MT 59701.	Butte-Silver Bow County Planning Department, 155 West Granite Street, Room 108, Butte, MT 59701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 25, 2020	300077

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Gallatin	City of Bozeman (19–08–0850P).	Mr. Dennis M. Taylor, City of Bozeman Manager, P.O. Box 1230, Bozeman, MT 59771.	City Hall, 20 East Olive Street, Bozeman, MT 59715.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 22, 2020	300028
Gallatin	Unincorporated areas of Gallatin County (19–08–0850P).	The Honorable Joe P. Skinner, Chairman, Gallatin County Commission, 311 West Main Street, Room 306, Bozeman, MT 59715.	Gallatin County Department of Planning and Community Development, 311 West Main Street, Room 108, Bozeman, MT 59715.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 22, 2020	300027
North Dakota:						
Cass.	City of Fargo (19–08–0515P).	The Honorable Tim Mahoney, Mayor, City of Fargo, 225 4th Street North, Fargo, ND 58102.	City Hall, 225 4th Street North, Fargo, ND 58102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 9, 2020	385364
Pennsylvania:						
Lancaster	Township of East Hempfield (19–03–0983P).	The Honorable H. Scott Russell, Chairman, Township of East Hempfield Board of Supervisors, 1700 Nissley Road, Landisville, PA 17538.	Township Hall, 1700 Nissley Road, Landisville, PA 17538.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 23, 2020	420548
Montgomery	Township of Whitemarsh (19–03–1803P).	The Honorable Laura Boyle-Nester, Chair, Township of Whitemarsh Board of Supervisors, 616 Germantown Pike, Lafayette Hill, PA 19444.	Township Hall, 616 Germantown Pike, Lafayette Hill, PA 19444.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 23, 2020	420712
South Carolina:						
Georgetown.	Unincorporated areas of Georgetown County (19–04–6539P).	Mr. Sel Hemingway, Georgetown County Administrator, 716 Prince Street, Georgetown, SC 29440.	Georgetown County Building Department, 129 Screven Street, Georgetown, SC 29440.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 11, 2020	450085
Texas:						
Bexar	City of San Antonio (19–06–1791P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 114 West Commerce Street, 7th Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	May 18, 2020	480045
Bexar	Unincorporated areas of Bexar County (19–06–1791P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	May 18, 2020	480035
Tarrant	City of Fort Worth (19–06–3049P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works, Engineering Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 18, 2020	480596
Travis	City of Austin (19–06–1200P).	The Honorable Stephen Adler, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.	Watershed Protection Department, 505 Barton Springs Road, 12th Floor, Austin, TX 78704.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 29, 2020	480624
Virginia: Prince William.	Unincorporated areas of Prince William County (19–03–0954P).	Mr. Christopher E. Martino, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, 5 County Complex Court, Prince William, VA 22192.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 18, 2020	510119

[FR Doc. 2020–05770 Filed 3–19–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: TSA Canine Training Center Adoption Application

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0067, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves gathering information from individuals

who wish to adopt a TSA canine through the TSA Canine Training Center (CTC) Adoption Program.

DATES: Send your comments by April 20, 2020. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 11, 2019, 84 FR 67752.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

Title: TSA Canine Training Center Adoption Application.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0067.

Forms(s): TSA Form 433.

Affected Public: Individuals seeking to adopt a TSA canine.

Abstract: The Transportation Security Administration (TSA) Canine Program is a Congressionally-mandated program that operates as a partnership among TSA; aviation, mass transit, and maritime sectors; and State and local law enforcement. TSA operates the Canine Training Center (CTC) Adoption Program in accordance with 41 CFR 102–36.35(d) (donation of surplus property) and 102–36.365 (donation of canines used for performance of law enforcement duties). The TSA Canine Program developed the TSA CTC to train and deploy explosive detection canine teams to Federal, State, and local agencies in support of daily activities that protect the transportation domain. TSA created the TSA CTC Adoption Program to find suitable individuals or families to adopt and provide good homes to canines who do not graduate from the training program. Individuals seeking to adopt a TSA canine must complete the TSA CTC Adoption Application. This collection of information allows the TSA CTC to collect personal information from the applicants to determine their suitability to adopt a TSA canine.

Number of Respondents: 300.

Estimated Annual Burden Hours: An estimated 50 hours annually.

Dated: March 16, 2020.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2020–05927 Filed 3–19–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Explosives Detection Canine Recommended Standards

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice; recommended standards.

SUMMARY: The Transportation Security Administration (TSA) is publishing this notice to provide recommended technical, medical, and behavioral standards for explosives detection canines. TSA is recommending these standards to assist transportation stakeholders in evaluating canines to be purchased for purposes of an explosive detection canine team to screen individuals and property in the public areas of airports in the United States. The recommended standards provided through this notice are consistent with the standards TSA requires for canines to be purchased for purposes of TSA's explosive detection canine programs.

FOR FURTHER INFORMATION CONTACT: CTC Resolution Team, Canine Training Center, Office of Training and Development, Transportation Security Administration, U.S. Department of Homeland Security; email to *CTC_ResolutionTeam@tsa.dhs.gov* (*Note:* Address requires underscore, ''_'', between ''CTC'' and ''Resolution.'')

SUPPLEMENTARY INFORMATION:

I. Background

TSA recognizes that canines successful at explosives detection in active and dynamic transportation environments are a specialized product. There is a clear distinction that separates these canines from the typical pet population or canines used/trained for tasks in a more controlled and repeatable environment. This specialization is even more pronounced in canines used to search individuals who may be wearing hidden improvised explosive devices.

Both TSA and Congress recognize that a successful explosive detection canine begins with a canine that meets certain technical, behavioral, and medical standards before training begins. Section 1927 of the TSA Modernization Act,[1] requires TSA to establish a working group composed of canine experts to develop standards and recommendations for the breeding and training of canines capable of detecting explosives, and to develop recommendations on how TSA can engage other stakeholders to further the development of domestic canine breeding capacity and training.

To meet this requirement, TSA and the Department of Homeland Security's Science and Technology (S & T) Directorate identified partners in law enforcement, academia, and the working canine vendor community.[2] This

[1] Division K, Public Law 115–254 (132 Stat. 3186; Oct. 5, 2018).

[2] The working group included representatives from the TSA Canine Training Center (CTC), Auburn University, DHS S&T Directorate, National

Continued

working group met several times to develop the standards required by section 1927. TSA consulted with the working group and its work on breeding standards when posting a Blanket Purchase Agreement (BPA) for explosive detection canines for TSA, published in December 2019 (Notice ID 70T02018Q9NOTD408).[3]

Section 1928 of the TSA Modernization Act requires TSA to enhance the supply of canines for purchase by TSA and transportation stakeholders by publishing these behavior, medical, and technical standards with the expectation that they may be used by transportation stakeholders in purchasing third-party explosives detection canines to be eventually certified by appropriate authorities for the screening of individuals and property, including detection of explosive vapors among individuals and articles of property.[4] The statutes requires the standards made available under section 1928 for transportation stakeholders to be based on the standards developed under section 1927.

TSA is providing the following recommended standards for transportation stakeholders to apply when purchasing canines for an explosive detection canine program. The recommended standards are consistent with TSA's requirements for explosive detection canines, as stated in the BPA,[5] with modifications to make them more relevant to TSA's transportation stakeholders.

TSA encourages transportation stakeholders to use these recommended standards when purchasing canines intended to provide an explosive detection canine team capability for purposes such as enhancing security within the public area of airports. For purposes of these standards, potential transportation-stakeholder purchasers are referred to as ''procurers'' and any breeders or other persons offering canines for purchase are referred to as ''vendors.''

This notice neither addresses nor identifies specific companies or organizations to be used by transportation stakeholders to certify explosives detection canine teams. To the extent the notice refers to certification,[6] TSA recognizes that there are numerous organizations that conduct certifications of canine teams, including certification for explosive detection capabilities, and encourages transportation stakeholders to become familiar with their certification requirements. The notice also assumes that not all dogs presented by a vendor for purchase will meet the needs of the procurer and that a procurer using these recommended standards will have individuals qualified to assess and evaluate canines to determine whether they meet the standards.

The contents of this notice do not have force and effect of law and are not meant to bind the public in any way. This notice is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

II. Standards

A. Technical Standards. TSA recommends that transportation stakeholders apply the following technical standards when procuring canines for an explosive detection canine team capability.

1. Identification.—The vendor should ensure that all potential candidate canines should have a permanent identification in the form of an implantation a microchip before being presented for potential purchase. In general, TSA recommends that the microchip meet International Organization for Standardization (ISO) standards. The vendor and subsequent procurer should consistently use this microchip ID as the legal marker on all radiographs for purposes of medical requirements and evaluation. The microchip should be clearly identifiable as associated with the specific canine in all medical and training records.

2. Breed.—Canines should be of one of the following sporting breeds: Labrador Retrievers, Flat Coated Retrievers, Vizslas, and German Shorthaired/Wirehaired Pointers.

3. Age.—All canines presented for training should be between 12–36 months of age at the time of delivery.

4. Sex (surgical altering).—Males and females may be procured reproductively ''intact.''

5. Immediate disqualifiers for assessment acceptance.—

(a) Canines previously screened or evaluated by the procurer within the previous 30 days.

(b) Canines previously determined by the procurer to have disqualifying behavioral or medical characteristics in past evaluations. This disqualification should include any canine previously eliminated from the TSA program or other federal, state, or local program based on behavior or medical characteristics.

(c) Any canine showing signs of fear, shyness, retreating, or avoidance behaviors (people and environment), noise sensitivity (to include the potential for gunfire), submissive urination, or refusal to negotiate objects.

(d) Aggression.—Any canine with a clear history of aggression or showing aggressive behavior toward human beings or other animals, as defined by the SWGCANINE guidelines (*https://swgcanine.fiu.edu/*), as well as toward items and equipment in and around the testing area should not be accepted.

(e) Forced training.—Evidence, as determined by the evaluators, that the canine has been subjected to forced fetch, electronic collar training, or the use of some form of compulsion in an effort to force a canine to pick up or retrieve an object.

(f) Disease or Injury.—Canines that are injured, displaying potentially infectious disease, or are considered overweight or underweight should not be accepted for assessment. Previously medically declined canines with medical records displaying treatment and recovery from injury or disease may be assessed.

(g) Medical disqualifications (*see* Medical Requirements).

(h) Falsification identified in any of the deliverable records.

6. Cumulative Disqualifiers.—The following behaviors, although not an all-inclusive list, are often cumulative in nature and may constitute a failure:

(a) Loss of interest in the reward object.

(b) Failure to pursue thrown reward object.

(c) Visual rather than olfactory search behavior.

(d) Weak or interrupted search behavior.

(e) Displays a lack of physical stamina.

(f) Failure to accept being placed in sit position.

(g) Failure to return to active/effective search behavior after being placed in sit position.

(h) Strong tendency to scratch, claw or bite objects in the environment, to include reward/odor, while searching.

(i) Excessive interest in distracting odors or stimuli or preoccupation with scent-marking.

(j) Failure to follow presentations.

Police Canine Association, American Kennel Club, Superior Tactics, Arete Canines, Penn Vet Working Dog Center, and Johns Hopkins University Applied Physics Laboratory.

[3] Documents related to this BPA are available at the following website: *https://beta.sam.gov/opp/2bd9fcadb432426eb4782d6d08b267a2/view.*

[4] *Id.* at § 1928(a).

[5] For more detailed information on the standards, TSA encourages transportation stakeholders to review the additional documentation in the BPA *See supra* n. 3.

[6] *See, e.g.,* the United States Police Canine Association, North American Police Working Dog Association, and the International Police Working Dog Association.

(k) Overreliance on presentations or encouragement from the evaluator/handler to maintain productive search behavior.

(l) Repeated disruption of search behavior due to inability to ignore distractions. During the search, the canine should be expected to tolerate close contact with one or more persons that may speak to or touch the canine, make noise, or use objects in the environment to provide strong visual and auditory stimuli.

(m) Frustration demonstrated by barking or other vocalizations.

(n) Repetitive open mouth searching as opposed to sniffing behavior during a search.

(o) Canines requiring excessive amounts of praise to perform tasks. The emphasis is for a canine with strong independent search abilities.

(p) Repetitive immature behaviors.

B. Medical Standards. TSA recommends that transportation stakeholders apply the following medical standards when procuring canines for an explosive detection canine team capability.

1. In general, all canines should be in excellent health with no acute or chronic disease or condition, which could either hamper their ability to perform, or would be excessively costly to treat. At the time of evaluation, each canine should be medically able to enter training/certification events.

2. Medical Screening of Radiographs of Candidate Canines.—Vendors should submit diagnostic quality film or digital radiographs, at no cost to the procurer, for non-binding evaluation of elbow, lumbar spine and hip conformation. Minimum data imprinted (''flashed'') permanently on the radiograph/digital image at the time of exposure should include canine identification (name, tattoo/brand number, if assigned, and microchip number), whelping date, the facility at which they were taken, and date of examination. Date of radiographic examination should be no greater than 4 months (120 days) prior to evaluation of the canine. Following initial radiographic screening, vendors should be notified if radiographs for any canine they intend to present are not of sufficient diagnostic quality and should need to be repeated prior to scheduled arrival. Canines may be rejected upon initial arrival examination if their radiographs should not be submitted before scheduled arrival, or are inadequate for evaluation until repeat radiographic submissions are of satisfactory diagnostic quality.

3. Veterinary staff supporting the procurer of canines for explosive detection should examine all canines that have passed the initial behavioral selection process. This evaluation should include complete physical examination; collection of blood for routine testing; and possibly, anesthesia and radiographs of the hips, elbows, lumbar spine or other areas based on examination, even if imaging has been performed previously by the vendor. Laboratory availability may affect the procurer ability to perform specific tests. However, the laboratory minimum database should include: Blood urea nitrogen, blood creatinine, serum electrolytes, blood glucose, packed cell volume, and total solids. Screening for infectious diseases/organisms such as T. Cruzi, Leishmania sp, Lyme disease, or other diseases/organisms depending on origin of the canine may be necessary as determined by the veterinarian. The veterinarian should assess abnormalities to determine the presence of acute or chronic disease processes that may have long-term medical care implications for the canine. If further evaluation is warranted, tests should be completed at the discretion of the veterinarian or the canine should be determined to be unacceptable. The following areas should be evaluated closely; most, but not all, disqualifying features are noted. A canine that has been presented once for consideration for purchase and that has been disqualified for medical reasons should not be resubmitted for consideration unless the vendor can document that the medically disqualifying condition has been corrected.

(a) Gait.—All canines should display normal mobility at a walk and run. Canines should be disqualified for any gait abnormality which could affect the canine's ability to perform normal explosive detection canine duties.

(b) Skin and Coat.—Skin and coat should be healthy in appearance, displaying no evidence of chronic dermatitis, allergies, infections, injuries or marked external parasite infestation (*e.g.,* mange, fleas, etc.). A matted, unthrifty hair coat may not be grounds for disqualification but should raise concern about the canine's general health.

(b) Teeth and Jaws.—Canines should have normal dentition and dental occlusion. Canines should be rejected if they have brachygnathism (undershot jaw) or prognathism (overshot jaws) if the veterinarian feels the condition should adversely affect eating or handling of the reward. All four canine teeth should be present and not be weakened by notching, enamel hypoplasia or excessive wear. Teeth should not have more than ⅓ inch of the tip missing or have pulp cavity exposed. Oral infection or excessive periodontal diseases should be grounds for disqualifying a canine and broken teeth or excessively worn teeth may be disqualifying.

(d) Heart and Lungs.—Heart sounds, rate and rhythm should be normal (*e.g.,* no murmurs, arrhythmia, etc.). In general, the cardiovascular and respiratory system should be normal at rest and upon exercise.

(e) Limbs and Joints.—Any condition of the bones, joints or muscles that might hamper or restrict the normal performance of duty is grounds for disqualification. Examples include:

(i) Hip dysplasia and elbow dysplasia. A malformation of the hip and elbow joints, respectively, which usually results in degenerative joint disease, arthritis and chronic lameness. Radiographic evidence of hip dysplasia or elbow dysplasia or degenerative joint disease, as determined by the veterinarian, should disqualify a canine.

(ii) Fractures, which are unhealed, should be disqualifying. Healed fractures resulting in significant bone or joint conformation changes or lameness should be disqualifying.

(iii) Ligament damage, osteoarthritis, etc., of the limb joints is generally disqualifying.

(iv) Transitional vertebrae of the caudal lumbar spine, lumbosacral junction or sacrum should be disqualifying. Asymmetric pelvic attachment is also disqualifying.

(f) Nervous System and Basic Senses.—Any defect in the nervous system, to include the basic senses of vision, hearing and sense of smell, should be considered disqualifying. Examples include, but are not limited to, opacities of the cornea, eyelid deformities, cataracts, retinal degeneration, chronic otitis, acute or chronic rhinitis/sinusitis and spinal disease.

(g) Heartworms.—All canines submitted for purchase should be free of heartworm infection (*Dirofilaria immitis*). The presence of heartworm infection should be determined by using a heartworm antigen test. A negative heartworm concentration test (filtration or Knott's) is not sufficient evidence to declare the canine heartworm-free.

(h) Intestinal Parasitism.—Infection with intestinal parasites (roundworms, hookworms, tapeworms, etc.) may not be disqualifying, depending on the level of infection and the overall condition of the canine. Presence of intestinal parasites is, however, an indication of poor care and should raise concern about the canine's general health.

(i) External Parasitism.—Presence of fleas, ticks, lice, mange mites or ear

mites may not be disqualifying, depending on the amount of infestation, the degree of associated skin disease, and the overall condition of the canine. Presence of external parasites is, however, an indication of poor care and should raise concern about the canine's general health.

(j) Immunization.—All canines presented should have been vaccinated within the previous 12 months for rabies, canine distemper, canine adenovirus (TYPE 2), coronavirus, parainfluenza, parvovirus and leptospirosis. All canines should also have been vaccinated for Bordetella within the previous 6 months (but no less than 1 month prior to presentation); preferably via the modified live oral or intranasal forms but the killed subcutaneous injectable version is also acceptable. Records of all vaccination administration should be copied from a legal veterinary medical record and signed by the licensed veterinarian responsible for administration of the vaccinations. A rabies vaccination certificate, with individual canine identification (name, tattoo, brand or microchip #) should be provided for all canines. This documentation facilitates health certificate preparation, if the canine is to be returned to the vendor.

(k) Socialization.—All canines presented should be socialized to medical examinations. Canines that cannot be properly examined due to poor socialization should be rejected. Rejected canines may be represented after behavior has been modified to allow medical examination.

(l) Reproductive and Urinary System.—Any congenital or conformational abnormality is disqualifying, if the defect requires long-term medical treatment or results in a shortened working life of the canine. (*e.g.,* cryptorchidism is not disqualifying unless the retained testicle results in medical complications not treatable by simple orchiectomy. A juvenile vulva resulting in urine scalding is disqualifying.)

5. Veterinary Medical Facilities.—Before submitting a canine for evaluation by the procurer, the vendor should have canines examined by a veterinary facility that can provide diagnostic quality hip, elbow, and lumbar spine radiographs/digital images (under sedation/anesthesia), and an examination room capable of supporting ophthalmology and cardiology examinations, and laboratory support to do basic serum chemistries. The vendor should provide radiographs of candidate canines for evaluation that have been completed no more than four (4) months prior to evaluation of the canine (images performed at time of examination should be acceptable). The radiographs should meet the minimum identification requirements of paragraph A (1) above.

5. Common Medically-Disqualifying Conditions.—The following list is provided as a helpful guide and example to all vendors presenting canines and is not intended to be a complete list.

(a) Hematological abnormalities consistent with severe parasitism, infection, or metabolic disease.

(b) Poor body condition, either emaciation or obesity.

(c) Severe periodontal disease.

(d) Severe, non-resolving or intractable otitis externa or dermatitis.

(e) Radiographic signs of hip or elbow dysplasia or radiographic evidence of degenerative joint disease.

(f) Transitional vertebrae of the caudal lumbar spine, lumbosacral junction or sacrum should be disqualifying, as is the presence of any degenerative change in the lumbar spine (such as arthritis). Asymmetric pelvic attachment is also disqualifying.

(g) Previous musculoskeletal injury, which has or may lead to degenerative joint disease or conformational abnormality.

C. Behavioral Standards. TSA recommends that transportation stakeholders apply the following behavioral standards when procuring canines for an explosive detection canine team capability.

1. Whenever possible, the procurer should offer a demonstration to vendors before placement of an order for canines, to observe a canine being taken through the assessment areas with the procurer's evaluator, demonstrating how each assessment will be performed. Vendors should be allowed to be present during testing events providing they receive prior approval from the procurer, and remain in an observation capacity throughout the assessment.

2. The vendor should have prepared the canine sufficiently to be resilient to the stress associated with the procurement process. This should include, but not be limited to, transport in canine trailers/vehicles, handling by strangers, unfamiliar kennel environs, veterinary care (in muzzle), and unfamiliar assessment environments.

3. The canine(s) general assessment should begin as soon as the canines are provided to the procurer's evaluators and continue until canines are accepted or disqualified. This includes observations made by all persons handling or observing the canine during the assessment period. The assessment should conclude at acceptance or disqualification.

4. Canines presented by the vendor for purchase should have a high level of environmental confidence and sociability to be deployed in an active, high paced and dynamic environments. If the vendor presents the canine as completely trained, it should be trained and ready for any required validation/certification necessary for deployment in public areas of an airport, including any odors determined appropriate by the certifying organization.

5. Vendors should be expected to prepare the canine to meet any required certification standards. The procurer should evaluate trainability during the assessment, but trainability should not outweigh other deficiencies in the assessment criteria. The procurer should make it clear to the vendor/handler that excessive use of praise or motivational rewards should not be used as a means to assist the canine with a specific socialization, environmental stability or search assessments. Searching ability with effective olfactory acuity should be self-driven for the canine and independent from the handler's input.

III. Conclusion

Explosives detection canines are a proven deterrent and effective detection technology when well-trained and deployed consistent with their training. The need to increase security in airports both at the checkpoint and in public areas drives the need for TSA to identify options for increasing the availability and use of canines. When effectively training and deployed, adding the deployment of explosive detection canine teams to security measures can successfully address vulnerabilities and emerging threats.

Dated: March 16, 2020.

Kimberly Walton,

Executive Assistant Administrator, Enterprise Support.

[FR Doc. 2020–05926 Filed 3–19–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Approval From OMB of One New Public Collection of Information: Certification of Identity Form (TSA Form 415)

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on a new Information Collection Request (ICR) abstracted below that we will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden on an individual traveler providing his or her name; address; and information that would help TSA verify the identity of the passenger.

DATES: Send your comments by May 19, 2020.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

Purpose and Description of Data Collection

The REAL ID Act and implementing regulation set minimum requirements for state-issued driver's licenses and identification cards (DL/ID) accepted by Federal agencies for official purposes, including boarding federally regulated commercial aircraft.[1] Pursuant to the regulation, beginning October 1, 2020, TSA may only accept state-issued DL/ID if the card itself is REAL ID-compliant.[2] In advance of TSA's full implementation of these REAL ID requirements, the agency is reviewing all screening and identity verification processes. As part of this review, TSA is updating the information that the Agency may collect from individuals seeking to use the IVCC process.

All adult passengers 18 and over must show valid identification at the airport checkpoint in order to travel. TSA has identified acceptable forms of identification to meet this requirement. Generally, individuals verify their identity by providing an acceptable form of ID (such as a driver's license or passport) at the travel document checker.[3] In the event that an individual does not have their acceptable form of identification with them at the airport, TSA may still allow that individual to fly if they are able to verify their identity through alternative procedures, such as through TSA's Identity Verification Call Center (IVCC) process.[4]

The IVCC uses knowledge-based authentication, via commercial and government database sources with personal identifiable information provided by the passenger in order to derive questions that the IVCC uses to ask the passenger to verify his or her identity. The commercial databases used by the IVCC are aggregators of an individual's transactional data, providing essential information of which only an individual would have knowledge. The IVCC then speaks with the traveler to verify the individual's identity based on information found in the databases. If the traveler's identity is confirmed, he or she will be allowed to enter the screening checkpoint. Travelers using the alternative process for identity verification may be subject to additional security screening.

To initiate the IVCC process, a traveler who does not have their acceptable identification with him or her must complete a Certification of Identity form (TSA Form 415).[5] The current TSA Form 415 requests the traveler's name and address. After completing the form, the traveler is connected with TSA's IVCC.

Acceptable identification requirements will change on October 1, 2020, when all state-issued identification must meet REAL ID requirements. To ensure that the alternative identity verification process does not become a means for travelers to circumvent REAL ID requirements, TSA is revising Form 415 to ask additional questions concerning what type of physical identification the individual has. This expansion of the type of information collected requires TSA to seek approval for the collection.

The most likely respondents to this proposed information request are travelers who arrive at an airport security checkpoint without an acceptable form of identification because they lost or forgot their DL or other state-issued ID. Other likely respondents are travelers who had their acceptable form of identification stolen and travelers carrying a form of identification that they incorrectly believed to be acceptable. TSA estimates that approximately 912,500 passengers will complete the TSA Form 415 annually. TSA estimates each form will take approximately three minutes to complete. This collection would result in an annual reporting burden of 45,625 hours.

Use of Results

TSA will use the information provided on revised TSA Form 415 to generate questions intended to verify the identity of a traveler who arrives at a security screening checkpoint without an acceptable form of identification. This information may also be used to determine who may access the IVCC. A failure to collect this information may result in TSA not being able to verify the identity of travelers without an acceptable form of identification and these travelers being unable to proceed through the security checkpoint and board a commercial aircraft.

TSA previously initiated the PRA approval process by publishing a notice on November 8, 2016, 81 FR 78623, announcing our intent to conduct this collection; however due to continuing policy refinement, TSA never completed the process or finalized the

[1] Public Law 109–13, Div. B, 119 Stat. 231, 302–23 (May 11, 2005); REAL ID Driver's Licenses and Identification Cards, 6 CFR part 37.

[2] 6 CFR 37.5(b).

[3] The agency provides a list of acceptable forms of identification on the agency website, available at *https://www.tsa.gov/travel/security-screening/identification.*

[4] *Id.*

[5] TSA Form 415 is currently exempt from the Paperwork Reduction Act.

TSA Form 415. TSA welcomes new comments with the publication of this new notice to re-initiate the approval process.

Dated: March 16, 2020.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2020–06011 Filed 3–19–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZP00000.L122000000.DF0000. LXSSA3610000]

Notice of Intent To Temporarily Close Selected Public Lands in Maricopa and Pinal Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to temporarily close.

SUMMARY: The Bureau of Land Management (BLM) proposes to temporarily close public lands to public entry for all uses for up to 180 days on certain public lands administered by the Hassayampa and Lower Sonoran Field Offices, during the construction of four recreational shooting sports sites. Additionally, temporary closures of these sites, as well as one additional recreational shooting sports site, are proposed for a few days on a periodic basis for public safety, maintenance, administration, or compliance with applicable laws.

DATES: Interested parties may submit written comments regarding the impacts to hunting, fishing, and recreational shooting no later than April 20, 2020.

ADDRESSES: Interested parties may submit comments regarding the proposed temporary closure of public lands to hunting, fishing, and recreational shooting, during the proposed temporary closures to public entry by any of the following methods:

- *BLM National NEPA Website: https://go.usa.gov/xmfVv.*
- *Mail:* BLM, Phoenix District Office, Attention: Tyler Lindsey, 21605 N 7th Avenue, Phoenix, AZ 85027.

FOR FURTHER INFORMATION CONTACT: John (Jake) Szympruch, District Chief Ranger at email: *jszympru@blm.gov;* or Lane Cowger, Hassayampa Field Office Manager at email: *lcowger@blm.gov;* or Ed Kender, Lower Sonoran Field Office Manager at email: *ekender@blm.gov;* or at 623–580–5500. 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 individuals during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The BLM Hassayampa and Lower Sonoran Field Offices propose to temporarily close public lands to public entry for all uses during the construction of the Box Canyon, Church Camp Road, Narramore Road, and Saddleback Mountain recreational shooting sports sites. After construction and during the operation of each site, temporary closures at these recreational shooting sports sites, as well as Baldy Mountain (which is located on public lands administered by the Hassayampa Field Office) are proposed on a recurring basis for public safety, maintenance, administration, or compliance with applicable laws within the smallest area for the least amount of time. The Baldy Mountain, Church Camp Road, Narramore Road, and Saddleback Mountain sites are located in Maricopa County. Box Canyon is located in Pinal County.

In compliance with the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act; 16 U.S.C. 7913(a)(1)), and in compliance with 43 CFR 8364.1, notice of intent is hereby given that the proposed closures would temporarily close public lands to public entry, including entry for hunting, fishing, and recreational shooting. These proposed temporary closures are necessary to ensure public and worker safety during construction of the recreational shooting sports sites. To the extent feasible, only one or two sites would be closed at a time until construction is completed, and the recreational shooting sports site(s) can be opened for public use. The BLM has not determined specific construction dates for Box Canyon, Church Camp Road, Narramore Road, or Saddleback Mountain recreational shooting sports sites. The temporary closures for each site should not exceed 180 days. However, if construction exceeds 180 days, renewal of the temporary closure would require separate notice of intent to be published in the **Federal Register** to initiate an additional 30-day comment period prior to a renewal decision being issued.

These temporary closures for construction and operation were analyzed under the Recreational Shooting Sports Project Final Environmental Assessment (January 2020) and in consultation with the Arizona Game and Fish Department.

Under the Dingell Act, the BLM is required to consider public comments when temporary closures are proposed and would affect hunting, fishing, and recreational shooting on public lands. This notice announces the beginning of the 30-day comment period for the proposed temporary closure of public lands to all entry, whereby comments on impacts to hunting, fishing, and recreational shooting are being accepted by the BLM. Following the public comment period, the BLM will issue a final decision which will respond in a reasonable manner to the comments received, will explain how significant issues were resolved, and will be made available on the project website at: *https://go.usa.gov/xmfVv.* Before including your address, phone number, email address, or other personal identifying information in any comment, 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, the BLM cannot guarantee that we will be able to do so.

The legal description of the affected public lands are:

Baldy Mountain (Approximately 399 Acres)

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,
Sec. 10, SE¼NE¼, NE¼SE¼ (portions of);
Sec. 11, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼ (portions of).

Box Canyon (Approximately 478 Acres)

Gila and Salt River Meridian, Arizona

T. 5 S., R. 2 E.,
Sec. 9, N½, N½SW¼, N½SE¼ (portions of).

Church Camp Road (Approximately 200 Acres)

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,
Sec. 23, E½SW¼, NW¼SE¼, S½SE¼.

Narramore Road (Approximately 163 Acre)

Gila and Salt River Meridian, Arizona

T. 1 S., R. 5 W.,
Sec. 17, S½SW¼, S½SE¼.

Saddleback Mountain (Approximately 400 Acres)

Gila and Salt River Meridian, Arizona

T. 6 N., R. 1 W.,
Sec. 26, S½;
Sec. 35, NW¼NE¼, NE¼NW¼.

A copy of this notice and map for the closure area will be posted at least 30 days in advance of the effective date of the temporary closure at the main entry points to each of these sites, available at

the Phoenix District Office, 21605 North 7th Avenue, Phoenix, Arizona 85027, and available on the project website located at: *https://go.usa.gov/xmfVv.* This notice satisfies the requirements found at 43 CFR 8364.1. Therefore, the temporary closures authorized in the final decision would be enforced by the BLM under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1 within the closure area for each site.

Temporary closures authorized in the final decision would cover the entire affected areas as described earlier and in the time period as described above would be temporarily closed to public entry.

The following persons would be exempt from the proposed temporary closure orders: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Any person who violates temporary closures authorized in a final decision may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Arizona law.

(*Authority:* 43 CFR 8364.1 and 16 U.S.C. 7913)

Leon Thomas,

District Manager.

[FR Doc. 2020–05956 Filed 3–19–20; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000. L51010000.ER0000. LVRWF1906420. 19X; N–90788; MO#4500143154]

Notice of Availability for the Draft Environmental Impact Statement for the Yellow Pine Solar Project in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Yellow Pine Solar Project and by this notice is announcing the opening of the comment period.

DATES: This notice initiates the public comment period for the Draft EIS. To ensure that comments will be considered, the BLM must receive written comments on the Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The dates and locations of any public meetings will be announced at least 15 days in advance through local media, newspapers and the BLM website at: *https://go.usa.gov/xQF3z.* We will provide additional opportunities for public participation upon publication of the Final EIS.

ADDRESSES: You may submit comments related to the Yellow Pine Solar Project Draft EIS by any of the following methods:

- *Website: https://go.usa.gov/xQF3z*
- *Email: blm_nv_sndo_yellowpine@blm.gov*
- *Fax:* 702–515–5023
- *Mail:* Yellow Pine Solar Project, Attn: Herman Pinales, BLM Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130

FOR FURTHER INFORMATION CONTACT: Herman Pinales, Energy & Infrastructure Project Manager, telephone 702–515–5284; address 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301; email *blm_nv_sndo_yellowpine@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This Draft EIS addresses two separate but connected applications that have been submitted to the BLM Las Vegas Field Office. First, Yellow Pine Solar, LLC has applied for a right-of-way on public land to construct, operate, and maintain a proposed solar energy generation station and ancillary facilities including battery storage, known as the Yellow Pine Solar Facility. Second, GridLiance West, LLC has applied for a right-of-way (ROW) on public land to construct, operate, and maintain a GridLiance West 230-kilovolt (kV) Trout Canyon Substation and associated 230-kV transmission line. These two applications are collectively known as the Yellow Pine Solar Project.

The proposed Yellow Pine Solar Project is located approximately 10 miles southeast of Pahrump and approximately 32 miles west of Las Vegas in Clark County, Nevada. The Yellow Pine Solar Project would be located on approximately 3,072 acres of BLM managed public land.

The Draft EIS addresses the direct, indirect and cumulative environmental impacts of the proposed action and alternatives. The Draft EIS evaluates the Proposed Action, the Modified Layout Alternative, the Mowing Alternative, and the No Action Alternative. All of the analysis involves development on approximately 3,072 acres of land; however, each action/alternative differs in how the facility is constructed. The Proposed Action would be divided into four unique sub-areas to avoid three large washes that cross the study area. The Proposed Action would involve solar development utilizing traditional methods, which include disk and roll which removes all vegetation from within the solar arrays. The Modified Layout would involve one combined project area on the west side of the project study area to increase space between the project and the Tecopa Road, State Route 160, and the Stump Springs Desert Tortoise Translocation Area. The Mowing Alternative is a construction methods alternative that may be applied to either site layout. Under the Mowing Alternative, vegetation would be maintained at a height of 18 to 24 inches to address concerns related to the loss of topsoil, vegetation, and seedbanks. The No Action Alternative would be a continuation of existing conditions. The BLM has identified the Proposed Action layout using the Mowing Alternative construction method as the preferred alternative.

A Notice of Intent (NOI) to prepare an EIS for the proposed Yellow Pine Solar Project was published in the **Federal Register** on June 1, 2018 (83 FR 25484). The public scoping period closed on August 30, 2018. The BLM held two public scoping meetings. The BLM received 57 public scoping comment letters during the 45-day scoping period. The scoping comments focused on biological resources including the threatened Mojave desert tortoise, alternatives development, visual resources, cultural resources, and impacts to the Old Spanish National Historic Trail.

The BLM analyzed a combination of proposed environmental measures and possible mitigation to eliminate or minimize impacts associated with the proposed action. These included the potential for identifying opportunities to apply on-site mitigation strategies appropriate to the site of the proposal,

and management actions to achieve resource objectives.

The BLM continues to consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Gera Ashton,

Acting District Manager, Southern Nevada District.

[FR Doc. 2020–05745 Filed 3–19–20; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6978–E; AA–6978–F; 20X.LLAK944000.L14100000.HY0000]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) hereby provides constructive notice that it will issue an appealable decision approving conveyance of the surface estate in certain lands to Kootznoowoo Incorporated (Kootznoowoo), for the Native village of Angoon, pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA) and the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). As provided by ANILCA, the BLM will convey the subsurface estate in a portion of the same lands to Sealaska Corporation when the BLM conveys the surface estate to Kootznoowoo.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the time limits set out in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You may obtain a copy of the decision from the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Chelsea Kreiner, BLM Alaska State Office, 907–271–4205, or *ckreiner@blm.gov.* The BLM Alaska State Office may also be contacted via Telecommunications Device for the Deaf (TDD) through the Federal Relay Service at 1–800–877–8339. The relay service is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that the BLM will issue an appealable decision to Kootznoowoo. The decision approves conveyance of the surface estate in certain lands pursuant to ANCSA (43 U.S.C. 1601, *et seq.*), and Secs. 506(a)(4) and (5) of ANILCA (94 Stat. 2408). As provided by ANILCA and as set out below, a portion of the subsurface estate in the same lands will be conveyed to Sealaska Corporation when the surface estate is conveyed to Kootznoowoo. The lands are located in the vicinity of Chichagof Island and Prince of Wales Island, Alaska, and are described as:

Lands on Chichagof Island To Be Conveyed Pursuant to Sec. 506(a)(4) of ANILCA Surface to Kootznoowoo; Subsurface Retained by United States

U.S. Survey No. 14075, Alaska.
Containing 19.99 acres.

Lands on Prince of Wales Island To Be Conveyed Pursuant to Sec. 506(a)(5) of ANILCA Surface to Kootznoowoo; Subsurface to Sealaska Corporation

U.S. Survey No. 14083, Alaska.
Containing 61.03 acres.

Copper River Meridian, Alaska

T. 77 S., R. 87 E.,
Secs. 11, 12, 14, and 24.
Containing approximately 8 acres.
T. 77 S., R. 88 E.,
Sec. 36.
Containing approximately 4 acres.
T. 77 S., R. 89 E.,
Sec. 32.
Containing approximately 1 acre.
Aggregating approximately 94 acres.

The decision addresses public access easements, if any, to be reserved to the United States pursuant to Sec. 17(b) of ANCSA (43 U.S.C. 1616(b)), and Sec. 506(a) of ANILCA (94 Stat. 2408), in the lands described above.

The BLM will also publish notice of the decision once a week for four consecutive weeks in the *Juneau Empire* and the *Ketchikan Daily News* newspapers.

Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 20, 2020 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by facsimile will not be accepted as timely filed.

Chelsea Kreiner,

Land Law Examiner, Adjudication Section.

[FR Doc. 2020–05955 Filed 3–19–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[DOI–2019–0015; RR83570000, 200R5065C6, RX.59389832.1009676]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Reclamation, Interior.

ACTION: Rescindment of systems of records notices.

SUMMARY: The Department of the Interior is issuing a public notice of its intent to rescind nine Bureau of Reclamation Privacy Act systems of records notices, INTERIOR/WBR–15, Land Settlement Entries; INTERIOR/WBR–17, Lands—Leases, Sales, Rentals, and Transfers; INTERIOR/WBR–19, Mineral Location Entries; INTERIOR/WBR–22, Oil and Gas Applications; INTERIOR/WBR–28, Real Property and Right-of-Way Acquisitions; INTERIOR/WBR–29, Right-of-Way Applications; INTERIOR/WBR–32, Special Use Applications, Licenses, and Permits; INTERIOR/WBR–41, Permits; and

INTERIOR/WBR–43, Real Estate Comparable Sales Data Storage, from its existing inventory. In an effort to streamline land and realty program functions, these systems of records notices are being rescinded as the systems have been incorporated into the newly published INTERIOR/Reclamation-14, Land and Realty Program system of records notice.

DATES: These changes take effect on March 20, 2020.

ADDRESSES: You may send comments identified by docket number [DOI–2019–0015] by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2019–0015] in the subject line of the message.
- *U.S. Mail or Hand-Delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2019–0015]. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

You should be aware your entire comment including your personal identifying information, such as your address, phone number, email address, or any other personal identifying information in your comment, may be made publicly available at any time. While you may request to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Regina Magno, Associate Privacy Officer, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225, *privacy@usbr.gov* or (303) 445–3326.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation) is rescinding the following systems of records notices from its inventory:

- INTERIOR/WBR–15, Land Settlement Entries;
- INTERIOR/WBR–17, Lands—Leases, Sales, Rentals, and Transfers;
- INTERIOR/WBR–19, Mineral Location Entries;
- INTERIOR/WBR–22, Oil and Gas Applications;
- INTERIOR/WBR–28, Real Property and Right-of-Way Acquisitions;
- INTERIOR/WBR–29, Right-of-Way Applications;
- INTERIOR/WBR–32, Special Use Applications, Licenses, and Permits;
- INTERIOR/WBR–41, Permits; and
- INTERIOR/WBR–43, Real Estate Comparable Sales Data Storage.

During a review of these notices, Reclamation determined that these nine systems contained duplicative content and were managed by one System Manager in the land and realty program. In an effort to streamline land and realty program functions, improve consistency, eliminate duplicative content, and promote transparency, Reclamation modified the INTERIOR/WBR–14, Land Exchange system to incorporate these nine systems of records and published a revised notice, INTERIOR/Reclamation–14, Land and Realty Program, in the **Federal Register** at 84 FR 51614 (September 30, 2019). The modified system will help Reclamation manage the land and realty program and maintain an inventory of all land, facilities, and waterbodies under Reclamation's jurisdiction. Rescinding the nine systems of records notices will have no adverse impacts on individuals as these records are covered under the INTERIOR/Reclamation-14, Land and Realty Program, system of records notice. This rescindment will also promote the overall streamlining and management of Department of the Interior Privacy Act systems of records. This notice hereby rescinds the nine Reclamation systems of records notices identified below.

SYSTEM NAME AND NUMBER:

1. INTERIOR/WBR–15, Land Settlement Entries.
2. INTERIOR/WBR–17, Lands—Leases, Sales, Rentals, and Transfers.
3. INTERIOR/WBR–19, Mineral Location Entries.
4. INTERIOR/WBR–22, Oil and Gas Applications.
5. INTERIOR/WBR–28, Real Property and Right-of-Way Acquisitions.
6. INTERIOR/WBR–29, Right-of-Way Applications.
7. INTERIOR/WBR–32, Special Use Applications, Licenses, and Permits.
8. INTERIOR/WBR–41, Permits.
9. INTERIOR/WBR–43, Real Estate Comparable Sales Data Storage.

HISTORY:

1. INTERIOR/WBR–15, Land Settlement Entries, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
2. INTERIOR/WBR–17, Lands—Leases, Sales, Rentals, and Transfers, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
3. INTERIOR/WBR–19, Mineral Location Entries, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
4. INTERIOR/WBR–22, Oil and Gas Applications, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
5. INTERIOR/WBR–28, Real Property and Right-of-Way Acquisitions, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
6. INTERIOR/WBR–29, Right-of-Way Applications, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
7. INTERIOR/WBR–32, Special Use Applications, Licenses, and Permits, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
8. INTERIOR/WBR–41, Permits, 64 FR 29876 (June 3, 1999); modification published at 73 FR 20949 (April 17, 2008).
9. INTERIOR/WBR–43, Real Estate Comparable Sales Data Storage, 64 FR 33504 (June 23, 1999); modification published at 73 FR 20949 (April 17, 2008).

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2020–05920 Filed 3–19–20; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–627–629 and 731–TA–1458–1461 (Final)]

Utility Scale Wind Towers From Canada, Indonesia, Korea, and Vietnam; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–627–629 and 731–TA–1458–1461 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by

reason of imports of utility scale wind towers from Canada, Indonesia, Korea, and Vietnam, provided for in subheadings 7308.20.00 and 8502.31.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: February 14, 2020.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari ((202) 205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.— For purposes of these investigations, Commerce has defined the subject merchandise as ''Certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.,* where the top of the tower and the nacelle are joined) when fully assembled.

A wind tower section consists of, at minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Canada, Indonesia, Korea, and Vietnam of utility scale wind towers, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on July 9, 2019, by the Wind Tower Trade Coalition (Arcosa Wind Towers (Dallas, Texas) and Broadwind Towers, Inc. (Manitowoc, Wisconsin)).

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 10, 2020, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, June 25, 2020, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 18, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on June 24, 2020, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 17, 2020. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 2, 2020. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 2, 2020. On July 23, 2020, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 27, 2020, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's

rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–05847 Filed 3–19–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Petitions for Duty Suspensions and Reductions: Notice That Comments Received on Previously Filed Petitions Are Available for Viewing on the Commission's Website

AGENCY: United States International Trade Commission.

ACTION: Notice that the Commission has published on its website comments received from the public on previously submitted petitions for duty suspensions and reductions.

SUMMARY: As required by the American Manufacturing Competitiveness Act of 2016, the Commission is publishing notice that comments received from the public on previously submitted petitions for duty suspensions and reductions are now available for public viewing on the Commission's website.

ADDRESSES: All Commission offices are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. You may view the public file for this proceeding on the Commission's Miscellaneous Tariff Bill Petition System (MTBPS) website at *https://mtbps.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: For general inquiries, contact Jennifer Rohrbach at *mtbinfo@usitc.gov.* For other inquiries, contact the Office of the Secretary, Docket Services, U.S. International Trade Commission, telephone (202) 205–3238. The media should contact Peg O'Laughlin, Public Affairs Officer (202) 205–1819 or *margaret.olaughlin@usitc.gov*). You may obtain general information concerning the Commission at *https://www.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The American Manufacturing Competitiveness Act of 2016 (the Act), 19 U.S.C. 1332 note, established a process for the submission and consideration of requests for temporary duty suspensions and reductions. Section 3(b)(1) of the Act requires the Commission to initiate the process by publishing a notice requesting members of the public who can demonstrate that they are likely beneficiaries of duty suspensions or reductions to submit petitions and Commission disclosure forms to the Commission. The Commission published this notice in the **Federal Register** on October 11, 2019 (84 FR 54924). Consistent with Section 3(b)(1) of the Act, the notice required that petitions be submitted by the close of business on December 10, 2019.

Under Section 3(b)(3)(A) of the Act, within 30 days of the expiration of the period for filing petitions, the Commission must publish on its website the petitions received that contain the information required by the Act. Under section 3(b)(3)(B) of the Act, the Commission must also publish a notice in the **Federal Register** requesting members of the public to submit comments to the Commission on the petitions published on the Commission's website. On January 10, 2020, the Commission both published the petitions received on its website and published the required notice in the **Federal Register** (85 FR 1327) requesting members of the public to submit comments on those petitions no later than the close of business on February 24, 2020.

Section 3(b)(3)(B)(ii) of the Act requires the Commission to publish a notice in the **Federal Register** directing members of the public to a publicly available Commission website to view the comments on the petitions by members of the public that the Commission received. This notice satisfies that requirement. Members of the public may view those comments on the Commission's website at *https://mtbps.usitc.gov.*

The Commission is now preparing the reports that it is required to submit, under section 3(b)(3)(C) and (E) of the Act, to the House Committee on Ways and Means and the Senate Committee on Finance (the Committees) on the petitions for duty suspensions and reductions submitted. The Commission will submit its preliminary report to the Committees in June 2020 and its final report in August 2020. In preparing these reports, the Commission will consider the petitions and comments submitted, the report that the U.S. Department of Commerce (in consultation with U.S. Customs and Border Protection and other relevant Federal agencies) submits to the Commission under section 3(c) of the Act, and any other information that it considers appropriate.

By order of the Commission.

Issued: March 17, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–05906 Filed 3–19–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–616–617 and 731–TA–1432–1434 (Final)]

Fabricated Structural Steel From Canada, China, and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is not materially injured or threatened with material injury by reason of imports of fabricated structural steel from Canada, China, and Mexico, provided for in subheadings 7308.90.95, 7308.90.30, and 7308.90.60 of the Harmonized Tariff Schedule of the United States, that have been found by

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the governments of China and Mexico.[2]

Background

The Commission instituted these investigations effective February 4, 2019, following receipt of petitions filed with the Commission and Commerce. The petitioner in these investigations is the American Institute of Steel Construction, LLC Full Member Subgroup, Chicago, Illinois. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of fabricated structural steel from China and Mexico were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)).[3] Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 23, 2019 (84 FR 49765). The hearing was held in Washington, DC, on January 28, 2020, and all persons who requested the opportunity were permitted to appear in person or by counsel. On January 30, 2020, Commerce gave notice in the **Federal Register** of affirmative final determinations of sales at LTFV in its investigations regarding Canada, China, and Mexico, affirmative final determinations in its countervailing duty investigations regarding China and Mexico, and a negative final determination in its countervailing duty investigation concerning Canada. Accordingly, the Commission terminated its countervailing duty investigation concerning fabricated structural steel from Canada (85 FR 8321).

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 16, 2020. The views of the Commission are contained in USITC Publication 5031 (March 2020), entitled *Fabricated Structural Steel from Canada, China, and Mexico: Investigation Nos. 701–TA–616–617 and 731–TA–1432–1434 (Final).*

By order of the Commission.

Issued: March 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–05845 Filed 3–19–20; 8:45 am]

BILLING CODE 7020–20–P

[2] Commissioners Rhonda K. Schmidtlein and Amy A. Karpel dissenting.

[3] Commerce made negative preliminary determinations with respect to imports of fabricated structural steel from Canada which were alleged to be sold at LTFV (84 FR 47481) and subsidized by the government of Canada (84 FR 33232).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1193]

Certain Capacitive Touch-Controlled Mobile Devices, Computers, and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 14, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Neodron Ltd. of Ireland. Letters supplementing the complaint were filed on February 19 and 21 and March 2, 2020. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain capacitive touch-controlled mobile devices, computers, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,821,425 (''the '425 patent''); U.S. Patent No. 7,903,092 (''the '092 patent''); U.S. Patent No. 8,749,251 (''the '251 patent''); and U.S. Patent No. 9,411,472 (''the '472 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2559.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2019).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on March 16, 2020, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 25–40 of the '425 patent; claims 1–12 of the '092 patent; claims 1–9 and 16–20 of the '251 patent; and claims 1–6 and 13–23 of the '472 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''touch-controlled smartphones, touch-controlled tablet devices, touch-controlled notebook computers, touch-controlled laptop computers, and components thereof'';

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a

recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 USC 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Neodron Ltd., Unit 4–5, Burton Hall Road, Sandyford, Dublin 18, D18A094, Ireland.

(b) The respondents are the following entities alleged to be in violation of section 337, and is/are the parties upon which the complaint is to be served:

Amazon.com, Inc., 410 Terry Avenue North, Seattle, WA 98109.

Apple Inc., One Apple Park Way, Cupertino, CA 95014.

ASUSTeK Computer Inc., No. 15, Li-Te Road, Beitou District, Taipei 112, Taiwan.

ASUS Computer International, 48720 Kato Road, Fremont, CA 94538.

LG Electronics Inc., LG Twin Tower 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Republic of Korea 07336.

LG Electronics USA, Inc., 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632.

Microsoft Corporation, One Microsoft Way, Redmond, WA 98052.

Motorola Mobility LLC, 222 W Merchandise Mart Plaza, Suite 1800, Chicago, IL 60654.

Samsung Electronics Co., Ltd., 129 Samsung-Ro, Maetan-3dong, Yeongtong-gu, Suwon, 443–742, South Korea.

Samsung Electronics America, Inc., 85 Challenger Road, Ridgefield Park, NJ 07660.

Sony Corporation, 1–7–1 Konan Minato-ku, Tokyo, 108–0075, Japan.

Sony Mobile Communications Inc., 4–12–3 Higashi-Shinagawa, Shinagawa-ku, Tokyo, 140–0002, Japan.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 16, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–05841 Filed 3–19–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenJS Foundation

Notice is hereby given that, on March 4, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Netflix, San Francisco, CA; and SkyScanner, San Francisco, CA, have been added as parties to this venture.

Also, PayPal, San Jose, CA; Intel, Santa Clara, CA; Datreeio Ltd., Tel Aviv, ISRAEL; and SourceGraph, San Francisco, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on September 19, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 17, 2019 (84 FR 55586).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05778 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Source Imaging Consortium, Inc.

Notice is hereby given that, on March 3, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Source Imaging Consortium, Inc. (''Open Source Imaging Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Galapagos NV, Mechelen, BELGIUM, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and Open Source Imaging Consortium intends to file additional written notifications disclosing all changes in membership.

On March 20, 2019, Open Source Imaging Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 12, 2019 (84 FR 14973).

The last notification was filed with the Department on January 14, 2020. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on February 4, 2020 (85 FR 6222).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05808 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CHEDE–8

Notice is hereby given that, on March 3, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CHEDE–8 (''CHEDE–8'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Convergent Science, Madison, WI, and Tenneco, Plymouth, MI, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CHEDE–8 intends to file additional written notifications disclosing all changes in membership.

On December 4, 2019, CHEDE–8 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2019 (84 FR 71977).

The last notification was filed with the Department on February 6, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 2020 (85 FR 11394).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05792 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Numerical Propulsion System Simulation

Notice is hereby given that, on March 4, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Numerical Propulsion System Simulation (''NPSS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MTU Aero Engines AG, Munich, GERMANY, has been added as a party to this venture.

Also, Teledyne Technologies Inc. d/b/a Teledyne Turbine Engines, Toledo, OH, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and NPSS intends to file additional written notifications disclosing all changes in membership or planned activities.

On December 11, 2013, NPSS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 20, 2014 (79 FR 9767).

The last notification was filed with the Department on November 08, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 5, 2019 (84 FR 66695).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05781 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Hedge IV

Notice is hereby given that, on March 2, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on HEDGE IV (''HEDGE IV'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Borgwarner, Inc., Auburn Hills, MI; Diamond Electric, Ann Arbor, MI; Garrett Automotive Co., Plymouth, MI; and Woodward, Inc., Fort Collins, CO, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and HEDGE IV intends to file additional written notifications disclosing all changes in membership.

On February 14, 2017, HEDGE IV, filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15238).

The last notification was filed with the Department on January 28, 2020. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 27, 2020 (85 FR 11394).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05779 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium-Americas

Notice is hereby given that, on March 2, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The

notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tormach, Inc., Waunakee, WI, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on February 6, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 2020 (85 FR 11393).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05791 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on March 10, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Kaleidescape, Inc., Mountain View, CA have been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on January 2, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 27, 2020(85 FR 4705).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–05780 Filed 3–19–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of H–2A and H–2B Foreign Workers in the United States: Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging

ACTION: Notice.

SUMMARY: The U.S. Department of Labor's (DOL) Employment and Training Administration (ETA) is issuing this annual notice to announce the updated allowable charges employers of H–2A workers, in occupations other than herding or production of livestock on the range, may charge these workers when the employer provides three meals per day. This notice also announces the maximum travel subsistence meal reimbursement a worker with receipts may claim, under the H–2A and H–2B programs. In addition, this notice includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

APPLICABLE: This notice is effective on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Acting Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, by telephone 202–513–7350 (this is not a toll-free number) or, for individuals with hearing or speech impairments, TTY 1–877–889–5627 (this is not a toll-free number), or by email at *ETA.OFLC.Forms@dol.gov*.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security will not approve an employer's petition for the admission of H–2A or H–2B nonimmigrant temporary workers in the United States unless the petitioner has received from DOL an H–2A or H–2B labor certification. *See* 8 CFR 214.2(h)(5) and (h)(6). H–2A and H–2B labor certifications generally provide that: (1) There are not sufficient U.S. workers who are qualified and who will be available to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. *See* 20 CFR 655.1(a) and 655.100.

Allowable Meal Charge

H–2A agricultural employers of workers in occupations other than herding or production of livestock on the range must offer and provide each worker three meals per day or provide the workers free and convenient cooking facilities.[1] *See* § 655.122(g). Where the employer provides the meals, the job offer must state the charge, if any, to the worker for such meals. *Id.* The amount of meal charges is governed by § 655.173.

By regulation, DOL has established the methodology for determining the maximum amount that H–2A agricultural employers may charge workers for providing them with three meals per day. *See* § 655.173(a). This methodology allows for annual adjustments of the previous year's maximum allowable charge based on the updated Consumer Price Index for All Urban Consumers for Food (CPI–U for Food), not seasonally adjusted. *Id.* The maximum amount employers may charge workers for providing meals is adjusted annually by the 12-month percentage change in the CPI–U for Food for the prior year (*i.e.,* between December of the year just concluded and December of the prior year). *Id.* The Office of Foreign Labor Certification (OFLC) Certifying Officer may also permit an employer to charge workers a higher amount for providing them with three meals a day if the higher amount is justified and sufficiently documented by the employer, as set forth in § 655.173(b).

The percentage change in the CPI–U for Food between December 2018 and December 2019 was 1.8 percent.[2] Thus,

[1] H–2A employers must provide workers engaged in herding or the production of livestock on the range meals or food to prepare meals without charge or deposit charge. *See* 20 CFR 655.210(e).

[2] Consumer Price Index—December 2019, published January 14, 2020 at *https://www.bls.gov/news.release/cpi.nr0.htm.*

the annual update to the H–2A allowable meal charge is calculated by multiplying the current allowable meal charge ($12.46) by the 12-month percentage change in the CPI–U for Food between December 2018 and December 2019 ($12.46 × 1.018 = $12.68). Accordingly, the updated maximum allowable charge under §§ 655.122(g) and 655.173 is $12.68 per day, and an employer is not permitted to charge a worker more than $12.68 per day unless the OFLC Certifying Officer approves a higher charge, as authorized under § 655.173(b).[3]

Reimbursement for Travel-Related Subsistence

H–2B and H–2A employers must pay reasonable travel and subsistence costs, including the costs of meals and lodging, incurred by workers during travel to the worksite from the place from which the worker has come to work for the employer and from the place of employment to the place from which the worker departed to work for the employer, as well as any such costs incurred by the worker incident to obtaining a visa authorizing entry to the United States for the purpose of H–2A or H–2B employment. *See* §§ 655.122(h)(1)–(2) and 655.20(j)(1)(i)–(ii).

Specifically, an H–2A employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of daily travel-related subsistence between the employer's worksite and the place from which the worker has come to work for the employer, if the worker completes 50 percent of the work contract period, the employer must provide (or pay at the time of departure) the worker's return costs, upon the worker completing the contract or being dismissed without cause. *See* § 655.122(h)(1)–(2).

Similarly, an H–2B employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of transportation and daily subsistence between the employer's worksite and the place from which the worker has come to work for the employer if the worker completes 50 percent of the job order period and upon the worker completing the job order period or being dismissed early (for any reason), return costs. *See* § 655.20(j)(1)(i)–(ii).

The minimum amount of daily travel subsistence expense for meals for which a worker is entitled to reimbursement must be at least as much as the employer would charge for providing the worker with three meals per day during employment (if applicable). Under no circumstances may the employer reimburse workers less than the amount permitted under § 655.173(a) (*i.e.,* the current year's daily meal charge amount of $12.68). The maximum amount an employer is required to reimburse workers for daily travel-related subsistence, as evidenced with receipts, is equal to the standard Continental United States (CONUS) per diem rate, as established by the General Services Administration (GSA) at 41 CFR part 301, formerly published in Appendix A and now found at *https://www.gsa.gov/travel/plan-book/per-diem-rates. See* Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging, 84 FR 10838 (Mar. 22, 2019) (2019 Update). The standard CONUS meals and incidental expenses rate is $55.00 per day for 2020.[4] Workers who qualify for travel reimbursement are entitled to reimbursement for meals up to the standard CONUS meals and incidental expenses rate when they provide receipts. In determining the appropriate amount of reimbursement for meals for less than a full day, the employer may limit the meal expense reimbursement, with receipts, to 75 percent of the maximum reimbursement for meals, or $41.25, based on the GSA per diem schedule. *See,* 2019 Update, 84 FR at 40413. If a worker does not provide receipts, the employer is not obligated to reimburse above the minimum stated at § 655.173, as specified above.

If transportation and lodging are not provided by the employer, the amount an employer must pay for transportation and, where required, lodging must be no less than (and is not required to be more than) the most economical and reasonable costs. The employer is responsible for those costs necessary for the worker to travel to the worksite if the worker completes 50 percent of the work contract period but is not responsible for unauthorized detours. The employer also is responsible for the costs of return transportation and subsistence, including lodging costs where necessary, as described above. These requirements apply equally to instances where the worker is traveling within the U.S. to the employer's worksite. *See* §§ 655.122(h)(1)–(2) and 655.20(j)(1)(i)–(ii).

For further information on when the employer is responsible for lodging costs, please see DOL's H–2A Frequently Asked Questions on Travel and Daily Subsistence, on OFLC's website at *https://www.foreignlaborcert.doleta.gov/.*

Signed:

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–05775 Filed 3–19–20; 8:45 am]

BILLING CODE 4510–FP–P

[3] In 2019, the maximum allowable charge under 20 CFR 655.122(g) and 655.173 was $12.46 per day. 84 FR 10838 (Mar. 22, 2019).

[4] Maximum Per Diem Reimbursement Rates for the Continental United States (CONUS), 84 FR 40413 (August 14, 2019); *see also https://www.gsa.gov/travel/plan-book/per-diem-rates/mie-breakdown.*

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health; Meeting

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice; meeting.

SUMMARY: Announcement of meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

DATES: The Advisory Board will meet April 15–16, 2020, via teleconference, from 11:00 a.m. to 5:00 p.m. Eastern time both days.

ADDRESSES: Submission of comments, requests to speak, and materials for the record: You must submit comments, materials, and requests to speak at the Advisory Board meeting by April 8, 2020, identified by the Advisory Board name and the meeting date of April 15–16, 2020, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, for example ''Request to Speak: Advisory Board on Toxic Substances and Worker Health'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW, Washington, DC 20210.

Instructions: Your submissions must include the Agency name (OWCP), the committee name (the Advisory Board), and the meeting date (April 15–16, 2020). Due to security-related procedures, receipt of submissions by regular mail may experience significant

delays. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OWCP will make available publicly, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Laura McGinnis, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 693–4672; email *Mcginnis.Laura@DOL.GOV.*

SUPPLEMENTARY INFORMATION: The Advisory Board will meet via teleconference: Wednesday, April 15, 2020, from 11:00 a.m. to 5:00 p.m. Eastern time; and Thursday, April 16, 2020, from 11:00 a.m. to 5:00 p.m. Eastern time. The teleconference number and other details for participating remotely will be posted on the Advisory Board's website, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

Public comment session: Wednesday, April 15, 2020, from 3:30 p.m. to 5:00 p.m. Eastern time. Please note that the public comment session ends at the time indicated or following the last call for comments, whichever is earlier. Members of the public who wish to provide public comments should plan to call in to the public comment session at the start time listed.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; (5) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and (6) such other matters as the Secretary considers appropriate. The Advisory Board sunsets on December 19, 2024.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Review and follow-up on Advisory Board's previous recommendations, data requests, and action items;
- Discussions from Advisory Board working groups;
- Review of claims;
- Review of public comments;
- Review of Board tasks, structure and work agenda;
- Consideration of any new issues; and
- Public comments.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP posts the transcripts and minutes on the Advisory Board web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions and Access to Public Record

Advisory Board meetings: All Advisory Board meetings are open to the public. Information on how to participate in the meeting remotely will be posted on the Advisory Board's website.

Submission of comments: You may submit comments using one of the methods listed in the **SUMMARY** section. Your submission must include the Agency name (OWCP) and date for this Advisory Board meeting (April 15–16, 2020). OWCP will post your comments on the Advisory Board website and provide your submissions to Advisory Board members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays.

Requests to speak and speaker presentations: If you want to address the Advisory Board at the meeting you must submit a request to speak, as well as any written or electronic presentation, by April 8, 2020, using one of the methods listed in the **SUMMARY** section. Your request may include:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The Advisory Board Chair may grant requests to address the Board as time and circumstances permit.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information regarding this meeting, you may contact Michael Chance, Designated Federal Officer, at *chance.michael@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2020–05943 Filed 3–19–20; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–027]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We are planning to request that the Office of Management and Budget (OMB) renew its approval for us to engage in the following information collection consisting of National Archives Trust Fund (NATF) order forms for genealogical research in the National Archives. The NATF forms included in this information collection are: NATF 84, National Archives Order for Copies of Land Entry Files; NATF 85, National Archives Order for Copies of Pension or Bounty Land Warrant Applications; and NATF 86, National Archives Order for Copies of Military Service Records. We invite you to comment on the proposed information collection.

DATES: We must receive comments in writing on or before May 19, 2020.

ADDRESSES: Comments should be sent by email to *tamee.fechhelm@nara.gov,*

by mail to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001, or by fax to 301.837.0319.

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by phone at 301.837.1694 or by email at *tamee.fechhelm@nara.gov* with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for us to properly performance our functions; (b) the accuracy of our estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through information technology; and (e) whether small businesses are affected by these collections. The comments you submit will be summarized and included in our request that OMB renew their approval of this information collection. All comments will become a matter of public record. In this notice, we are soliciting comments concerning the following information collection:

Title: Order Forms for Genealogical Research in the National Archives.

OMB number: 3095–0027.

Agency form numbers: NATF Forms 84, 85, and 86.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 7,139.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 1,190.

Abstract: We need to obtain specific information from researchers who wish to request copies of these records, in order to search for the specific records they seek and to handle their order and payment for copies of the records. We use these standardized forms as the means of collecting the needed information so that we can handle the volume of requests we receive for these records in a timely fashion. Researchers provide credit card information to authorize billing or request expedited mailing of the copies. They may use paper or electronic versions of the forms, or may fill them out and order online through our Order Online! service at *http://www.archives.gov/research_room/obtain_copies/military_and_genealogy_order_forms.html.*

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2020–05824 Filed 3–19–20; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–70188; NRC–2020–0075]

In the Matter of Dr. Melinda Krahenbuhl, Reed Research Reactor, Portland, Oregon

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order to Dr. Melinda Krahenbuhl to suspend NRC License No. SOP–70678–1 issued to Dr. Krahenbuhl pursuant to NRC regulations and prohibit Dr. Krahenbuhl's involvement in NRC-licensed activities for a period of 3 years. The Order is effective on the date of issuance.

DATES: The Order was issued on March 16, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0075 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0075. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert Fretz, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9235, email: *Robert.Fretz@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 17th day of March 2020.

For the Nuclear Regulatory Commission.

George A. Wilson,

Director, Office of Enforcement.

Attachment—Order Suspending NRC License and Prohibiting Involvement In NRC-Licensed Activities

United States of America Nuclear Regulatory Commission

In the Matter of: Dr. Melinda Krahenbuhl, IA–19–035

Order Suspending NRC License and Prohibiting Involvement In NRC-Licensed Activities

I

Dr. Melinda Krahenbuhl is employed as the Director, Reed Research Reactor (RRR), which is located on the campus of Reed College in Portland, Oregon. Dr. Krahenbuhl holds U.S. Nuclear Regulatory Commission (NRC or Commission) License No. SOP–70678–1 issued with an effective date of December 13, 2017, pursuant to Part 55 of Title 10 of the *Code of Federal Regulations* (10 CFR). The RRR licensee, Reed College, holds Renewed Facility Operating License (FOL) No. R–112 (Docket No. 50–00288) issued by the NRC on April 24, 2012, pursuant to 10 CFR parts 30, 50, and 70. The license authorizes the operation of the RRR facility in accordance with the conditions specified therein.

II

Two investigations were conducted by the NRC Office of Investigations (OI) related to the operation of Reed College's RRR facility. The purpose of the investigations was to determine whether Dr. Krahenbuhl, as the RRR Director, willfully provided to the NRC incomplete or inaccurate information associated with an application of a student (Student #1) for a 10 CFR part 55 reactor operator (RO) license, and

whether the RRR Director willfully provided incomplete or inaccurate information regarding a second student (Student #2) who applied for a 10 CFR part 55 license (a senior reactor operator license). One of the investigations also considered whether the RRR Director willfully violated an RRR Renewed FOL Condition and other NRC requirements regarding facility access control. The investigations were completed on March 15, 2019 (OI Investigation 4–2016–022), and September 26, 2019 (OI Investigation 4–2017–023).

Based on OI Investigation 4–2016–022, the NRC determined that Dr. Melinda Krahenbuhl, as the RRR Director, deliberately provided incomplete and inaccurate information to the NRC regarding a student's application, dated April 21, 2015, for a RO license pursuant to 10 CFR part 55. Based on OI Investigation 4–2017–023, the NRC determined that Dr. Krahenbuhl deliberately provided incomplete and inaccurate information to the NRC regarding a different student on May 7, 2015; and engaged in deliberate misconduct by deliberately violating facility access control procedures that implement the RRR physical security plan, causing the licensee to violate Reed College Renewed FOL R–112, Condition 2.C.(3). That condition requires Reed College to maintain and fully implement all provisions of the RRR physical security plan.

In a letter dated November 20, 2019, Agencywide Documents Access and Management System (ADAMS) Accession No. ML20044E056, the NRC notified Dr. Krahenbuhl of three apparent violations of 10 CFR 50.5, ''Deliberate misconduct,'' which the NRC was considering for escalated enforcement action in accordance with the NRC Enforcement Policy. This rule prohibits an employee of an NRC licensee (*i.e.,* Reed College) from engaging in deliberate misconduct that causes the NRC licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; it also prohibits a licensee employee from deliberately submitting to the NRC information that the person knows to be incomplete or inaccurate in some material respect. In the letter, the NRC provided Dr. Krahenbuhl an opportunity to address the apparent violations in a predecisional enforcement conference (PEC). On January 10, 2020, the NRC held a PEC at its NRC Headquarters office in Rockville, Maryland, with Dr. Krahenbuhl and her attorney to discuss the apparent violations.

OI's investigation (4–2016–022) documented that on March 10, 2015, a physician contracted by Reed College conducted a medical examination of a student at Reed College (Student #1) applying for an NRC RO license. The medical examination was conducted pursuant to 10 CFR 55.21, ''Medical examination,'' whereby the physician is to determine whether the applicant for a license meets the requirements of 10 CFR 55.33(a)(1). Section 55.33(a)(1) requires that the applicant's medical condition and general health not ''adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety.'' The physician determined that the applicant needed to undergo a psychological evaluation before determining whether the applicant met the requirements of Section 55.33(a)(1) and was medically qualified for the position of RO. The physician also determined that, related to the applicant's pulmonary condition, the applicant was medically qualified from a physical and internal medicine standpoint with a ''solo operation is not authorized'' restriction. However, a determination that Student #1 met the medical requirements for licensed operations still required further psychological evaluation. The physician provided three documents explaining his determinations to Dr. Krahenbuhl.

Despite receiving the physician's supporting documentation, Dr. Krahenbuhl disregarded the physician's medical determination and, contrary to 10 CFR 50.5(a)(2) and 55.23 requirements, signed and certified the applicant's NRC Form 396 on April 21, 2015, attesting that the applicant met the medical requirements for licensed operators at RRR with a ''solo operation is not authorized'' restriction based on a pulmonary condition. In addition, she certified that a physician determined that the applicant's physical condition and general health were such that the applicant's medical condition would not be expected to cause operational errors endangering public health and safety. The applicant had not received the psychological evaluation that the physician stated was required prior to satisfying the medical requirements for an RO license. Dr. Krahenbuhl then submitted the NRC Form 396 containing incomplete and inaccurate information to the NRC. Furthermore, the NRC Form 396, which the NRC received on April 28, 2015, did not include the appropriate supporting medical evidence provided by the physician for a ''solo operation is not authorized'' restriction, as required by 10 CFR 55.23(b). Student #1 was permitted to take the written and operational portion of the RO examination in May 2015, in part, because a pulmonary condition was the only medical issue known to the NRC that could explain the ''solo operation is not authorized'' restriction identified on the student's application when the RO license examination was administered. The investigation further noted that the assigned NRC examiner made multiple attempts to obtain the required supporting medical documentation that would explain the applicant's ''solo operation is not authorized'' designation; however, Dr. Krahenbuhl did not provide the requested documentation to the NRC until June 11, 2015. It was at that time the NRC first became aware of additional medical information and of the physician's determination that the applicant needed further evaluation before being deemed medically qualified for the position of RO. Had the NRC received the supporting medical evidence when Dr. Krahenbuhl submitted the NRC Form 396 for Student #1 in April 2015, Student #1 would not have been permitted to take the RO examination without further NRC evaluation.

OI Investigation No. 4–2017–023 documented that, on April 9, 2015, a second Reed College student (Student #2) who was a licensed RO at the RRR was involved in an incident that caused the student to take a medical leave of absence from Reed College. Student #2 remained on the medical leave of absence from April 9, 2015, through January 2017. On April 10, 2015, Dr. Krahenbuhl removed Student #2's unescorted access to the RRR and removed the student from the control room access list (CRAL).

Shortly after the April 9, 2015, incident, Student #2 and Dr. Krahenbuhl had a conversation where they, in part, discussed the student's ability to take the upcoming senior reactor operator (SRO) licensing exam. Student #2 testified that, during this conversation, the student disclosed certain medical information to Dr. Krahenbuhl. As the RRR Director, Dr. Krahenbuhl knew that this potentially disqualifying information would likely cause the student not to meet certain requirements of the American National Standards Institute (ANSI)/American Nuclear Society (ANS) standard. (Reed College also incorporated ANSI/ANS 15.4–1988 (R1999), ''Selection and Training of Personnel for Research Reactors,'' in the technical specifications (Section 6.1.4) of its license.)

On May 7, 2015, the day before Student #2's SRO license exam at RRR, Dr. Krahenbuhl met with an NRC examiner. Dr. Krahenbuhl informed the NRC examiner that Student #2 was fit to take the exam. Although there were several opportunities to do so, Dr. Krahenbuhl did not disclose to the NRC examiner the potentially disqualifying information, that Student #2 was on medical leave at the time, and that Dr. Krahenbuhl had removed the student's unescorted access to the RRR. Because of Dr. Krahenbuhl's actions as described above, Student #2 was permitted to take the SRO exam on May 8, 2015, which Student #2 ultimately passed, and the NRC issued an SRO license to the individual on July 30, 2015, based on incomplete and inaccurate information. The NRC did not become aware of the incomplete and inaccurate information until February 2017, when Dr. Krahenbuhl submitted an NRC Form 396 with updated medical information for Student #2 and indicated that it was ''for information only.'' Had Dr. Krahenbuhl provided the NRC with complete and accurate information about Student #2 before the SRO exam, the student would not have been allowed to take the exam or continue to hold an RO license without further NRC evaluation.

After Dr. Krahenbuhl removed Student #2's unescorted access to the RRR on April 10, 2015, when the student took a leave of absence, she gave Student #2 a key to the RRR facility on May 8, 2015, to facilitate the administration of the SRO license exam. By giving Student #2 the key, Dr. Krahenbuhl provided Student #2 unescorted access to the facility, including access to vital areas, contrary to the licensee's procedures that required Student #2 to be escorted in the vital areas because Student #2 was not on the unescorted access lists for the RRR Control Room or Vital Area. These procedures implement requirements of the RRR physical security plan. Reed College Renewed FOL R–112, License Condition 2.C.(3), requires the licensee to maintain and fully implement all provisions of the physical security plan. Thus, Dr. Krahenbuhl's deliberate violation of the facility access control procedures that implement the RRR physical security plan caused the licensee to violate License Condition 2.C.(3).

During the PEC, Dr. Krahenbuhl acknowledged (through her representative) that the information regarding Student #1 and Student #2 that she provided to the NRC was not complete and accurate in all material respects; however, she stated that she did not intend to deliberately mislead the NRC. The NRC reviewed the information provided at the PEC with the information from the investigations and determined that Dr. Krahenbuhl's assertion that her actions were not willful is not credible. A preponderance of the evidence in the record demonstrates that she, in fact, knew that the medical fitness information she provided to the NRC regarding Student #1 and Student #2 was not complete and accurate in all material respects.

Accordingly, the NRC has determined that Dr. Krahenbuhl's actions were a violation of 10 CFR 50.5, ''Deliberate misconduct.'' The NRC considers Dr. Krahenbuhl's actions significant because she deliberately misled the NRC regarding the qualifications of applicants for an RO and an SRO license. The misleading information and information that was withheld was material to the NRC's determination whether the applicants' medical conditions and general health would adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety. The NRC also considers deliberate violations of its facility security and access control requirements significant because persons granted unescorted access to the control room and other vital areas of the RRR facility must demonstrate a pattern of trustworthy and reliable behavior to provide the assurance that the facility is protected from potential radiological risk from insider threats, and that their actions will not adversely impact the common defense and security or the public health and safety.

III

Based on the above, the NRC has determined that Dr. Melinda Krahenbuhl, as the Director of the RRR, provided incomplete and inaccurate information to the NRC on multiple occasions in violation of 10 CFR 50.5(a)(2). Dr. Krahenbuhl also engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(1) by deliberately violating facility access control procedures that implement the RRR physical security plan, causing the licensee to violate Renewed FOL R–112, License Condition 2.C.(3).

Consequently, given the significance of the underlying issues, Dr. Krahenbuhl's position within the Reed College organization, and the deliberate nature of her actions, the NRC lacks the requisite reasonable assurance that Dr. Krahenbuhl can conduct licensed activities in compliance with the Commission's requirements and that the health and safety of the public will be protected if Dr. Krahenbuhl were permitted at this time to be involved in NRC-licensed activities. Therefore, (1) License No. SOP–70678–1 issued to Dr. Melinda Krahenbuhl pursuant to 10 CFR part 55 is hereby suspended for 3 years; and (2) Dr. Krahenbuhl is further prohibited from any involvement in NRC-licensed activities for a period of 3 years from the effective date of this Order. Additionally, Dr. Krahenbuhl is required to notify the NRC of her first employment in NRC-licensed activities following the prohibition period. Furthermore, I find that the significance of Dr. Krahenbuhl's willful misconduct described above is such that the public health, safety, and interest require that this Order be effective on the date of issuance.

IV

Accordingly, pursuant to sections 104c, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 55.61, *It is Hereby Ordered, Effective Upon the Date of Issuance, That:*

1. NRC License No. SOP–70678–1 issued to Dr. Melinda Krahenbuhl pursuant to 10 CFR part 55 is suspended for 3 years;

2. Dr. Melinda Krahenbuhl is prohibited for 3 years, from the effective date of this Order, from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities (with a limited exception as explained more fully below). NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. In relation to NRC-licensed activities at the RRR facility, for a period of 90 days after issuance of this order, Dr. Krahenbuhl is permitted to respond to questions from the President of the College (*i.e.,* Level 1 individual responsible for the reactor facility's license), Dean of the Faculty, or the Vice President & Treasurer of the College, for the limited purpose of facilitating the safe and orderly transition of RRR-related licensed activities;

3. If Dr. Melinda Krahenbuhl is currently involved in NRC-licensed activities at any other NRC licensee, contractor, vendor, or any other organization, she must immediately cease those activities and inform the NRC of the name, address, and telephone number of the NRC licensee, contractor, vendor, or any other

organization, and provide a copy of this order to those entities;

4. For a period of 1 year after the 3-year period of prohibition has expired, Dr. Melinda Krahenbuhl shall, within 20 days of acceptance of her first employment offer involving NRC-licensed activities, as defined in paragraph IV.2 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or the entity where she is, or will be, involved in the NRC-licensed activities. In the notification, Dr. Krahenbuhl shall include a statement of her commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that she will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Dr. Melinda Krahenbuhl of good cause.

V

In accordance with 10 CFR 2.202, Dr. Melinda Krahenbuhl must submit a written answer to this Order under oath or affirmation within 30 days of its issuance. Dr. Krahenbuhl's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. In addition, Dr. Krahenbuhl and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its issuance. If a person other than Dr. Krahenbuhl requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f). Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate

as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by Dr. Melinda Krahenbuhl or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date of issuance without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 16th day of March 2020.

For the Nuclear Regulatory Commission.

George A. Wilson,

Director Office of Enforcement.

[FR Doc. 2020–05925 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–00288; NRC–2020–0060]

In the Matter of Reed College, Reed Research Reactor, Portland, Oregon

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order (CO) to Reed College, Portland, Oregon as a result of a successful alternative dispute resolution (ADR) mediation session held on January 23, 2020. The CO confirms commitments agreed to during the ADR mediation and, based on the completion of the actions described in the CO, the NRC agrees to not pursue any further enforcement action for the apparent violations identified in the NRC's November 19, 2019, letter to Reed College, and will not issue a Notice of Violation or seek to impose civil penalties in connection with the apparent violations. The Order is effective on the date of issuance.

DATES: The Order was issued on March 16, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0060 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0060. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert Fretz, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9235, email: *Robert.Fretz@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 17th day of March 2020.

For the Nuclear Regulatory Commission.

George A. Wilson,

Director, Office of Enforcement.

Attachment—Confirmatory Order Modifying License

United States of America Nuclear Regulatory Commission

In the Matter of Reed College, Reed Research Reactor
Docket No. 50–288
License No. R–112
EA–19–071

Confirmatory Order Modifying License Effective Upon Issuance

I

Reed College (hereafter, Reed or the licensee) holds Renewed Facility Operating License No. R–112 (Docket No. 50–288) issued on April 24, 2012, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Parts 30, 50 and 70 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the operation of the Reed Research Reactor (facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Portland, Oregon.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on January 23, 2020.

II

On April 8, 2016, the NRC's Office of Investigations (OI) opened an investigation (OI Case No. 4–2016–022) at Reed to determine whether the Reed Research Reactor Director (Director) willfully documented and submitted to the NRC incomplete or inaccurate information associated with an application for a 10 CFR part 55, reactor operator license. A second investigation (OI Case No. 4–2017–023) was opened on March 28, 2017, to determine whether the Director willfully provided incomplete or inaccurate information to the NRC regarding a second application for a 10 CFR part 55 license (a senior reactor operator license). Based on the evidence developed during the two investigations, the NRC identified three apparent violations. The apparent violations involve the licensee's failure to provide information to the Commission that is complete and accurate in all material respects, in accordance with 10 CFR Section 50.9(a), ''Completeness and accuracy of information,'' and failure to follow NRC Order EA–07–074, ''Issuance of Order Imposing Fingerprinting and Criminal History Records Check Requirements for

Unescorted Access to Research and Test Reactors,'' and Renewed Operating License R–112, License Condition 2.C.(3). By letter, dated November 19, 2019, Agencywide Documents Access and Management System (ADAMS) Accession No. ML19330E777, the NRC notified Reed of the results of the investigation and provided the licensee an opportunity to: (1) respond in writing to the apparent violations addressed in the letter; (2) request a predecisional enforcement conference to be held at NRC Headquarters in Rockville, MD; or (3) request ADR mediation with the NRC in an attempt to resolve any disagreements regarding whether violations occurred, appropriate enforcement actions, and appropriate corrective actions.

In response to the NRC's offer, Reed requested the use of ADR mediation to resolve differences it had with the NRC. On January 23, 2020, the NRC and the licensee met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This CO is issued pursuant to the agreement reached during the ADR process.

III

During the ADR session, the licensee and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

The NRC acknowledges and gives Reed credit for the following corrective actions:

1. Reed amended Standard Operating Procedure (SOP) 63, which describes what licensed operators need to do to stay in requalification, to ensure that physical examinations for operators are normally performed by a healthcare provider familiar with the applicable requirements for reactor operators, and to clarify and to reaffirm the reporting obligations of licensed operators regarding changes in medication and permanent physical or mental health conditions.

2. Reed provided training and coaching to the Director regarding the need to provide complete and accurate information on license applicants to the NRC.

3. Reed made changes to SOP 64 to empower the Director or Reactor Operations Manager (ROM) to impose an administrative hold on operator access to the facility for various reasons, including changes in medical prescriptions. In addition, Reed added a mandatory medical release form that licensed operators must sign allowing professional health and counseling center personnel to disclose any relevant health information about operators to the Director.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following (the parties agreed to the following terms and conditions to be implemented by July 1, 2020, unless otherwise noted):

A. Reed agrees to institute a new SOP provision requiring that the results from the physical examinations of operator applicants be sent to the psychologist who interprets the Minnesota Multiphasic Personality Inventory test results and/or interviews such applicants for mental fitness.

B. Reed will amend SOP 64, which covers the working environment for staff personnel with unescorted access or licensed operators, to (i) ensure that the NRC-approved reviewing official is notified when any such person takes a leave of absence (''LOA''); (ii) automatically suspend the facility and controlled area (CA) access of any such person who is on an LOA; (iii) provide email notice to staff identifying any such person who is on an LOA and specifying their change in status; and (iv) require any such person returning from an LOA to pass both a new physical and a new psychological examination before their facility and CA access status can be renewed. If absent for more than one year under favorable conditions FBI fingerprint and background checks will be conducted. If LOA is for unfavorable conditions FBI fingerprinting and background checks will be conducted regardless of length of LOA. Reasons for removal from unescorted access status must be documented and retained for three years after such person's status change.

Reed will make additional changes to SOP 64 to change the terminology so that it is the NRC-approved reviewing official who will be empowered to impose an administrative hold on operator access to the facility for various reasons, including changes in medical prescriptions.

C. Reed will amend SOP 65, which includes provisions regarding security and visitors, to include provisions similar to those in SOP 64 terminating the facility access of persons with unescorted access and licensed operators who have taken an administrative leave and giving the NRC-approved reviewing official discretion to impose an administrative hold on unescorted access to the facility.

D. To reinforce existing security requirements, Reed will further amend Section 65.9 of SOP 65 to provide that the Controlled Access List (''CAL'') and Facility Access List (''FAL'') shall be reviewed for accuracy, updated as necessary, and re-posted in copy signed and dated by the NRC-approved reviewing official at least once every thirty (30) days. In addition, Reed will amend Section 65.7.1 of SOP 65 to specifically require that personnel will not be issued keys to the Controlled Areas or Facility unless they are currently on the CAL or FAL, and to require that keys be properly logged out no matter how short the duration for which the key is being used. SOP 65 will be modified to require a new physical and psychological evaluation for operators returning from a LOA, consistent with SOP 64 and Section III.B of this Order.

E. Within 60 days of issuance of the CO, Reed will take the following additional measures to assure appropriate oversight of the Reed Research Reactor Program:

1. The president of the college, who is the individual designated as the Level 1 Unit or Organizational Head under ANSI Standard 15.4, shall, at a minimum, engage in the following oversight activities:

a. Review all outside audits and NRC inspections of the reactor program and meet with the Dean of the Faculty, the Vice-President and Treasurer, and the Director to identify and ensure implementation of appropriate corrective actions;

b. Meet on a quarterly basis with the Dean of Faculty, to ensure compliance with any outstanding corrective actions and to identify, discuss and take appropriate measures to address any existing operational, security or regulatory concerns regarding the Reed Research Reactor Program.

2. The Dean of the Faculty, who supervises the Director, shall, at a minimum, engage in the following additional oversight activities:

a. Receive copies of and review all correspondence between the Director and the NRC;

b. Review all outside audits and NRC inspections of the reactor program;

c. Ensure the receipt and transmission to the Director of responses for the required quarterly inquiries regarding the fitness for duty of each student allowed unescorted access to the facility that are made to supervisory health and counseling center personnel, Director of Community Safety or appropriate faculty members, document the responses to these emails from each department that receives such required

inquiries; and document actions taken as a result of these responses. These responses and actions taken shall be made available for NRC review upon request. Additionally, Reed shall update the Reed Reactor Security Plan to fully document the request, response, and resolution processes of this quarterly action.

d. Meet on a monthly basis with the Director to ensure compliance with any outstanding corrective actions and to identify, discuss and take appropriate measures to address any existing operational, security or regulatory concerns regarding the Reactor Program.

F. To reinforce knowledge of and compliance with requirements for medical qualifications and completeness and accuracy of reported information, Reed will take the following additional actions:

1. Within 60 days of the issuance of the CO, the Director will meet with each licensed operator regarding the facts and lessons learned from the events that gave rise to the CO. The meeting will stress the importance of reporting any physical or mental health conditions, and any changes in conditions or treatment. The meeting will also address the importance of adhering to procedure, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations. Documentation shall be kept for attendance at the meetings.

2. Reed will incorporate read and sign training on reporting physical or mental health conditions, and any changes in conditions or treatment, into reactor operator applicant training and requalification training. This training will also address the importance of adhering to procedures, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations.

3. Reed will conduct training for all professional staff in the health and counseling center on the physical and mental health condition requirements and the reporting obligations for reactor operators. After July 1, 2020 all new professional employees will receive this training as part of orientation. This training will also address the importance of adhering to procedure, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations.

4. Reed will submit a presentation for consideration to be included in the 2020 TRTR annual conference.

a. By July 1, 2020, Reed will submit a draft of the presentation to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, for review.

b. The presentation will summarize the conditions leading to the CO that existed at Reed and emphasize the need for research and test reactor (RTR) licensees to be complete and accurate in the submission of license applications and in all other dealings with the NRC.

c. The presentation will also include lessons-learned regarding EA–19–071.

d. Within 15 calendar days of the NRC's receipt of the presentation submitted by Reed, the NRC will provide its comments, if any, to the licensee.

5. By June 1, 2020, Reed will submit an article to be considered for inclusion in the TRTR newsletter.

a. By May 1, 2020, Reed will submit a draft of the article to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, for review.

b. The article will summarize the conditions leading to the confirmatory order that existed at Reed and emphasize the need for RTR licensees to be complete and accurate in the submission of license applications and in all other dealings with the NRC.

c. The article will also include lessons-learned regarding EA–19–071.

d. Within 15 calendar days of the NRC's receipt of the draft article submitted by Reed, the NRC will provide its comments, if any, to Reed College.

G. Beyond the foregoing actions, Reed will also implement a new SOP 68 specifically addressing the hiring, training and licensing of reactor operators. This new SOP 68 shall, at a minimum, require:

1. The formation of a review committee of appropriate personnel, including the Director, ROM, Reactor Safety Officer (''RSO''), and one non-Reed member of the Reactor Operations Committee, to review and evaluate documents submitted to the NRC to ensure that each reactor operator license application (whether for initial qualification or requalification of a reactor operator or senior reactor operator license) is complete and fully supported by the required documentation.

2. The preservation of documents supporting each reactor operator license application, including (i) security information for each applicant; (ii) all medical and/or psychological information (which shall be preserved in accordance with applicable legal privacy requirements); and (iii) all submissions to the NRC relating to any specific operator license application. Such documents shall be preserved consistent with NRC requirements.

3. The succinct and accurate documentation of the reasons underlying any determinations to limit facility or CA access of a staff person or licensed operator in connection with a leave of absence or administrative hold and whether and why the NRC was or was not notified of the determination.

4. Read and sign training materials on reporting physical or mental health conditions, and any changes in conditions or treatment, as noted in Section III.F above.

H. To further assure overall compliance, Reed will also expand its existing external audit procedures so that, starting in the audit year 2020, each such audit will include a review of all reactor operators' medical and psychological records and the reporting of those records to the NRC.

1. The initial external audit following the issuance of the confirmatory order will cover medical and security records for the previous 5 years and operations for the prior year. Subsequent audits will cover back to the last audit.

2. The external auditor shall not have been a Reed employee for at least three years. The external auditor(s) shall be experienced in medical, security and operations.

I. Reed will provide notice to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, NRR, that it has completed the measures specified in the paragraphs above.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in the NRC's November 19, 2019, letter to Reed, and will not issue a Notice of Violation or seek to impose civil penalties in connection with the apparent violations. The NRC and Reed also agree to disagree regarding the willfulness of the apparent violations described in the November 19, 2019, letter.

Additionally, as part of its deliberations and consistent with the philosophy of the Enforcement Policy, Section 3.3, ''Violations Identified Because of Previous Enforcement Action,'' the NRC will consider enforcement discretion for violations with similar root causes that occur prior to or during implementation of the corrective actions specified in this CO.

In the event of the transfer of the operating license of Reed Research Reactor to another entity, the terms and conditions set forth hereunder shall

continue to apply to the Reed Research Reactor and accordingly survive any transfer of ownership or license.

On February 24, 2020, Reed consented to issuing this CO with the commitments, as described in Section V below. Reed further agreed that this CO is to be effective upon issuance, the agreement memorialized in this CO settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that Reed's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Reed's commitments be confirmed by this CO. Based on the above and Reed's consent, this CO is effective upon issuance.

By no later than thirty (30) days after the completion of the commitments specified in Section V, Reed is required to notify the NRC in writing and summarize its actions.

V

Accordingly, pursuant to Sections 104c, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30, 50 and 70, *It is Hereby Ordered, Effective Upon Issuance, that License No. R–112 is Modified as Follows:*

A. Reed agrees to institute a new SOP provision requiring that the results from the physical examinations of operator applicants be sent to the psychologist who interprets the Minnesota Multiphasic Personality Inventory test results and/or interviews such applicants for mental fitness.

B. Reed will amend SOP 64, ''Work Environment,'' which covers the working environment for Reed Research Reactor personnel with unescorted access or licensed operators, to (i) ensure that the NRC-approved reviewing official is notified when any such person takes a leave of absence (''LOA''); (ii) automatically suspend the facility and controlled area (CA) access of any such person who is on an LOA; (iii) provide email notice to other Reed Research Reactor personnel with unescorted access or licensed operators identifying any such person who is on an LOA and specifying their change in status; and (iv) require any such person returning from an LOA to pass both a new physical and a new psychological examination before their facility and CA access status is renewed. If absent for more than one year under favorable conditions, Federal Bureau of Investigation (FBI) fingerprint and background checks will be conducted. If LOA is for unfavorable conditions, FBI fingerprinting and background checks will be conducted regardless of length of LOA. Reasons for removal from unescorted access status must be documented and retained for three years after such person's status change.

Reed will make additional changes to SOP 64 to change the terminology so that it is the NRC-approved reviewing official who will be empowered to impose an administrative hold on operator access to the facility for various reasons, including changes in medical prescriptions.

C. Reed will amend SOP 65, ''Security and Visitors,'' which includes provisions regarding security and visitors, to include provisions similar to those in SOP 64 terminating the facility access of persons with unescorted access and licensed operators who have taken an administrative leave and giving the NRC-approved reviewing official discretion to impose an administrative hold on unescorted access to the facility.

D. To reinforce existing security requirements, Reed will further amend Section 65.9, ''Unescorted Entry,'' of SOP 65 to provide that the Controlled Access List (''CAL'') and Facility Access List (''FAL'') shall be reviewed for accuracy, updated as necessary, and re-posted in a hardcopy format that is signed and dated by the NRC-approved reviewing official at least once every thirty (30) days. In addition, Reed will amend Section 65.7.1 (General Security Guidance) of SOP 65 to specifically require that personnel will not be issued keys to the CA or Facility unless they are currently on the CAL or FAL, and to require that keys be properly logged in and out no matter how short the duration for which the key is being used. SOP 65 will be modified to require a new physical and psychological evaluation for operators returning from a LOA, consistent with SOP 64 and Section V.B of this CO.

E. Within 60 days of issuance of the CO, Reed will take the following additional measures to assure appropriate oversight of the Reed Research Reactor Program:

1. The president of Reed, who is the individual designated as the Level 1 Unit or Organizational Head under American National Standards Institute/American Nuclear Society, ANSI/ANS 15.4–1988 (R1999), ''Standard for the Selection and Training of Personnel for Research Reactors,'' shall, at a minimum, engage in the following oversight activities:

a. Review all outside audits and NRC inspections of the reactor program and meet with the Dean of the Faculty, the Vice-President and Treasurer, and the Director to identify and ensure implementation of appropriate corrective actions;

b. Meet on a quarterly basis with the Dean of the Faculty to ensure compliance with any outstanding corrective actions and to identify, discuss, and take appropriate measures to address any existing operational, security, or regulatory concerns regarding the Reed Research Reactor Program.

2. The Dean of the Faculty, who supervises the Director, shall, at a minimum, engage in the following additional oversight activities:

a. Receive copies of and review all correspondence between the Director and the NRC;

b. Review all outside audits and NRC inspections of the reactor program;

c. Ensure the receipt and transmission to the Director of responses for the required quarterly inquiries regarding the fitness for duty of each student allowed unescorted access to the facility that are made to supervisory health and counseling center personnel, Director of Community Safety, or appropriate faculty members; document the responses to these emails from each department that receives such required inquiries; and document actions taken as a result of these responses. These responses and actions taken shall be made available for NRC review upon request. Additionally, Reed shall update the Reed Reactor Physical Security Plan to fully document the request, response, and resolution processes of this quarterly action.

d. Meet on a monthly basis with the Director to ensure compliance with any outstanding corrective actions and to identify, discuss, and take appropriate measures to address any existing operational, security, or regulatory concerns regarding the Reed Research Reactor Program.

F. To reinforce knowledge of and compliance with requirements for medical qualifications and completeness and accuracy of reported information, Reed will take the following additional actions:

1. Within 60 days of the issuance of the CO, the Director will meet with each licensed operator who is on campus for the current semester regarding the facts and lessons learned from the events that gave rise to the CO. For any licensed

operators participating in off-campus study programs during the current semester, the Director shall hold such meetings within 30 days following their return to campus. The meeting(s) will stress the importance of reporting any physical or mental health conditions, and any changes in conditions or treatment. The meeting(s) will also address the importance of adhering to procedure, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations. Documentation shall be kept for attendance at the meeting(s).

2. Reed will incorporate training (''read and sign'' training) on reporting physical or mental health conditions, and any changes in conditions or treatment, into reactor operator applicant training and requalification training. This training will also address the importance of adhering to procedures, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations. Read and sign training requires the individual(s) to sign and date a form acknowledging that they have read, understand, and agree to the policies and procedures discussed during the training.

3. Reed will conduct training for all professional staff in the health and counseling center on the physical and mental health condition requirements and the reporting obligations for reactor operators. After July 1, 2020, all new professional employees will receive this training as part of orientation. This training will also address the importance of adhering to procedure, ensuring that documents are complete and accurate, and potential consequences for engaging in willful violations.

4. Reed will submit a presentation for consideration to be included in the annual National Organization of Test, Research, and Training Reactors (TRTR) conference to be held in 2020.

a. By July 1, 2020, Reed will submit a draft of the presentation to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, NRR, for review.

b. The presentation will summarize the conditions leading to the confirmatory order that existed at Reed and emphasize the need for research and test reactor (RTR) licensees to be complete and accurate in the submission of license applications and in all other dealings with the NRC.

c. The presentation will also include lessons learned regarding EA–19–071.

d. Within 15 calendar days of the NRC's receipt of the presentation submitted by Reed, the NRC will provide its comments, if any, to the licensee.

5. By June 1, 2020, Reed will submit an article to be considered for inclusion in the TRTR newsletter.

a. By May 1, 2020, Reed will submit a draft of the article to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, NRR, for review.

b. The article will summarize the conditions leading to the confirmatory order that existed at Reed and emphasize the need for RTR licensees to be complete and accurate in the submission of license applications and in all other dealings with the NRC.

c. The article will also include lessons learned regarding EA–19–071.

d. Within 15 calendar days of the NRC's receipt of the draft article submitted by Reed, the NRC will provide its comments, if any, to Reed.

G. Beyond the foregoing actions, Reed will also implement a new SOP 68 specifically addressing the hiring, training, and licensing of reactor operators. This new SOP 68 shall, at a minimum, require:

1. The formation of a review committee of appropriate personnel, including the Director, ROM, Radiation Safety Officer, and one non-Reed member of the Reactor Operations Committee, to review and evaluate documents submitted to the NRC to ensure that each reactor operator license application (whether for initial qualification or requalification of a reactor operator or senior reactor operator license) is complete and fully supported by the required documentation.

2. The preservation of documents supporting each reactor operator license application, including (i) security information for each applicant; (ii) all medical and/or psychological information (which shall be preserved in accordance with applicable legal privacy requirements); and (iii) all submissions to the NRC relating to any specific operator license application. Such documents shall be preserved consistent with NRC requirements.

3. The succinct and accurate documentation of the reasons underlying any determinations to limit facility or CA access of staff or licensed operators in connection with an LOA or administrative hold and whether and why the NRC was or was not notified of the determination.

4. Read and sign training materials on reporting physical or mental health conditions, and any changes in conditions or treatment, as noted in Section V.F of this CO.

H. To further assure overall compliance, Reed will also expand its existing external audit procedures so that, starting in the audit year 2020, each such audit will include a review of all reactor operators' medical and psychological records and the reporting of those records to the NRC.

1. The initial external audit following the issuance of the CO will cover medical and security records for the previous five years and operations for the prior year. Subsequent audits will cover the time period dating back to the last audit.

2. The external auditor(s) shall not have been a Reed employee for at least three years. The external auditor(s) shall be experienced in NRC requirements concerning medical records, security, and operations.

I. Reed will provide notice to the Director, Division of Advanced Reactors and Non-power Production and Utilization Facilities, NRR, that it has completed the measures specified in the Section V paragraphs above.

This agreement is binding upon successors and assigns of Reed. The Director, Office of Enforcement may, in writing, relax or rescind any of the above conditions upon demonstration by Reed or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than Reed, may request a hearing within thirty (30) calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be

found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person other than Reed College requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing request is granted to a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 16th day of March 2020.

For the Nuclear Regulatory Commission.

George A Wilson,

Director Office of Enforcement.

[FR Doc. 2020–05894 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Automatic Depressurization System (ADS) and Core Makeup Tank (CMT) Design Parameters

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 176 and 175 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on March 11, 2020.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was designated License Amendment Request (LAR) 19–009 and submitted by letter dated September 30, 2019, and supplemented by letter dated December 19, 2019 (ADAMS Accession Nos. ML19273A953 and ML19353B752).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Alina Schiller, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8177; email: *Alina.Schiller@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing License Amendment Nos. 176 and 175 to COLs NPF–91 and NPF–92, respectively, and is granting an exemption from Tier 1 information in the plant-specific DCD for the AP1000. The AP1000 DCD is incorporated by reference in Appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR). The exemption, granted pursuant to paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' of 10 CFR part 52, Appendix D, allows the licensee to depart from the Tier 1 information. With the requested amendment, SNC sought proposed changes to revise automatic depressurization system (ADS) and core makeup tank (CMT) parameters. Specifically, the requested amendment required changes to reflect revisions in the design parameters of: (a) The maximum stroke times for the ADS Stage 1, 2, and 3 valves; (b) the minimum effective flow areas for the ADS Stage 2 and 3 valves; and (c) the CMT minimum volume.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in sections 50.12, 52.7, and section VIII.A.4 of Appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML20049A808.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML20049A734 and ML20049A747, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML20049A761 and ML20049A788, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated September 30, 2019, as supplemented by letter dated December 19, 2019, Southern Nuclear Operating Company (SNC) requested from the Nuclear Regulatory Commission (NRC or Commission) an exemption to allow departures from Tier 1 information in the certified Design Control Document (DCD) incorporated by reference in 10 CFR part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' as part of license amendment request (LAR) 19–009, ''Automatic Depressurization System (ADS) and Core Makeup Tank (CMT) Design Parameters.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation that supports this license amendment, which can be found at Agencywide Documents Access and Management System (ADAMS) Accession Number ML20049A808, the Commission finds that:

A. the exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the facility Combined License, as described in the licensee's request dated September 30, 2019, and as supplemented by letter dated December 19, 2019. This exemption is related to, and necessary for, the granting of License Amendment No. 176 [for Unit 3, No. 175 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML20049A808), this exemption meets the eligibility criteria for a categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated September 30, 2019 (ADAMS Accession No. ML19273A953), as supplemented by letter dated December 19, 2019 (ADAMS Accession No. ML19353B752), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on December 3, 2019 (84 FR 66234). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need to be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemptions and issued the amendments that SNC requested on September 30, 2019. The exemptions and amendments were issued on March 11, 2020, as part of a combined package to SNC (ADAMS Accession No. ML20049A655).

Dated at Rockville, Maryland, this 16th day of March 2020.

For the Nuclear Regulatory Commission.

Victor E. Hall,

Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–05905 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0076]

Volcanic Hazards Assessment for Proposed New and Advanced Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–4028, ''Volcanic Hazards Assessment for Proposed Nuclear Power Reactor Sites.'' This DG proposes new guidance for facilitating NRC staff reviews of volcanic hazard assessments performed by applicants to support the siting and licensing of new nuclear power reactors. The DG also provides applicants with the methods and approaches the NRC staff considers acceptable for the assessment of volcanic hazards in license applications.

DATES: Submit comments by May 19, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0076. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jenise Thompson, Office of Nuclear Reactor Regulation, telephone: 301–415–1811, email: *Jenise.Thompson@nrc.gov;* and Edward O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317, email: *Edward.ODonnell@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0076 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0076.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DG–4028 is available in ADAMS under Accession No.

ML20007D621 and the Regulatory Analysis under Accession No. ML20007D618.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0076 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses. The staff is also issuing for public comment a draft Regulatory Analysis. Regulatory Analyses are developed to assess the value of issuing a guide as well as alternative courses of action.

The DG, entitled, ''Volcanic Hazards Assessment for Proposed Nuclear Power Reactor Sites,'' is a proposed new guide temporarily identified by its task number, DG–4028. It provides guidance for facilitating NRC staff reviews of volcanic hazard assessments performed by applicants to support the licensing of new nuclear power reactors. The guide also provides applicants with the methods and approaches the NRC staff considers acceptable for the assessment of volcanic hazards in license applications.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of this draft regulatory guide does not constitute backfitting as defined in title 10 of the *Code of Federal Regulations* (10 CFR) section 50.109, ''Backfitting,'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests;'' would not affect the issue finality of any approval issued under 10 CFR part 52; and would not constitute forward fitting as that term is defined and described in Management Directive 8.4. As explained in the draft regulatory guide, licensees would not be required to comply with the positions set forth in this draft regulatory guide.

April 24, 2020

Dated at Rockville, Maryland, this 16th day of March 2020.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–05830 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0149]

Information Collection: NRC Form 629, "Authorization for Payment by Credit Card"

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, NRC Form 629, ''Authorization for Payment by Credit Card.''

DATES: Submit comments by May 19, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0149. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0149 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0149. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0149 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML19295G757and ML18043A050. The supporting statement is available in ADAMS under Accession No. ML19295G759.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One

White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0149 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''Authorization for Payment by Credit Card.''
2. *OMB approval number:* 3150–0190.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 629.
5. *How often the collection is required or requested:* As needed.
6. *Who will be required or asked to respond:* NRC licensees.
7. *The estimated number of annual responses:* 400.
8. *The estimated number of annual respondents:* 400.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 66.67 hrs.
10. *Abstract:* The Nuclear Regulatory Commission (NRC) bills licensees, applicants, and individuals for the payment of civil penalties, full cost licensing fees, inspection fees, and other fees. The four methods used to pay bills owed to the NRC are: (1) Payment by Automated Clearinghouse Network (ACH); (2) Payment by Credit Card; (3) Payment by Electronic Funds Transfer/FedWire; and (4) Payment by Check. NUREG/BR–0254, ''Payment Methods'' provides instructions on how to transfer monies owed to the NRC; no information is collected by the NRC in using this brochure. NRC Form 629, ''Authorization for Payment by Credit Card'' is an optional form used to authorize payment by credit card.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 16th day of March 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–05803 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0027]

Information Collection: Submission for the Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on our intention to request the OMB's approval for renewal of an existing information collection in order for the United States to fulfill its responsibilities as a participant in the U.S./International Atomic Energy Agency (IAEA) Safeguards Agreement. The information collection is entitled, ''Design Information Questionnaire—IAEA N–71 and Associated Forms N–72, N–73, N–74, N–75, N–76, N–77, N–91, N–92, N–93, N–94.''

DATES: Submit comments by May 19, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0027. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0027 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0027.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact

the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and title of documents Design Information Questionnaire—IAEA N–71 and Associated Forms N–72, N–73, N–74, N–75, N–76, N–77, N–91, N–92, N–93, N–94 are available in ADAMS under Accession Nos. ML20010F368; ML20010F313, ML20010F314, ML20010F315, ML20010F316, ML20010F317, ML20010F305, ML20010F307, ML20010F308, ML20010F309, ML20010F311, and ML20010F312.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2020–0027 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Design Information Questionnaire—IAEA N–71 and Associated Forms N–72, N–73, N–74, N–75, N–76, N–77, N–91, N–92, N–93, N–94.
2. *OMB approval number:* 3150–0056.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* IAEA Form N–71 (and the appropriate associated IAEA Form) or Form N–91, to provide information concerning their installation for use by the IAEA.
5. *How often the collection is required or requested:* 1 time per year.
6. *Who will be required or asked to respond:* Licensees of facilities on the U.S. eligible list who have been notified in writing by the NRC to submit the form.
7. *The estimated number of annual responses: 2.0.*
8. *The estimated number of annual respondents: 2.0.*
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 360 reporting hours.
10. *Abstract:* In order for the United States to fulfill its responsibilities as a participant in the U.S./International Atomic Energy Agency (IAEA) Safeguards Agreement, the NRC must collect information from licensees about their installations and provide it to the IAEA. Licensees of facilities that appear on the U.S. eligible list and have been notified in writing by the NRC are required to complete and submit a Design Information Questionnaire, IAEA Form N–71 (and the appropriate associated IAEA Form) or Form N–91, to provide information concerning their installation for use by the IAEA.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 17th day of March 2020.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

Subject: Information Collection: Submission for the Office of Management and Budget Review

Accession Number: ML200105350

To receive a copy of this document, indicate in the box: ''C'' = Copy without attachment/enclosure; ''E'' = Copy with attachment/enclosure; ''N'' = No copy.

Office	Name	Date
NMSS	A.Santiago	1/01/2020
OCIO	D.Cullison	03/16/20

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[FR Doc. 2020–05904 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1051; NRC–2018–0052]

Holtec International HI–STORE Consolidated Interim Storage Facility Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Environmental Impact Statement (EIS) for Holtec International's (Holtec's) application to construct and operate a consolidated interim storage facility (CISF) for spent nuclear fuel (SNF) and Greater-Than

Class C (GTCC) waste, along with a small quantity of mixed oxide fuel. The proposed CISF would be located in southeast New Mexico at a site located approximately halfway between the cities of Carlsbad and Hobbs, New Mexico. The proposed action is the issuance of an NRC license authorizing the initial phase (Phase 1) of the project to store up to 8,680 metric tons of uranium [9,568 short tons] in 500 canisters for a license period of 40 years. Holtec plans to subsequently request amendments to the license to store an additional 500 canisters for each of 19 expansion phases of the proposed CISF (a total of 20 phases), to be completed over the course of 20 years, and to expand the proposed facility to eventually store up to 10,000 canisters of SNF.

DATES: The NRC staff will hold public meetings on the draft EIS. The public meeting details will be announced in the near future. The staff will present the preliminary findings and receive public comments during transcribed public meetings.

Members of the public are invited to submit comments by May 22, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0052. Address questions about NRC Docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT SECTION** of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, ATTN: Program Management, Announcements and Editing Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Email comments to: Holtec-CISFEIS@nrc.gov.*

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION SECTION** of this document.

FOR FURTHER INFORMATION CONTACT: Jill Caverly, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7674; email: *Jill.Caverly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information

Please refer to Docket ID NRC–2018–0052 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0052.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC'S PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *Project Webpage:* Information related to the Holtec HI–STORE CISF project can be accessed on the NRC's Holtec HI–STORE CISF web page at *https://www.nrc.gov/waste/spent-fuel-storage/cis/holtec-international.html.*
- *Public Libraries:* A copy of the draft EIS can be accessed at the following public libraries:
  - Carlsbad Public Library, 101 S. Halagueno Street, Carlsbad, NM 88220
  - Hobbs Public Library, 509 N Shipp St., Hobbs, NM 88240
  - Roswell Public Library, 301 N. Pennsylvania, Roswell, NM 88201

B. Submitting Comments

Please include Docket ID NRC–2018–0052 in your comment submission. Written comments may be submitted during the draft EIS comment period as described in the **ADDRESSES** section of the document.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *https://www.regulations.gov* and enters all comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission because the NRC does not routinely edit comment submissions before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

The NRC is issuing for public comment the draft EIS for Holtec International's License Application for a Consolidated Interim Storage Facility for Spent Nuclear Fuel and High Level Waste regarding an application from Holtec requesting a license to construct and operate a CISF for SNF and GTCC waste, along with a small quantity of mixed-oxide fuel, which are collectively referred to in the EIS as SNF, and composed primarily of spent uranium-based fuel.

The draft EIS for Holtec's license application includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. After comparing the impacts of the proposed action (Phase 1) to the No-Action alternative, the NRC staff, in accordance with the requirements in part 51 of title 10 of the *Codes of Federal Regulations,* recommends the proposed action (Phase 1), which is the issuance of an NRC license for 40 years to Holtec to construct and operate a CISF for SNF at the proposed location. In addition, the Bureau of Land Management (BLM) staff recommends the issuance of a permit to construct and operate the rail spur. This recommendation is based on (i) the license application, which includes an environmental report and supplemental documents, and Holtec's responses to the NRC staff's requests for additional information; (ii) consultation with Federal, State, Tribal, local agencies, and input from other stakeholders; (iii) independent NRC and BLM staff review; and (iv) the assessments provided in the EIS.

Dated at Rockville, Maryland, this 13th day of March, 2020.

For the Nuclear Regulatory Commission.

Cinthya I. Roman-Cuevas,

Chief, Environmental Review Materials Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 2020–05690 Filed 3–19–20; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88393]

Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, From Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail

March 17, 2020.

I. Introduction

By letter dated January 29, 2020,[1] BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants'') to the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan''),[2] requested that the Securities and Exchange Commission (''Commission'' or ''SEC'') grant exemptive relief from certain requirements in the CAT NMS Plan pursuant to Section 36 of the Securities Exchange Act (''Exchange Act'')[3] and Rule 608(e) of Regulation NMS.[4] Specifically, the Participants seek exemptive relief from Section 6.4(d)(ii)(C) and Appendix D, Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the CAT NMS Plan (1) to allow for an alternative approach to generating a CAT Customer ID (''CCID'')[5] without requiring Industry Members[6] to report individual social security numbers or tax payer identification numbers (collectively, ''SSNs'') to the consolidated audit trail (''CAT'') (the ''CCID Alternative''); and (2) to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers associated with natural person retail Customers[7] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth associated with natural person retail Customers and the Firm Designated ID[8] for each trading account associated with the Customers.[9]

Section 36 of the Exchange Act grants the Commission the authority, with certain limitations, to ''conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.''[10] Under Rule 608(e) of Regulation NMS, the Commission may ''exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.''[11]

For the reasons set forth below, this Order grants the Participants' request for exemptions from specified provisions of the CAT NMS Plan as set forth in January 29, 2020 Exemption Request, subject to certain conditions.

II. Description

As set forth in the January 29, 2020 Exemption Request regarding the CCID Alternative, the Participants state that ''in light of security concerns raised with regard to the maintenance of Customer information in the CAT, the Participants request an exemption to eliminate one of the most sensitive CAT data elements—SSNs—from the CAT.''[12] In lieu of retaining such sensitive information in the CAT, the Participants would use the CCID alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association.[13] According to the Participants, the CCID Alternative allows the Plan Processor[14] to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT.[15] Under the CCID Alternative, according to the Participants, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT.[16] In the first transformation phase, a CAT Reporter[17] would transform the SSN to an interim value.[18] The Participants state that the Plan Processor would provide CAT Reporters the tools and/or technology to transform SSNs into interim values.[19] This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem'').[20] The CCID Subsystem

[1] *See* letter from the Participants to Vanessa Countryman, Secretary, Commission, dated January 29, 2020 (the ''January 29, 2020 Exemption Request'').

[2] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[3] 15 U.S.C. 78mm(a)(1).

[4] 17 CFR 242.608(e).

[5] The ''Customer-ID'' means ''with respect to a customer, a code that uniquely and consistently identifies such customer for purposes of providing data to the central repository.'' *See* CAT NMS Plan, Article I, Section 1.1, referring to Rule 613(j)(5). 17 CFR 242.613(j)(5). The Participants also use the term ''CCID'' to refer to ''CAT Customer ID.'' *See* January 29, 2020 Exemption Request at 4–5. For purposes of the January 29, 2020 Exemption Request, the term ''CCID'' and ''CAT Customer-ID'' means the ''Customer-ID'' under the CAT NMS Plan.

[6] ''Industry Member'' means ''a member of a national securities exchange or a member of a national securities association.'' *See* CAT NMS Plan, Article I, Section 1.1.

[7] A ''Customer'' means ''the account holder(s) of the account at a registered broker-dealer originating the order; and any person from whom the broker-dealer is authorized to accept trading instructions for such account, if different from the account holder(s). *See* CAT NMS Plan, Article I, Section 1.1.

[8] ''Firm Designed ID'' means ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.'' *See* CAT NMS Plan, Article I, Section 1.1. Article VI, Section 6.4(d)(ii)(C) of the CAT NMS Plan requires CAT Reporters (as defined below) to report the Firm Designated ID to be reported to the Central Repository.

[9] *See* January 29, 2020 Exemption Request. Unless otherwise noted, capitalized terms are used as defined in the CAT NMS Plan.

[10] 15 U.S.C. 78mm(a)(1).

[11] 17 CFR 242.608(e).

[12] *See* January 29, 2020 Exemption Request at 4.

[13] *See* January 29, 2020 Exemption Request at 4.

[14] ''Plan Processor'' means ''the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1, and with regard to the Initial Plan Processor, the Selection Plan, to perform the CAT processing functions required by SEC Rule 613 and set forth in this Agreement.'' *See* CAT NMS Plan, Article I, Section 1.1.

[15] *See* January 29, 2020 Exemption Request at 4–5.

[16] *See* January 29, 2020 Exemption Request at 5.

[17] ''CAT Reporter'' means ''each national securities exchange, national securities association and Industry Member that is required to record and report information to the Central Repository pursuant to SEC Rule 613(c).'' *See* CAT NMS Plan, Article I, Section 1.1. Only Industry Members would be reporting an interim value.

[18] *See* January 29, 2020 Exemption Request at 5.

[19] *See* January 29, 2020 Exemption Request at 12.

[20] In the event that a Customer does not have an SSN, the Participants represent that the CAT Reporter would not be required to submit the

would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter.[21] According to the Participants, the CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information.[22] The transformed value would be sent to the CAT ''separate and apart from the other customer and account information.'' [23] The Participants state that the CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data.[24]

The Participants state that there would be no cost imposed by the Plan Processor or CATLLC [25] on an Industry Member if it uses the CAT Reporter Portal to transform an SSN prior to submission.[26] For Industry Members that perform the CCID transformation and submit it via a machine-to-machine interface, the Participants state that there would be ordinary costs associated with installing the transformation logic, but that neither the Plan Processor nor CATLLC would impose any costs on Industry Members.[27] The Participants state that actual costs would depend on the specific Industry Member's technology architecture, but would not be anticipated to be significant.[28]

The Participants note that Industry Members would continue to store individual customer [29] SSNs outside the CAT, as they do currently, and that if a Participant's regulatory staff or the SEC needs to obtain a Customer's SSN during an investigation, such regulator would need to request that information from the CAT Reporter (*e.g.,* via a FINRA Rule 8210 request or the Electronic Blue Sheets).[30] However, if a Participant's regulatory staff or the SEC already has an SSN via means other than the CAT, the Participants state that the regulator will have the ability to use that SSN to query the CAT.[31] The Participants further state that similar to the process described above, the SSN would be transformed into the CCID, which, in turn, may be used by the Participant's regulatory staff and the SEC in queries and analysis of CAT Data.[32]

The Participants state that the proposed CCID Alternative is necessary and appropriate in the public interest, and is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.[33] The Participants believe that, subject to accurate implementation by CAT Reporters, the CCID Alternative will have the capability to create a reliable and accurate CCID that is unique for each Customer, and that regulators will be able to use a unique CCID to track orders from any Customer throughout the order's lifecycle, regardless of what brokerage account was used to enter the order.[34] The Participants state that the use of CCIDs would thus enhance the security of the Central Repository while preserving regulatory benefits of the CAT.[35] The Participants state that because only CCIDs would be stored in the Central Repository, rather than SSNs, the proposed relief would eliminate the risk of having a comprehensive aggregated source for all individual Customer SSNs (*i.e.,* the potential use of illegally obtained SSNs to facilitate identity theft or other fraud).[36] The Participants state that no SSNs would be collected or stored in the CAT, and that instead, only Industry Members would continue to collect individual Customer SSNs, as they do currently.[37] The Participants state that the process to create CCIDs using, in part, SSNs would be secure.[38] The Participants also state that the significant reduction in the risk that information in the CAT could be used to facilitate identity theft, achieved by the use of CCIDs, does not compromise the regulatory benefits of the CAT.[39] The Participants state that the CCID

transformed value to the CCID Subsystem. *See* January 29, 2020 Exemption Request at 5.

[21] *See* January 29, 2020 Exemption Request at 5.

[22] *See* January 29, 2020 Exemption Request at 5. The CAT NMS Plan indicates that ''customer and account information'' is CAT Data that ''includes PII.'' *See generally* CAT NMS Plan, Appendix D, Section 6.2 at D–19. ''PII'' means ''personally identifiable information, including a social security number or tax identifier number or similar information; Customer Identifying Information and Customer Account Information.'' *See* CAT NMS Plan, Article I, Section 1.1. ''Customer Identifying Information'' in turn is defined to mean ''information of sufficient detail to identify a Customer, including, but not limited to, (a) with respect to individuals: name, address, date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN''), individual's role in the account (*e.g.,* primary holder, joint holder, guardian, trustee, person with the power of attorney); and (b) with respect to legal entities: Name, address, Employer Identification Number (''EIN'')/Legal Entity Identifier (''LEI'') or other comparable common entity identifier, if applicable; provided, however, that an Industry Member that has an LEI for a Customer must submit the Customer's LEI in addition to other information of sufficient detail to identify a Customer.'' *Id.* ''Customer Account Information'' is generally defined to ''include, but not be limited to, account number, account type, customer type, date account opened, and large trader identifier (if applicable). . . .'' For purposes of the January 29, 2020 Exemption Request, the ''customer and account information system of the CAT'' refers to the database that contains PII, as defined in the Plan.

[23] *See* January 29, 2020 Exemption Request at 6.

[24] *See* January 29, 2020 Exemption Request at 5.

[25] ''CATLLC'' refers to the limited liability company, set forth in the Limited Liability Company Agreement of Consolidated Audit Trail, LLC, formed by the Participants to conduct the activities related to CAT. *See* Securities Exchange Act Release No. 87149 (September 27, 2019); 84 FR 52905 (October 3, 2019).

[26] *See* January 29, 2020 Exemption Request at 5. The ''CAT Reporter Portal'' is the ''Industry Member CAT Reporter Portal'' which is a web-based tool provided by the Plan Processor to CAT Reporters that allows CAT Reporters to monitor and manage data submissions to CAT. *See* ''Industry Member CAT Reporter Portal User Guide'' dated November 4, 2019, v. *1.0. https://catnmsplan.com/sites/default/files/2020-02/IM-Reporter-Portal-User-Guide_11042019.pdf.* According to the Participants, Industry Members who use this CAT Reporter Portal to transform an SSN into the interim value will incur no cost to perform the transformation.

[27] *See* January 29, 2020 Exemption Request at 5.

[28] *See* January 29, 2020 Exemption Request at 5.

[29] *See* January 29, 2020 Exemption Request at 5. Both ''customer'' and ''Customer'' are used by the Participants in the January 29, 2020 Exemption Request. The Commission assumes, for purposes of this Order, that the Participants intended the term ''Customer'' as defined in the CAT NMS Plan; however, in Section II of this Order, the Commission reflects the terms used in the January 29, 2020 Exemption Request.

[30] Pursuant to the CCID Alternative, because SSNs would no longer be reported to or collected by the CAT, regulatory staff would only be able to obtain an individual's SSN associated with a(n) CCID by submitting a request for such SSN to the CAT Reporter that retains the SSN. Data provided via Electronic Blue Sheets, or EBS data, is provided pursuant to Rule 17a–25 under the Act, and includes certain detailed execution information, including the SSN of a Customer. *See* 17 CFR 240.17a-25.

[31] *See* January 29, 2020 Exemption Request at 5.

[32] *See* January 29, 2020 Exemption Request at 5.

[33] *See* January 29, 2020 Exemption Request at 5.

[34] *See* January 29, 2020 Exemption Request at 5–6. The Participants state that if the Commission grants this request for exemptive relief, each Participant will propose to amend its Compliance Rules consistent with the exemptive relief. *See* January 29, 2020 Exemption Request at 6, n.17. Each Participant is obligated to enforce compliance by its members with such Compliance Rules, including rules related to implementation of the CCID Alternative. *Id.* ''Compliance Rule'' means ''with respect to a Participant, the rule(s) promulgated by such Participant as contemplated by Section 3.11.'' *See* CATNMS Plan, Article I, Section 1.1. Section 3.11 of the Plan states that ''[e]ach Participant shall comply with and enforce compliance, as required by SEC Rule 608(c), by its Industry Members with the provisions of SEC Rule 613 and of this Agreement, as applicable, to the Participant and its Industry Members. The Participants shall endeavor to promulgate consistent rules (after taking into account circumstances and considerations that may impact Participants differently) requiring compliance by their respective Industry Members with the provisions of SEC Rule 613 and this Agreement.'' *Id.* at Article III, Section 3.11.

[35] *See* January 29, 2020 Exemption Request at 6.

[36] *See* January 29, 2020 Exemption Request at 6.

[37] *See* January 29, 2020 Exemption Request at 6.

[38] *See* January 29, 2020 Exemption Request at 6.

[39] *See* January 29, 2020 Exemption Request at 6.

Subsystem is subject to the security provisions of the CAT NMS Plan.[40]

The Participants believe that eliminating the retention of SSNs in the CAT would not have an adverse impact on the effective operation of the CAT.[41] The Participants recognize, however, that the elimination of the collection of SSNs would cause CAT Reporters to assume a critical role in the accurate generation of CCIDs.[42] The Participants state that to mitigate the potential risk to the integrity of the CCID values ultimately assigned to Customer records in the CAT, the Participants, working with the Plan Processor, will consider methods for detecting errors in the transformed values submitted by CAT Reporters, such as through validation processes and/or testing of accounts, as well as methods that may be identified by functionality supporting the Error Resolution for the Customer Data requirement in Section 9.4 of Appendix D of the CAT NMS Plan.[43] The Participants represent that the Plan Processor is currently exploring potential validation checks that could be performed upon submission by an Industry Member of an initial CCID, such as ensuring the value submitted is within an expected range of values.[44] The Participants state that such a validation check would help identify transformation errors (*e.g.,* transformation resulted in an invalid or malformed SSN), but it would not ensure that the correct SSN for a specific customer was used for the transformation.[45] The Participants state that, in consultation with the working group of industry members that developed the CCID Alternative, they believe that the value of eliminating the need for CAT Reporters to transmit SSNs to the CAT exceeds the potential increased risk to the integrity of CCID assignments.[46]

As set forth in the January 29, 2020 Exemption Request, the Participants also state that in light of security concerns raised with regard to the maintenance of Customer information in the CAT, the Participants also propose to eliminate dates of birth and account numbers for individuals from the CAT. Under this proposal, or the Modified PII Approach, dates of birth and account numbers for natural persons would not be reported to the CAT and therefore would not be stored in the CAT.[47] The Participants state that similar to SSNs, this information is particularly sensitive from a security perspective and should not be included in the CAT (*i.e.,* the Participants believe that such information, if illegally obtained, could be used to facilitate identity theft or other fraud).[48] The Participants represent that the Modified PII Approach has been discussed with the Advisory Committee.[49]

The Participants believe that the Modified PII Approach is necessary and appropriate in the public interest, and is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.[50] The Participants believe that by eliminating dates of birth and account numbers from the CAT, the proposed relief would significantly reduce the risk profile of data collected and stored in the CAT by eliminating the PII data elements that would support attempted identity theft.[51] In addition, the Participants state that the elimination of dates of birth and account numbers for individuals would not compromise the regulatory benefits of the CAT, including the ability of regulators to identify Customers and their related trading activity.[52] The Participants state that instead of reporting dates of birth and account numbers for individuals, CAT Reporters would report to the CAT year of birth and Firm Designated IDs for accounts for individuals.[53]

The Participants state that the Participants, Industry Members, and others have raised concerns regarding the security risk of having personally identifying Customer information in the CAT for individual Customers of every securities brokerage account involving Eligible Securities[54] in the U.S. securities markets in the CAT.[55] The Participants noted the statements made by Chairman Clayton, members of Congress and the broker-dealer community regarding the importance of evaluating the collection of information into the CAT.[56] The Participants state that the Operating Committee of the CAT shares these security concerns and noted that they formed a PII Working Group[57] to research and recommend potential alternatives regarding the handling of PII, including SSNs.[58] After considering various alternatives, the PII Working Group ultimately recommended the CCID Alternative to the Operating Committee of the CAT.[59]

III. Request for Relief

In order to implement the CCID Alternative and Modified PII Approach, the Participants request that the Commission grant exemptive relief from the following sections of the CAT NMS Plan as set forth below:

- Section 6.4(d)(ii)(C) of the CAT NMS Plan which requires Industry Members, through the SRO CAT compliance rules, to record and report to the Central Repository for the original receipt of an order, SSNs, dates of birth, and account numbers for individuals. The Participants request relief from the requirement in Section 6.4(d)(ii)(C) that Industry Members, through their Compliance Rules record and report to the Central Repository for the original receipt of an order, SSNs, dates of birth, and account numbers for individuals. In place of reporting SSNs, dates of birth, and account numbers, the Participants will require Industry Members, through their Compliance Rules, to report to the Central Repository a transformed value for the SSN, year of birth, and the Firm

[40] *See* January 29, 2020 Exemption Request at 12.

[41] *See* January 29, 2020 Exemption Request at 6.

[42] *See* January 29, 2020 Exemption Request at 6.

[43] *See* January 29, 2020 Exemption Request at 6. The Plan does not define ''Customer Data''; however, Appendix D, Section 9.4 references various data elements related to the PII reported and collected by the CAT. The Commission assumes for purposes of the January, 29, 2020 Exemption Request that ''Customer Data'' refers to such PII.

[44] *See* January 29, 2020 Exemption Request at 6.

[45] *See* January 29, 2020 Exemption Request at 6.

[46] *See* January 29, 2020 Exemption Request at 6.

[47] *See* January 29, 2020 Exemption Request at 7.

[48] *See* January 29, 2020 Exemption Request at 7.

[49] *See* January 29, 2020 Exemption Request at 7. According to the CAT NMS Plan, the Advisory Committee ''shall advise the Participants on the implementation, operation, and administration of the Central Repository, including possible expansion of the Central Repository to other securities and other types of transactions.'' *See* CAT NMS Plan, Article IV, Section 4.13(d).

[50] *See* January 29, 2020 Exemption Request at 7.

[51] *See* January 29, 2020 Exemption Request at 7.

[52] *See* January 29, 2020 Exemption Request at 7.

[53] *See* January 29, 2020 Exemption Request at 7. The Commission assumes for purposes of this Order that the January 29, 2020 Exemption Request seeks relief from the requirement to report all account numbers, not limited to account numbers individuals.

[54] ''Eligible Securities'' means ''(a) all NMS Securities and (b) all OTC Equity Securities.'' *See* CAT NMS Plan, Article I, Section 1.1. ''NMS Securities'' is defined as ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in Listed Options.'' *Id.* ''OTC Equity Securities'' is defined as ''any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities.'' *Id.*

[55] *See* January 29, 2020 Exemption Request at 3.

[56] *See* January 29, 2020 Exemption Request at 3 and 4.

[57] The Participants formed the PII Working Group to analyze whether it might be possible to meet the goals of the CAT while capturing less PII than Rule 613 currently requires. The PII Working Group was composed of representatives from the Participants and the Advisory Committee.

[58] *See* January 29, 2020 Exemption Request at 4.

[59] *See* January 29, 2020 Exemption Request at 4.

Designated ID for accounts for individuals.[60]

• Section 9.1 of Appendix D which requires the CAT to capture and store Customer and Customer Account Information in a secure database physically separated from the transactional database and that requires the following attributes, at a minimum, to be captured: SSN or ITIN and date of birth. Section 9.1 of Appendix D also requires the Plan Processor to maintain valid Customer and Customer Account Information for each trading day. The Participants request relief from these requirements in Section 9.1 of Appendix D that the CAT capture and store SSNs, dates of birth, and account numbers in the CAT.[61] In place of SSNs, dates of birth and account numbers, Industry Members will report to the Central Repository a transformed value for the SSN, year of birth and the Firm Designated ID for accounts of individuals.

• Section 9.1 of Appendix D which requires the Plan Processor ''provide a method for Participants' regulatory staff and the SEC to easily obtain historical changes to [Customer and Customer Account] information.'' If the Commission grants the requested exemptions, SSNs, dates of birth, and account numbers for individuals would not be stored within the CAT and, thus, Participants' regulatory staff and the Commission staff would not be able to obtain historical changes to SSNs, dates of birth and account numbers for individuals. The Participants request exemptive relief from the requirement in Section 9.1 of Appendix D that the Plan Processor provide a method for Participants' regulatory staff and Commission staff to obtain historical changes to SSNs, dates of birth and account numbers. Instead, the Participants state that the Plan Processor will manage changes to CCIDs, years of birth and Firm Designated IDs to provide a history of such data over time.[62]

• Section 9.1 of Appendix D which states that the Plan Processor ''will design and implement a robust data validation process for submitted Firm Designated ID, Customer Account Information and Customer Identifying Information, and must continue to process orders while investigating Customer information mismatches,'' and that ''[v]alidations should: . . .Confirm the number of digits on a SSN, Confirm [sic] dates of birth, and Accommodate [sic] the situation where a single SSN is used by more than one individual.'' If the Commission grants the requested exemption from the requirement that SSNs, dates of birth, and account numbers for individuals be submitted to the CAT, no validation process would be necessary for these elements. The Participants request exemptive relief from the requirement in Section 9.1 of Appendix D for the Plan Processor to design and implement a robust data validation process with regard to SSNs, dates of birth, and account numbers. In place of validation of SSNs and dates of birth, the Participants state that the Plan Processor will implement a validation process for transformed values submitted by CAT Reporters to the Plan Processor. The Participants state that both the Plan Processor and the Participants believe the validations in the CAT NMS Plan that require the identification and handling of inconsistencies in Customer information can still be performed as envisioned using a CCID rather than an SSN. This would include things such as validating that there are not duplicate CCIDs and significantly different names, and duplicate CCIDs and different year of births.[63]

• Section 9.2 of Appendix D which requires the Central Repository to accept ''[a]t a minimum, the following Customer information data attributes. . . . : Account Tax Identifier (SSN, TIN, ITIN).'' If the Commission grants the requested exemptions, SSNs would not be submitted to the CAT.[64] The Participants request exemptive relief from the requirement in Section 9.1 of Appendix D for the Central Repository to accept SSNs. Instead, the Central Repository will accept a transformed value for SSNs.[65]

• Section 9.4 of Appendix D which requires the Plan Processor to design and implement procedures and mechanisms to handle both ''minor and material inconsistencies in Customer information.'' For example, ''[m]aterial inconsistencies such as two different people with the same SSN must be communicated to the submitting CAT Reporters and resolved within the established error correction timeframe as detailed in Section 8.'' Section 9.4 of Appendix D also states that the Central Repository must have an audit trail showing the resolution of all errors. The required audit trail must, at a minimum, include a variety of items including ''duplicate SSN, significantly different Name'' and ''duplicate SSN, different DOB.'' The Participants request exemptive relief from these error resolution requirements with regard to SSNs, dates of birth and account numbers of individuals. Instead, the Plan Processor will be required to design and implement an error resolution process for CCIDs and years of birth.[66]

• Section 4.1.6 of Appendix D requires that PII data not be included in the result set(s) from online or direct query tools, reports or bulk data extraction, and further requires that ''[i]nstead, results will display existing non-PII unique identifiers (*e.g.,* Customer-ID or Firm Designated ID).''[67] In addition, Sections 4.1.6, 8.1.1 and 8.2 of Appendix D further state that the ''PII corresponding to these identifiers can be gathered using the PII workflow described in Appendix D, Data Security, PII Data Requirements.'' The PII corresponding to the identifiers referenced in this requirement includes SSNs, dates of birth, and account numbers for individuals. The Participants request exemptive relief from the requirements in Section 4.1.6, 8.1.1 and 8.2 to provide regulators with the ability to gather SSNs, dates of birth, and account numbers that correspond with CCIDs and Firm Designed IDs. The Participants state that regulators will have the ability to gather years of birth that correspond with CCIDs.[68]

• Section 6.2 of Appendix D which requires that ''Customer information that includes PII data be available to regulators immediately upon receipt of initial data and corrected data, pursuant to security policies for retrieving PII.'' PII under the Plan includes SSNs, dates of birth, and account numbers as defined in Section 1.1 of the CAT NMS Plan. The Participants request exemptive relief from the requirement in Section 6.2 of Appendix D to provide regulators with SSNs, dates of birth and account numbers. In place of SSNs, dates of birth and account numbers the Participants state that years of birth will be available to regulators immediately upon receipt of initial data and

[60] *See* January 29, 2020 Exemption Request at 9.

[61] *See* January 29, 2020 Exemption Request at 8–9.

[62] *See* January 29, 2020 Exemption Request at 9. The Commission assumes for purposes of this Order that the requirement that the Plan Processor will ''manage changes to CCIDs, years of birth and Firm Designated IDs to provide a history of such data over time'' means that Plan Processor will provide a method for Participants' regulatory staff and Commission staff to easily obtain historical changes to CCIDs, years of birth and Firm Designated IDs in the same manner as required by the CAT NMS Plan for Customer and Customer Account information. *See* CAT NMS Plan, Appendix D, Section 9.1 at D–33.

[63] *See* January 29, 2020 Exemption Request at 9.

[64] *See* January 29, 2020 Exemption Request at 10.

[65] *See* January 29, 2020 Exemption Request at 10.

[66] *See* January 29, 2020 Exemption Request at 10.

[67] *See* CAT NMS Plan, Appendix D, Section 4.1.6 at D–14.

[68] *See* January 29, 2020 Exemption Request at 10.

corrected data, pursuant to security policies.[69]

• Section 10.1 of Appendix D which requires the ''Plan Processor to provide technical, operational, and business support to CAT Reporters for all aspects of reporting. Such support will include, at a minimum: . . . [Managing] Customer and Customer Account Information.'' The Participants request exemptive relief from Section 10.1 of Appendix D that requires the Plan Process to provide technical, operation and business support to CAT Reporter with regard to SSNs, dates of birth and account numbers of individuals. In place of such support requirements with regard to SSNs, dates of birth and account numbers of individuals, the Participants state that the Plan Processor will provide technical specifications and help desk support to CAT Reporters with respect to the implementation of the CCID Alternative and the reporting of years of birth.[70]

• Section 10.3 of Appendix D which requires that ''CAT Help Desk support functions must include: . . . . Supporting CAT Reporters with data submissions and data corrections, including submission of Customer and Customer Account Information.'' The Participants request exemptive relief from the requirements of Section 10.3 of Appendix D regarding CAT Help Desk support function requirements with regard to SSNs, dates of birth, and account numbers of individuals. In place of such CAT Help Desk support functions, the Participants state that the CAT Help Desk will provide support to CAT Reporters with respect to the implementation of the CCID Alternative and the reporting of years of birth.[71]

IV. Discussion

The Commission shares the concerns raised by market participants, industry representatives and the Participants about the importance of only requiring the necessary Customer and Customer account information sufficient to achieve regulatory objectives. Since the inception of the CAT, the Commission has been focused on the security and treatment of PII, which is defined in the CAT NMS Plan.[72] Additionally, the Plan itself focuses on the security and confidentiality of PII. For example, the Plan requires that PII be stored separately from transaction CAT Data, and contains restrictions for accessing PII such that that regulators entitled to query transaction CAT Data are not automatically authorized for PII access under the Plan.[73] The Plan explicitly requires that the process by which a person becomes entitled for PII access, and how they then go about accessing PII data, must be documented by the Plan Processor.[74] According to the Plan, access to PII is based on a Role Based Access Control model, and follows the ''least privileged'' practice of limiting access as much as possible, and limits access to PII to a ''need-to-know'' basis.[75] In addition, the Plan requires that all PII data, as with transaction CAT Data, must be encrypted both at-rest and in-flight, including archival data storage methods such as tape backup, and prohibits the storage of unencrypted PII data.[76] The Plan Processor also must describe how PII encryption is performed and the key management strategy (*e.g.,* AES–256, 3DES).[77] While all of these safeguards in the CAT NMS Plan combine to create robust security protections around PII that is reported to and retained by the CAT, the most secure approach to addressing any piece of sensitive retail Customer PII would be to eliminate its collection altogether.

The Commission believes that exemptive relief pursuant to Section 36 to allow for the CCID Alternative and the Modified PII approach is appropriate in the public interest, and is consistent with the protection of investors and additionally that, pursuant to Rule 608(e), such relief is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system. The CCID Alternative minimizes the risk of theft of SSNs—the most sensitive piece of PII—by allowing the elimination of SSNs from the CAT, while still facilitating the creation of a reliable and accurate Customer-ID.[78] Thus, the CCID Alternative preserves the regulatory benefit of being able to track a specific order of a Customer through its entire lifecycle, as originally contemplated by the Plan, without requiring the reporting of SSNs by Industry Members and the retention of SSNs by the Plan Processor. SSNs are considered among the most sensitive PII that can be exposed in a data breach.[79] Thus, the elimination of SSNs from the CAT may reduce both the risk of attracting bad actors and the impact on retail investors in the event of an incident.

The Modified PII Approach removes two additional pieces of sensitive PII—account numbers and dates of birth—both of which can also be used perpetrate identify theft against retail investors. Reduction of these additional sensitive PII data elements in the CAT is expected to further reduce both the attractiveness of the database as a target for hackers and reduce the impact on retail investors in the event of an incident of unauthorized access and use. However, certain limited retail customer information will remain in the CAT; specifically, name, address, and birth year. Having such customer information remain in the CAT will allow regulators to identify bad actors who are using retail trading accounts to perform illegal activity. Finally, requiring that the birth year of retail investor continue to be reported to the

[69] *See* January 29, 2020 Exemption Request at 11.

[70] *See* January 29, 2020 Exemption Request at 11.

[71] *See* January 29, 2020 Exemption Request at 11.

[72] For example, Rule 613(e)(4)(i)(A) requires policies and procedures to ensure the security and confidentiality of all information reported to the central repository by requiring that the Participants and their employees agree to use appropriate safeguards to ensure the confidentiality of such data and agree not to use such data for any purpose other than surveillance and regulatory purposes. Rule 613(e)(4)(i)(B) requires the Participants adopt and enforce rules that require information barriers between regulatory staff and non-regulatory staff with regard to access and use of data in the central repository and permit only persons designated by plan sponsors to have access to the data in the central repository. Rule 613(e)(4)(i)(C) also requires that the Plan Processor develop and maintain a comprehensive information security program for the central repository, with dedicated staff, that is subject to regular reviews by the Chief Compliance Officer; have a mechanism to confirm the identity of all persons permitted to access the data; and maintain a record of all instances where such persons access the data.

[73] *See* CAT NMS Plan at Appendix D, Section 4.1.6.

[74] *See* CAT NMS Plan at Appendix D, Section 4.1.6.

[75] *See* CAT NMS Plan at Appendix D, Section 4.1.6; *see also* CAT NMS Plan at Appendix C, C–35.

[76] *See* CAT NMS Plan, Appendix D, Section 4.1.2.

[77] *See* CAT NMS Plan, Appendix D, Section 4.1.2.

[78] The ability to efficiently and accurately identify individual Customers will allow regulators to establish those that might be responsible for illegal conduct, or to identify those that might be the victim of fraudulent activity. Indeed, one of the hallmarks of the CAT is the ability to provide customer attribution of order and trade activity even if such trading activity spans multiple broker-dealers. Pursuant to the Plan, the identification of Customers is achieved by the creation and use of the Customer-ID, a code that uniquely and consistently identifies every Customer. The Commission continues to believe, as it did when it approved the Plan, that the ability to link the full life cycle of every order as that order travels across broker-dealers and market centers to a specific Customer through the use of a Customer-ID will greatly facilitate the regulatory and surveillance efforts of regulators. For the Commission in particular, this ability to identify a Customer through the use of a CCID will also facilitate the Commission's efforts in the areas of market reconstruction, market analysis and rule-making support. Indeed, in the Commission's view, without the Customer-ID, the value and usefulness of the CAT would be significantly diminished.

[79] *See* Identify Theft Resource Center 2018 End of Year Breach Report, pg. 13, *https://www.idtheftcenter.org/wp-content/uploads/2019/02/ITRC_2018-End-of-Year-Aftermath_FINAL_V2_combinedWEB.pdf.*

CAT will also permit regulators to use CAT data to protect senior investors and identify other types of fraudulent activity that may target certain age demographics.

Based on the foregoing, the Commission is granting conditional exemptive relief from Section 6.4(d)(ii)(C) and Appendix D, Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the CAT NMS Plan (1) related to SSNs to allow for the implementation of the CCID Alternative; and (2) related to dates of birth and account numbers to allow for the implementation of the Modified PII Approach.

This order granting Exemptive Relief is conditioned upon the implementation of the CCID Alternative and the Modified PII Approach in a manner consistent with the January 29, 2020 Exemption Request, including each of the representations made and conditions included in the January 29, 2020 Exemption Request with regard to the CCID Alternative and the Modified PII Approach.

This order granting Exemptive Relief also is conditioned upon the following:

(1) The Process described in the January 29, 2020 Exemption Request, Section D.9(5) will support the efficient and accurate conversion of multiple SSNs at the same time into their corresponding CCIDs. The Commission believes this condition is appropriate in order to promote efficiency when a regulator obtains multiple SSNs from other sources;

(2) The Participants shall ensure the timeliness, accuracy, completeness, and integrity of the interim value, and shall ensure the accuracy and overall performance of the CCID Alternative process and the CCID Subsystem to support the creation of a global Customer-ID that uniquely identifies each Customer; and

(3) The Participants must assess the overall performance and design of the CCID Alternative process and the CCID Subsystem as part of each annual Regular Written Assessment of the Plan Processor, as required by Article VI, Section 6.6(b)(i)(A).

Accordingly, *it is hereby ordered,* pursuant to Section 36 and Rule 608(e) of the Exchange Act,[80] that the Commission grants the Participants' request for exemptive relief, as set forth in the January 29, 2020 Exemption Request, from Section 6.4(d)(ii)(C) and Appendix D, Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the CAT NMS Plan, subject to the conditions set forth above.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

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[80] 17 CFR 242.608(e).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88390; File No. SR–Phlx–2020–07]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amendments to Complex Orders

March 16, 2020.

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 March 4, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 7, ''Electronic Acceptance of Quotes and Orders,'' Options 3, Section 14, ''Complex Orders,'' Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders'' and Options 8, Section 32, ''Certain Types of Floor-Based (Non-System) Orders Defined.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Options 3, Section 7, ''Electronic Acceptance of Quotes and Orders,'' Options 3, Section 14, ''Complex Orders,'' Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders'' and Options 8, Section 32, ''Certain Types of Floor-Based (Non-System) Orders Defined.'' Each change is described below.

Options 3, Section 7 and Options 8, Section 32

The Exchange proposes to amend Options 3, Section 7, titled ''Electronic Acceptance of Quotes and Orders'' and Options 8, Section 32, titled ''Certain Types of Floor-Based (Non-System) Orders Defined'' to complete the list of Order Types available for trading on the Exchange by referencing currently available Complex Order types. Options 3, Section 7(b) currently lists all order types that may be electronically submitted to the System. Options 8, Section 32(a) currently lists all order types that may be utilized on the trading floor. The Exchange lists all simple order types in both Options 3, Section 7(b) and Options 8, Section 32(a), but these lists do not include Complex Orders which are currently described within Options 3, Section 14, titled ''Complex Orders.'' The Exchange proposes to amend Options 3, Section 7(b) and Options 8, Section 32(a) to simply reference that a Complex Order is as described in Options 3, Section 14(a)(i).[3] The Exchange also proposes to amend these rules to simply reference that a Stock-Option Order is as

[3] Options 3, Section 14(a)(i) provides, ''a Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. With respect to Mini Options, a Complex Order is an order involving the simultaneous purchase and/or sale of two or more different Mini Options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Mini Options may only be part of a Complex Order that includes other Mini Options.''

described in Options 3, Section 14(a)(i).[4]

The Exchange believes that adding reference to Complex Orders and Stock-Option Orders to Options 3, Section 7(b) and Options 8, Section 32(a) will make clear to market participants the various types of orders that may be transacted both electronically in the System and on the Exchange's trading floor.

Options 3, Section 14

The Exchange recently relocated its Rulebook into a new Rulebook Shell.[5] Prior to that relocation, the Exchange filed a rule proposal[6] which adopted rule text within Phlx Rule 1080(f), which stated, ''Orders may not be unbundled, nor may a firm solicit a customer to unbundle an order for this purpose.'' The Phlx Rulebook Relocation Rule Change inadvertently removed the rule text in the Prior Rule Change at Rule 1080(f). At this time, the Exchange proposes to restore the Rule 1080(f) rule text within its current rules at Options 3, Section 7(f). Similarly, the Exchange inadvertently deleted rule text within the Prior Rule Change at Rule 1098(b)(v), which stated ''Complex Orders may be submitted as: All-or-None Orders, Cancel-Replacement Orders, Directed Orders, Limit Orders or Market Orders as those terms are defined in Rule 1080(b).'' At this time, the Exchange proposes to restore the Rule 1098(b)(v) rule text within its current rules at Options 3, Section 14(b)(v).

Options 8, Section 17

The Exchange proposes to delete the current rule at Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders.'' The Exchange notes that this rule describes a prohibition against trading ahead of Customer Orders. The Exchange currently has such a prohibition within its rules at General 9, Section 1(a) which provides, ''Prohibition Against Trading Ahead of Customer Orders. Phlx members and persons associated with a member shall comply with FINRA Rule 5320 as if such Rule were part of Phlx's rules.'' The Exchange notes that General 9, Section 1 applies to all Phlx members including members transacting options on the trading floor. The Exchange believes that Options 8, Section 17 is redundant because a trading ahead prohibition already exists in the Rules and applies to the options trading floor. The Exchange proposes to reserve Options 8, Section 17.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by amending its rules to provide greater transparency.

Options 3, Section 7 and Options 8, Section 32

The Exchange's proposal to amend Options 3, Section 7, titled ''Electronic Acceptance of Quotes and Orders'' and Options 8, Section 32, titled ''Certain Types of Floor-Based (Non-System) Orders Defined'' to complete the list of Order Types by referencing existing Complex Order types is consistent with the Act. Options 3, Section 7(b) currently lists all order types that may be electronically submitted to the System. Options 8, Section 32(a) currently lists all order types that may be utilized on the trading floor. However, these lists do not include Complex Orders which are described within Options 3, Section 14, titled ''Complex Orders.'' The Exchange believes amending Options 3, Section 7(b) and Options 8, Section 32(a) to reference Complex Orders and Stock-Option Orders, which are currently described in Options 3, Section 14(a)(i), will make clear to market participants the various types of orders that may be transacted both electronically in the System and on the Exchange's trading floor.

Options 3, Section 14

The Exchange's proposal to restore inadvertently deleted rule text within Options 3, Section 7(f) and Section 14(b)(v) from a Prior Rule Change will correct Phlx's rules to reflect previously adopted rule text that was inadvertently omitted when it adopted its shell Rulebook as explained above.[9]

Options 8, Section 17

The Exchange's proposal to delete the current rule at Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders'' is consistent with the Act because this rule is redundant. General 9, Section 1(a) and Options 8, Section 17 both contain a prohibition against trading ahead of Customer Orders. The Exchange proposes to delete the redundant rule text within Options 8, Section 17. The rule text within General 9, Section 1 applies to all Phlx members, including members transacting options on the trading floor. The deletion of Options 8, Section 17 is a non-substantive amendment to eliminate redundancy 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 an unnecessary burden on intra-market competition as explained below.

Options 3, Section 7 and Options 8, Section 32

The Exchange's proposal to amend Options 3, Section 7, titled ''Electronic Acceptance of Quotes and Orders'' and Options 8, Section 32, titled ''Certain Types of Floor-Based (Non-System) Orders Defined'' to complete the list of Order Types by referencing Complex Order types, which are currently described in Options 3, Section 14(a)(i), does not impose an undue burden on inter-market or intra-market competition. The Exchange is referencing Complex Orders and Stock-Options Orders within Options 3, Section 14(a)(i) within the Options 3, Section 7(b) and Options 8, Section 32(a) lists of order types for greater transparency as to the various types of orders that may be transacted both electronically in the System and on the Exchange's trading floor.

[4] Options 3, Section 14(a)(i) provides, ''Except respecting Mini Options, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying security (stock or Exchange Traded Fund Share (''ETF'')) coupled with the purchase or sale of options contract(s). The underlying security must be the deliverable for the options component of that Complex Order and represent exactly 100 shares per option for regular way delivery. Stock-option orders can only be executed against other stock-option orders and cannot be executed by the System against orders for the individual components. Member organizations may only submit Complex Orders with a stock/ETF component if such orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS. Member organizations submitting such Complex Orders with a stock/ETF component represent that such orders comply with the Qualified Contingent Trade Exemption. Members of FINRA or The Nasdaq Stock Market (''Nasdaq'') are required to have a Uniform Service Bureau/Executing Broker Agreement (''AGU'') with Nasdaq Execution Services, LLC (''NES'') in order to trade Complex Orders containing a stock/ETF component; firms that are not members of FINRA or Nasdaq are required to have a Qualified Special Representative (''QSR'') arrangement with NES in order to trade Complex Orders containing a stock/ETF component.''

[5] *See* Securities Exchange Act Release No. 88213 (February 14, 2020), 85 FR 9859 (February 20, 2020) (SR–Phlx–2020–03) (''Phlx Rulebook Relocation Rule Change'').

[6] *See* Securities Exchange Act Release No. 87691 (December 9, 2019), 84 FR 68197 (December 13, 2019) (SR–Phlx–2019–52) (''Prior Rule Change'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* notes 5 and 6 above.

Options 3, Section 14

The Exchange's proposal to restore inadvertently deleted rule text within Options 3, Section 7(f) and Section 14(b)(v) does not impose an undue burden on inter-market or intra-market competition, rather restoring the rule text will correct the current Phlx Rules to reflect previously adopted rule text, as explained herein.

Options 8, Section 17

The Exchange's proposal to delete the current rule at Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders'' does not impose an undue burden on inter-market or intra-market competition. A prohibition against trading ahead of Customer Orders, is currently contained within General 9, Section 1(a) and applies to all Phlx members, including members transacting business on the trading floor. The deletion of Options 8, Section 17 is a non-substantive amendment to avoid redundancy within the rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] the Commission may 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 proposed rule change may become operative immediately. The Exchange believes that the proposal to amend Options 3, Section 7, titled ''Electronic Acceptance of Quotes and Orders'' and Options 8, Section 32, titled ''Certain Types of Floor-Based (Non-System) Orders Defined'' to include Complex Orders and Stock-Options Orders, which are described within Options 3, Section 14, will make clear to market participants the various types of orders that may be transacted both electronically in the System and on the Exchange's trading floor. The Exchange also notes that the proposal to restore inadvertently deleted rule text from a Prior Rule Change within Options 3, Section 7(f) and Section 14(b)(v) will correct the current Phlx Rules to include previously adopted rule text as described above and views this as a non-substantive rule change. In addition, the Exchange states that deleting Options 8, Section 17, ''Limitations on Members' Trading Because of Customers' Orders'' is a non-substantive amendment designed to eliminate a redundant prohibition in Phlx's Rules, and notes that a prohibition against trading ahead of Customer Orders on the options floor is currently contained within General 9, Section 1(a) and applies to all Phlx members, including members transacting business on the trading floor. For these reasons, 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 30-day operative delay and designates the proposal operative upon filing.[16]

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–Phlx–2020–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–07. 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–Phlx–2020–07, and should

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[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 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

be submitted on or before April 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–05843 Filed 3–19–20; 8:45 am]

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[17] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88392; File No. SR–CboeBZX–2020–023]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fee Schedule

March 16, 2020.

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 March 10, 2020, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. 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/equities/regulation/rule_filings/bzx/*), 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

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options''), effective March 2, 2020.[3]

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only 9% of the market share.[4] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange's fee schedule sets forth standard rebates and rates applied per contract. For example, the Exchange assesses a standard rebate of $0.29 per contract for Market Maker orders that add liquidity in Penny Pilot Securities and a standard rebate of $0.40 per contract in Non-Penny Pilot Securities. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

For example, the Exchange currently offers two Market Maker Non-Penny Pilot Add Volume Tiers under footnote 7 of the fee schedule which provides enhanced rebates between $0.45 and $0.54 per contract for qualifying Market Maker orders which meet certain add liquidity thresholds and yield fee code NM.[5] Under the current Market Maker Non-Penny Pilot Add Volume Tiers, a Member receives an enhanced rebate between $0.45 and $0.54 per contract where the Member has an ADAV[6] in Market Maker orders greater or equal to a specified percentage of OCV[7] (Tiers 1–2). The Exchange now proposes to adopt a new Market Maker Non-Penny Pilot Add Volume Tier, ''Tier 3''.

The Exchange believes the proposed Market Maker Non-Penny Pilot Add Volume Tier will provide Members an additional opportunity to receive an enhanced rebate for meeting the corresponding proposed criteria. The Exchange believes the proposed tier, along with the existing tiers, also provide an incremental incentive for Members to strive for the highest tier levels, which provide increasingly higher rebates for such transactions. Particularly, the Exchange proposes to add new Market Maker Non-Penny Pilot Add Volume Tier 3, which would provide an enhanced rebate of $0.86 per contract where a Member (i) has an ADAV in Market Maker orders greater than or equal to 1.00% of the average OCV; and (ii) has an ADAV in Market Maker Non-Penny Pilot orders of greater than or equal to 0.20% of the average OCV. As such, under the proposed Tier, the Exchange is adopting an additional threshold that Members must meet in addition to the standard ADAV in Market Maker orders threshold.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on March 2, 2020 (SR–CboeBZX–2020–019). On March 10, 2020, the Exchange withdrew that filing and submitted this filing.

[4] *See* Cboe Global Markets U.S. Options Market Volume Summary (February 24, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[5] Orders yielding fee code NM are Market Maker orders that add liquidity in Non-Penny Pilot securities.

[6] ''ADAV'' means average daily added volume calculated as the number of contracts added, ''ADRV'' means average daily removed volume calculated as the number of contracts removed, and ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day.

[7] ''OCC Customer Volume'' or ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

Particularly, Members must not only satisfy a higher ADAV threshold in Market Maker orders, but must also satisfy an ADAV threshold in Market Maker Non-Penny orders in order to receive the proposed enhanced rebate. The proposed tier is designed to encourage a Market Maker's liquidity adding volume in Non-Penny orders, and moreover to encourage Members to increase their order flow, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[9] in general, and furthers the requirements of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed tier is reasonable because it provides an additional opportunity for Members to receive a higher rebate by providing additional criteria they can reach for. The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,[11] including the Exchange,[12] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including pricing incentives tied to comparable tiers.[13]

Moreover, the Exchange believes the proposed Market Maker Non-Penny Pilot Add Volume Tier 3 is a reasonable means to encourage Members to increase their liquidity on the Exchange. The Exchange believes that adopting a tier with additional criteria to the existing Market Maker Non-Penny Pilot Add Volume Tiers will encourage Members to increase their order flow in Non-Penny securities on the Exchange. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that proposed enhanced rebate is reasonable based on the difficulty of satisfying the tier's criteria and ensures the proposed rebate and threshold appropriately reflects the incremental difficulty to achieve the existing Market Maker Non-Penny Pilot Add Volume Tiers.

The Exchange believes that the proposal represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Market Makers. Further, the Exchange offers similar tiered pricing to Firm, Broker Dealer, Joint-Back Office,[14] Away Market Maker,[15] and Customer[16] orders for liquidity adding volume in Non-Penny Pilot securities. Additionally a number of Market Makers have a reasonable opportunity to satisfy the tier's criteria, which the Exchange believe is more stringent than other existing Market Maker Non-Penny Pilot Add Volume Tiers. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Market Maker qualifying for the proposed tier, the Exchange anticipates at least one Market Maker meeting, or being reasonably able to meet, the proposed criteria; however, the proposed tier is open to any Market Maker that satisfies the tier's criteria. The Exchange believes the proposed tier could provide an incentive for other Members to submit additional liquidity on the Exchange to qualify for the proposed enhanced rebate.

The Exchange lastly notes that the proposal will not adversely impact any Member's pricing or their ability to qualify for other tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive the proposed enhanced rebate. Furthermore, the proposed enhanced rebate would apply to all Members that meet the required criteria under proposed Market Maker Non-Penny Pilot Add Volume Tier 3.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of

[8] The Exchange notes that similar rebates are offered on the Nasdaq and MIAX exchanges.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] *See e.g.,* Cboe EDGX U.S. Options Exchange Fee Schedule, Footnote 2, Market Maker Volume Tiers, which provide reduced fees between $0.01 and $0.17 per contract for Market Maker Penny and Non-Penny orders where Members meet certain volume thresholds.

[12] *See e.g.,* Cboe BZX U.S. Options Exchange Fee Schedule, Footnotes 6 and 7, Market Maker Penny Pilot and Non-Penny Pilot Volume Tiers which provide enhanced rebates for Market Maker orders where Members meet certain volume thresholds.

[13] *Supra* note 9.

[14] *See* the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. Tier 4 offers a rebate of up to $0.82 per contract to Members satisfying the tier.

[15] *See* the Away Market Maker Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. Tier 2 offers a rebate of up to $0.52 per contract to Members satisfying the tier. While the tier with the highest applicable rebate is significantly less than the proposed rebate, the required criteria for an Away Market Maker to satisfy Tier 2 is significantly less difficult than the proposed criteria for a Market Maker to satisfy Tier 3.

[16] *See* the Customer Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. The applicable tiers offer rebates ranging from $0.92 up to $1.05 per contract.

individual stocks for all types of orders, large and small.'' [17]

The Exchange believes the proposed rule change does impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies uniformly to market participants. As discussed above, the Exchange believes that adopting a tier with additional criteria to the existing Market Maker Non-Penny Pilot Add Volume Tiers will encourage Members to increase their order flow in Non-Penny securities on the Exchange. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 17% of the market share.[18] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [19] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[20] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on 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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f) of Rule 19b–4 [22] thereunder. 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
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–023 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–2020–023. 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–2020–023 and should be submitted on or before April 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–05842 Filed 3–19–20; 8:45 am]

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[17] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[18] *Supra* note 3.

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[20] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88389; File No. SR–NASDAQ–2019–089]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 5815 To Preclude Stay During Hearing Panel Review of Staff Delisting Determinations in Certain Circumstances

March 16, 2020.

I. Introduction

On November 27, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 5815 regarding review of Nasdaq Staff Delisting Determinations by Hearings Panels to preclude the stay of trading of a Company's securities during the review period in specified circumstances. The proposed rule change was published for comment in the **Federal Register** on December 17, 2019.[3] On January 30, 2020, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 13, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety.[6] The Commission has received no comment letters on the proposed rule change. The Commission is publishing notice of the filing of Amendment No. 1 to solicit comment from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

Pursuant to Nasdaq Rule 5815, when a Company [7] receives a Staff Delisting Determination [8] it may request in writing that the Hearings Panel [9] review the matter in a written or an oral hearing. Under existing rules, a timely request for a hearing ordinarily will stay the suspension and delisting action pending the issuance of a written decision from the Hearings Panel (''Panel Decision'').[10]

The Exchange proposes to amend Nasdaq Rule 5815 to preclude the stay of a Staff Delisting Determination during the Hearings Panel review period in two specified circumstances. Under the proposal, a timely request for a hearing will not stay the suspension of the securities from trading pending the issuance of a written Panel Decision when the Staff Delisting Determination is related to one of the following deficiencies: (i) A Company whose application for initial listing has not been approved prior to consummation of a transaction whereby the Company combines with a non-Nasdaq entity, resulting in a change of control of the Company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq listing, as described in Nasdaq Rule 5110(a) (such a Company is referred to herein as a ''Change of Control Company'');[11] or (ii) a Company that has filed for protection under any provision of the federal bankruptcy laws, or comparable foreign laws, or that has announced that liquidation has been authorized by its board of directors and that it is committed to proceed, as described in Nasdaq Rule 5110(b).[12] In both of these situations, under the proposal, the Company's securities will be suspended from trading on the Exchange during the pendency of the Hearings Panel review and will remain suspended unless the written Panel Decision issued after the hearing determines to reinstate the trading of the securities.[13] As noted above, this would be in contrast to the application of the current rules that ordinarily stays the suspension of securities during the pendency of an appeal of a delisting determination to the Hearings Panel.[14]

The Exchange stated, among other things, in support of its proposal to eliminate the stay upon appeal for change of control situations that it believes because the Company is a new business entity that must meet initial listing standards it should not be traded during appeal since the new Company never established compliance with listing standards and that such trading could then mislead the investing public.[15] As to Companies in bankruptcy or liquidation, the Exchange noted, among other things, that it believed continued trading during a delisting review by the Hearings Panel could expose shareholders to increased

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87716 (Dec. 11, 2019), 84 FR 69007 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 88090, 85 FR 6655 (Feb. 5, 2020). The Commission designated March 16, 2020, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 1, the Exchange removed a change proposed in the original filing to remove a stay where a special purpose acquisition company, or ''SPAC,'' does not satisfy the requirements described in IM–5101–2 that the company must meet initial listing requirements following the completion of a business combination with an operating company. Nasdaq stated in Amendment No. 1 that it was removing this portion of the proposed rule change while it re-assesses the treatment of SPACs. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nasdaq-2019-089/srnasdaq2019089-6951085-212268.pdf.*

[7] The term ''Company'' means the issuer of a security listed or applying to list on Nasdaq. *See* Nasdaq Rule 5005(a)(6).

[8] A ''Staff Delisting Determination'' is a written determination by the Listing Qualifications Department to delist a listed Company's securities for failure to meet a continued listing standard. *See* Nasdaq Rule 5805(h).

[9] The ''Hearings Panel'' is an independent panel made up of at least two persons who are not employees or otherwise affiliated with Nasdaq or its affiliates, and who have been authorized by the Nasdaq Board of Directors. *See* Nasdaq Rule 5805(d).

[10] *See* Nasdaq Rule 5815(a)(1). In the case of a Staff Delisting Determination related to the requirements to timely file periodic reports with the Commission, the delisting action is only stayed for 15 calendar days unless the Company specifically requests and the Hearings Panel grants a further stay. *See* Nasdaq Rule 5815(a)(1)(B).

[11] Under Nasdaq Rule 5110(a) (Business Combinations with Non-Nasdaq Entities Resulting in a Change of Control), a Company must apply for initial listing in connection with a transaction whereby the Company combines with a non-Nasdaq entity, resulting in a change of control of the Company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq listing. If the Company's application for initial listing has not been approved prior to consummation of the transaction, Nasdaq will issue a Staff Delisting Determination. *See* Nasdaq Rule 5110(a). *See also* Notice, *supra* note 3, 84 FR at 69008. Nasdaq stated that a Company would only be subject to suspension under the proposal if it does not contest the applicability of Rule 5110(a), or if the Hearings Panel has already concluded that the rule is applicable, and if the Company does not satisfy the initial inclusion requirements upon consummation of the transaction. *See* Notice, *supra* note 3, 84 FR at 69008, n.9 (referencing Nasdaq FAQ 413, available at *https://listingcenter.nasdaq.com/Material_Search.aspx?materials=413&mcd=LQ&criteria=2.*)

[12] *See* proposed Nasdaq Rule 5815(a)(1)(B)(ii). Under Nasdaq Rule 5110(b) (Bankruptcy and Liquidation), Nasdaq staff may use its discretionary authority under the Rule 5100 Series to suspend or terminate the listing of a Company that has filed for protection under any provision of the federal bankruptcy laws or comparable foreign laws, or has announced that liquidation has been authorized by its board of directors and that it is committed to proceed, even though the Company's securities otherwise meet all enumerated criteria for continued listing on Nasdaq. *See* Nasdaq Rule 5110(b). *See also* Notice, *supra* note 3, 84 FR at 69009.

[13] *See* proposed Nasdaq Rule 5815(a)(1)(B)(ii). The Exchange also proposes to make non-substantive conforming changes to Nasdaq Rule 5815(a)(1)(A) and (B). *See* proposed Nasdaq Rule 5815(a)(1)(A) and (B).

[14] *See supra* note 10 and accompanying text.

[15] *See* Notice, *supra* note 3, 84 FR at 69008.

risks due to the limited information during bankruptcy proceedings and the uncertainty of outcomes.[16]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(7) of the Act,[19] which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange.

Nasdaq has proposed to eliminate the stay of suspension from trading of a Company's securities, upon appeal of a Staff Delisting Determination, during the pendency of the Hearings Panel's review where the Staff Delisting Determination is related to the following deficiencies: (i) A Change of Control Company whose application for initial listing was not approved prior to consummation of the change-of-control transaction; or (ii) a Company undergoing bankruptcy or liquidation. As a result, even if appealed, Companies issued Staff Delisting Determinations related to such deficiencies will have their securities immediately suspended from trading unless and until the Hearings Panel issues a decision that reinstates the securities.

With respect to the proposed removal of the stay during the pendency of the Hearings Panel's review upon appeal of a Nasdaq staff determination to delist a Change of Control Company that did not have its initial listing approved prior to consummation of the relevant transaction, the Commission believes immediate suspension of trading in such circumstances is appropriate and consistent with the Act. A Change of Control Company following the change of control transaction with a non-Nasdaq entity is a new business entity and, as a result, is required by Nasdaq's rules to demonstrate compliance with the Exchange's initial listing standards.[20] The Commission believes, as the Exchange has also stated, that permitting such companies to trade on the Exchange during the pendency of the Hearings Panel review without having demonstrated compliance with the Exchange's initial listing standards, as is the case under the current rule, may be misleading to investors, because it gives the appearance that the Company has met the standards imposed by Nasdaq.

Nasdaq also noted in its proposal that the Change of Control Company could use the benefits of its Nasdaq listing and continued trading during the review process to achieve compliance with the initial listing requirements it does not satisfy.[21] The Commission also believes that investor protection issues are raised if such a Company can use the continued listing and trading of its securities on the Exchange during the pendency of the hearing review process to try to achieve compliance with initial listing requirements that it has not met, even though the new Company never qualified initially for trading in the first instance like any new listing applicant is required to do.[22] While Nasdaq stated in its proposal that newly listing Companies must demonstrate compliance with all initial listing requirements before they are listed,[23] Nasdaq further noted that the Change of Control Companies covered by the proposed rule change are effectively new entities but have not completed the standard vetting process conducted by the Exchange of all new listed companies and demonstrated compliance with initial listing requirements.[24]

The Commission further believes that the Exchange's proposal to remove the stay during the pendency of a Hearings Panel's review and immediately suspend trading where Nasdaq Staff has determined to delist a Company in bankruptcy or liquidation and the Company has appealed that determination is consistent with the Act. In such situations, the Company has acknowledged it is having insurmountable financial difficulties and the Commission believes there are investor protection concerns with allowing such securities to continue to trade during the appeal process. For example, the Exchange stated that continued listing of a Company's securities on the Exchange during the pendency of bankruptcy proceedings exposes investors to increased risk due to the uncertainty of the outcome and the limited information provided during bankruptcy proceedings.[25] In addition, the Exchange stated that, in its experience with respect to bankrupt or liquidating Companies, there is generally no residual equity for the current stockholders.[26] Furthermore, the Commission believes that continued trading of the Company's shares during the duration of the Hearings Panel's review could be misleading to investors and, as Nasdaq stated, can create confusion about the Company's ability to satisfy Nasdaq's initial listing requirements upon emerging from bankruptcy as required under Nasdaq Rule 5110(b). While a Company emerging from bankruptcy protection may continue to be listed and traded on the Exchange if the Company demonstrates compliance with the Exchange's initial listing standards, Nasdaq represented that of 37 Staff Delisting Determinations related to bankruptcy between 2016 and 2018, only one Company remained listed and demonstrated compliance with the initial listing requirements upon emerging from bankruptcy.[27]

As the Commission has previously noted, the development and enforcement of meaningful listing

[16] *See id.*

[17] 15 U.S.C. 78f(b). In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(7).

[20] *See supra* note 11.

[21] *See* Notice, *supra* note 3, 84 FR at 69008.

[22] *See* Securities Exchange Act Release No. 82478 (Jan. 9, 2018) 83 FR 2278 (Jan. 16, 2018) (Nasdaq–2018–087) (Order Instituting Proceedings Relating to Special Purpose Acquisition Companies Listing Standards) (''The Commission notes that initial listing standards, absent an explicit exception, apply upon initial listing.'').

[23] *See* Notice, *supra* note 3, 84 FR at 69008–09.

[24] *See id.* at 69009 (''No company may trade on The Nasdaq Stock Market until it demonstrates compliance with the listings qualifications rules of the Exchange.''). The Commission notes that the fair procedure requirements under Section 6(b)(7) of the Act are consistent with, among other things, not automatically allowing a Company that invokes the appeal process to continue to trade during the appeal and gain the benefit of continued listing and trading during the pendency of that process and, in effect, gain additional time to achieve compliance with initial listing standards that the Company has not (and has never) met. *See also* discussion, *infra,* on Section 6(b)(7) under the Act.

[25] *See* Notice, *supra* note 3, 84 FR at 69009.

[26] *See id.*

[27] *See id.* at 69009, n.12.

standards[28] for an exchange is of substantial importance to financial markets and the investing public. Among other things, listing standards provide the means for an exchange to screen issuers that seek to become listed, and to provide listed status only to those that are bona fide companies that have or will have sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly markets. Meaningful listing standards also are important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.[29] Allowing essentially new Companies that have not demonstrated compliance with the Exchange's initial listing standards to continue trading on the Exchange during the pendency of the Hearings Panel's review of a Staff Delisting Determination may be confusing to investors and raises investor protection concerns.[30] Similar investor protection concerns are present with allowing Companies that have sought bankruptcy protection or that have announced a liquidation to continue trading on the Exchange during the pendency of the Hearings Panel's review.[31] The Commission believes that Nasdaq's proposal will further the purposes of Section 6(b)(5) of the Act by, among other things, protecting investors and the public interest by preventing continued trading on the Exchange in such a Company's securities unless and until the Hearings Panel determines that continued trading on Nasdaq is appropriate.

The Commission further believes the proposed rule change is consistent with Section 6(b)(7) of the Act in that it provides a fair procedure for the prohibition or limitation by the Exchange of any person with respect to access to services offered. The Commission notes that pursuant to the proposal, a Company whose securities are suspended pending its appeal would be given the same opportunity it currently has to present its case to the Hearings Panel pursuant to current Nasdaq rules. Further, a Company's shares will be suspended unless and until the Hearings Panel issues a written decision determining that continued trading on Nasdaq is appropriate. If the Panel Decision determines to permit continued trading of the securities, the Company's shares can then resume trading on the Exchange.[32] The Commission believes that limitations on trading of a Company's securities during the pendency of the Hearings Panel's review is appropriate in the situations prescribed by the proposed rule in light of the need to protect investors and the public interest and that the Nasdaq's hearings review process will continue, as it currently does, to provide a fair procedure for the review of Staff Delisting Determinations in accordance with Section 6(b)(7) of the Act.[33]

IV. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 removed a change proposed in the original filing to remove a stay where a special purpose acquisition company, or ''SPAC,'' does not satisfy the requirements described in IM–5101–2 that the Company must meet initial listing requirements following the completion of a business combination with an operating company while Nasdaq reassesses the treatment of SPACs. The amendment did not modify the remaining two circumstances in which the Exchange has proposed to eliminate the stay of suspension from trading of a Company's securities following receipt of a Staff Delisting Determination during the pendency of the Hearings Panel's review—a Change of Control Company whose application for initial listing was not approved prior to consummation of the change-of-control transaction, or a Company undergoing bankruptcy or liquidation. The Commission also notes that these remaining aspects of the proposed rule change were noticed for comment in the **Federal Register** and no comments were received in response to that notice. The Commission has also found that the proposal, as modified by Amendment No. 1, is consistent with the Act for the reasons discussed herein. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[34] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Exchange 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–2019–089 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–2019–089. 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

[28] The Commission notes that this reference to ''listing standards'' is referring to both initial and continued listing standards.

[29] *See, e.g.,* Securities Exchange Act Release Nos. 65708 (Nov. 8, 2011), 76 FR 70799 (Nov. 15, 2011) (SR–NASDAQ–2011–073) (order approving a proposal to adopt additional listing requirements for companies applying to list after consummation of a ''reverse merger'' with a shell company), and 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR–NYSE–2018–17) (order approving a proposal to adopt new initial and continued listing standards to list securities of special purpose acquisition companies). *See also* Securities Exchange Act Release No. 81856 (October 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR–NYSE–2017–31) (stating that in addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue so that fair and orderly markets can be maintained).

[30] *See In re Tassaway,* Securities Exchange Act Release No. 11291, 45 SEC. 706, 709, 1975 SEC LEXIS 2057, at *6 (Mar. 13, 1975) (''[P]rimary emphasis must be placed on the interests of prospective future investors . . . [who are] entitled to assume that the securities in [Nasdaq] meet [Nasdaq's] standards. Hence the presence in [Nasdaq] of non-complying securities could have a serious deceptive effect.''). See also *In re Biorelease Corporation,* Securities Exchange Act Release No. 35575, 1995 SEC LEXIS 818, at *13 (Apr. 6, 1995) (''[T]hough exclusion from the system may hurt existing investors, primary emphasis must be placed on the interests of prospective future investors. Prospective investors are entitled to assume that the securities listed [on Nasdaq] meet the system's listing standards.'').

[31] *See supra* note 27 and accompanying text.

[32] *See* Nasdaq Rule 5815. Should the Hearings Panel decide the Company's securities should be delisted, the Company would be afforded an appeal of the Panel Decision to the Listing Counsel as would any listed company or new applicant denied listing. *Id.*

[33] *See also supra* note 24.

[34] 15 U.S.C. 78s(b)(2).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–089, and should be submitted on or before April 10, 2020.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[35] that the proposed rule change (SR–NASDAQ–2019–089), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–05850 Filed 3–19–20; 8:45 am]

BILLING CODE 8011–01–P

[35] 15 U.S.C. 78s(b)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 15002, March 16, 2020.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, March 18, 2020 at 2 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Wednesday, March 18, 2020 at 2 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: March 17, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–05995 Filed 3–18–20; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33818; File No. 812–15047]

AIP Private Equity Opportunities Fund I A LP, et al.

March 16, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: AIP Private Equity Opportunities Fund I A LP (''AIP Private Markets Fund'' or the ''Existing Regulated Entity''); Morgan Stanley AIP GP LP (''MSAIP''); WBPE Fund I, LP, WBPE Fund I AIV LP, Climate Impact Solutions Fund, LP, Private Markets Fund VII LP, Private Markets Fund VII Offshore Investors LP, Diversified Credit Opportunities Fund II, LP, Diversified Credit Opportunities Fund II ICAV, Ashbridge Transformational Secondaries Fund I, LP, Ashbridge Transformational Secondaries Master Fund I A, LP, Ashbridge Transformational Secondaries Master Fund I B, LP, Walker Street MKE Fund LP, Private Equity Co-Investment Opportunities Fund I LP, GTB Capital Partners II LP, Brandon Lane Partners Fund LP, NPS Partners (North America) II LP, NPS Partners (North America) AIV II LP, PMF Integro Fund I LP, LM Fund LP, VNL LP, and VNL (Cayman) Ltd. (collectively, and excluding AIP Private Markets Fund and MSAIP, the ''Existing Affiliated Funds'').

FILING DATES: The application was filed on July 15, 2019, and amended on December 10, 2019 and March 12, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 10, 2020, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549–1090. Applicants: Kara Fricke, Esq., Morgan Stanley Investment Management Inc., 522 Fifth Avenue, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819 or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants Representations

1. AIP Private Markets Fund is a Delaware limited partnership organized as a closed-end management investment company. AIP Private Markets Fund's investment objective is to pursue strategies focused on investing in a portfolio of professionally managed private equity funds and select direct investments in portfolio companies. The board of directors (''Board'') [1] of AIP Private Markets Fund has ten members, each of whom is not an ''interested person'' of AIP Markets Fund within the meaning of section 2(a)(19) of the Act (each is an ''Independent Director'').[2]

2. MSAIP is a Delaware limited partnership that is registered as an investment adviser with the Commission under the Investment Advisers Act of 1940 (the ''Advisers Act''). MSAIP serves as the investment adviser to AIP Private Markets Fund.

[1] The term ''Board'' refers to the board of directors, managers or trustees of any Regulated Entity.

[2] The term ''Independent Directors'' refers to the independent directors, managers or trustees of any Regulated Entity (as defined below).

MSAIP is an indirect, wholly-owned subsidiary of Morgan Stanley.

3. The Existing Affiliated Funds pursue strategies focused on investing in a portfolio of professionally managed private equity funds and select direct investments in portfolio companies. Each Existing Affiliated Fund is advised by MSAIP and would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

4. Applicants seek an order (''Order'') to permit a Regulated Entity [3] and one or more other Regulated Entities and one or more Affiliated Funds [4] to (a) participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 17 of the Act; and (b) make additional investments in securities of such issuers (''Follow-On Investments''), including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers. ''Co-Investment Transaction'' means any transaction in which a Regulated Entity (or its Wholly-Owned Investment Subsidiary, as defined below) participate together with one or more other Regulated Entities and/or Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Entity (or its Wholly-Owned Investment Subsidiaries) could not participate together with one or more other Regulated Entities and/or one or more Affiliated Funds without obtaining and relying on the Order.[5]

5. Applicants state that a Regulated Entity may, from time to time, form one or more Wholly-Owned Investment Subsidiaries.[6] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Entity or Affiliated Fund because it would be a company controlled by its parent Regulated Entity for purposes of rule 17d–1. Applicants request that each Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Entity and that the Wholly-Owned Investment Subsidiary's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Entity were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Entity's investments and, therefore, no conflicts of interest could arise between the Regulated Entity and the Wholly-Owned Investment Subsidiary. The Regulated Entity's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary's participation in a Co-Investment Transaction, and the Regulated Entity's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Subsidiary in the Regulated Entity's place. If the Regulated Entity proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subsidiaries, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Entity and the Wholly-Owned Investment Subsidiary.

6. When considering Potential Co-Investment Transactions for any Regulated Entity, the relevant Adviser will consider only the Objectives and Strategies,[7] investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Entity. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Entity should also be an appropriate investment for one or more other Regulated Entities and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.[8]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote on that Co-Investment Transaction (the ''Eligible Directors'') [9] and the majority of such directors of the Board who are Independent Directors (a ''Required Majority'') will approve each Co-Investment Transaction prior to any investment by the participating Regulated Entity.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Entity may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Entity has approved that Regulated Entity's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Entity. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Entity's Eligible Directors. The Board of any Regulated Entity may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Independent Director of a Regulated Entity will have a direct or indirect financial interest in any Co-Investment Transaction (other than indirectly through share ownership in one of the Regulated Entities), including

[3] ''Regulated Entity'' refers to the Existing Regulated Entity and any Future Regulated Entity. ''Future Regulated Entity'' means any closed-end management investment company formed in the future that is registered under the Act and is advised by an Adviser. The term ''Adviser'' means (a) MSAIP and (b) any future investment adviser that is controlled by MSAIP and is registered as an investment adviser under the Advisers Act.

[4] ''Affiliated Fund'' means any Existing Affiliated Fund or any Future Affiliated Fund. ''Future Affiliated Fund'' means any investment fund that would be an ''investment company'' but for section 3(c)(1) or 3(c)(7) of the Act, is formed in the future, and is advised by an Adviser. No Affiliated Fund is or will be a subsidiary of a Regulated Entity.

[5] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[6] The term ''Wholly-Owned Investment Subsidiary'' means an entity: (a) That is wholly-owned by a Regulated Entity (with such Regulated Entity at all times holding, beneficially and of record, 100% of the voting and economic interests); (b) whose sole business purpose is to hold one or more investments on behalf of such Regulated Entity; (c) with respect to which the board of directors of such Regulated Entity has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (d) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in Co-Investment Transactions will be Wholly-Owned Investment Subsidiaries and will have Objectives and Strategies (as defined below) that are either the same as, or a subset of, their parent Regulated Entity's Objectives and Strategies.

[7] The term ''Objectives and Strategies'' means a Regulated Entity's investment objectives and strategies as described in the Regulated Entity's registration statement on Form N–2, other filings the Regulated Entity has made with the Commission under the Securities Act of 1933 (the ''Securities Act'') or the Securities Exchange Act of 1934, and the Regulated Entity's reports to investors.

[8] The Regulated Entities, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[9] Eligible Directors may not have a financial interest in such transaction, plan, or arrangement.

any interest in any company whose securities would be acquired in a Co-Investment Transaction.

10. Under condition 15, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Entity (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the co-investment program, because the ability of an Adviser or its principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the investors, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Applicants state that in the absence of the requested relief, the Regulated Entities may be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Entity's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Entities' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for another Regulated Entity or an Affiliated Fund that falls within a Regulated Entity's then-current Objectives and Strategies, the Regulated Entity's Adviser will make an independent determination of the appropriateness of the investment for the Regulated Entity in light of the Regulated Entity's then-current circumstances.

2. (a) If the Adviser deems a Regulated Entity's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Entity, the Adviser will then determine an appropriate level of investment for the Regulated Entity.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Entity in the Potential Co-Investment Transaction together with the amount proposed to be invested by the other participating Regulated Entities and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Entity with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Entity's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each Regulated Entity and each Affiliated Fund) to the Eligible Directors of each participating Regulated Entity for their consideration. A Regulated Entity will co-invest with another Regulated Entity or an Affiliated Fund only if, prior to the Regulated Entity's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Entity and its investors and do not involve overreaching in respect of the Regulated Entity or its investors on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Entity's investors; and

(B) the Regulated Entity's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Entities or any Affiliated Funds would not disadvantage the Regulated Entity, and participation by the Regulated Entity would not be on a basis different from or less advantageous than that of any other Regulated Entities or any Affiliated Funds; provided that, if any other Regulated Entity or any Affiliated Fund, but not the Regulated Entity itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any; and

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Board of the Regulated Entity with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Regulated Entity or any Affiliated Fund or any affiliated person of any Regulated Entity or any Affiliated Fund receives in connection with the right of a Regulated Entity or an Affiliated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who may each, in turn, share its portion with its affiliated persons) and the participating Regulated Entities in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Entity will not benefit any Adviser, the other Regulated Entities, the Affiliated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities

issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Entity has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Entity, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Entities or Affiliated Funds during the preceding quarter that fell within the Regulated Entity's then-current Objectives and Strategies that were not made available to the Regulated Entity, and an explanation of why the investment opportunities were not offered to the Regulated Entity. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Entity and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[10] a Regulated Entity will not invest in reliance on the Order in any issuer in which another Regulated Entity, Affiliated Fund, or any affiliated person of another Regulated Entity or Affiliated Fund is an existing investor.

6. A Regulated Entity will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Entity and Affiliated Fund. The grant to another Regulated Entity or an Affiliated Fund, but not the Regulated Entity, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Regulated Entity or an Affiliated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Entity that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Entity in the disposition.

(b) Each Regulated Entity will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Regulated Entities and Affiliated Funds.

(c) A Regulated Entity may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Entity has approved as being in the best interests of the Regulated Entity the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Entity is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Entity's participation to the Regulated Entity's Eligible Directors, and the Regulated Entity will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Entity's best interests.

(d) Each Regulated Entity and each Affiliated Fund will bear its own expenses in connection with any such disposition.

8. (a) If a Regulated Entity or an Affiliated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Entity that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Entity.

(b) A Regulated Entity may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Entity has approved as being in the best interests of the Regulated Entity the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Entity's participation to the Eligible Directors, and the Regulated Entity will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Entity's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of a Follow-On Investment is not based on the Regulated Entities' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Entity in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Entity will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Entities and the Affiliated Funds that the Regulated Entity considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments which the Regulated Entity considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Entity of participating in new and existing Co-Investment Transactions.

10. Each Regulated Entity will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Entities were a business development company (as defined in section 2(a)(48) of the Act) and each of the investments permitted under these conditions were approved by the

[10] This exception applies only to Follow-On Investments by a Regulated Entity in issuers in which that Regulated Entity already holds investments.

Required Majority under section 57(f) of the Act.

11. No Independent Director of a Regulated Entity will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by an Adviser under the investment advisory agreements with the Regulated Entities and the Affiliated Funds, be shared by the Affiliated Funds and the Regulated Entities in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee [11] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Entities and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Entities and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Entities or any affiliated person of the Regulated Entities or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Entities and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of the Advisers, investment advisory fees paid in accordance with the agreements between the Advisers and the Regulated Entities or Affiliated Funds).

14. The Advisers will each maintain policies and procedures reasonably designed to ensure compliance with the foregoing conditions. These policies and procedures will require, among other things, that the applicable Adviser will be notified of all Potential Co-Investment Transactions that fall within a Regulated Entity's then-current Objectives and Strategies and will be given sufficient information to make its independent determination and recommendations under conditions 1, 2(a), 7 and 8.

15. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Entity, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) all other matters under either the Act or applicable State law affecting the Board's composition, size or manner of election.

16. Each Regulated Entity's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Entity's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–05828 Filed 3–19–20; 8:45 am]

BILLING CODE 8011–01–P

[11] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88394; File No. SR–LTSE–2020–05]

Self-Regulatory Organizations; Long-Term Stock Exchange; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fingerprint-Based Background Checks

March 16, 2020.

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 March 6, 2020, Long-Term Stock Exchange (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

LTSE proposes a rule change to amend its rule relating to fingerprint-based background checks of directors, officers, employees, and others, and to utilize the services of an Federal Bureau of Investigation (''FBI'') approved Channel Partner to conduct fingerprinting.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1.180 (Fingerprint-Based Background Checks of Employees and Independent Contractors), which was based on the corresponding rule of the Investors Exchange (''IEX''),[3] to adopt with only minor differences as discussed below, the provisions of the New York Stock Exchange (''NYSE'') fingerprinting rule.[4] In addition, the proposed rule change would allow the Exchange to utilize the services of an FBI-approved Channel Partner, as is common with other national securities exchanges, including the NYSE.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* IEX Rule 1.180.

[4] *See* NYSE Rule 28.

Background and Proposed Rule Change

Section 17(f)(2) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''),[5] provides that every member of a national securities exchange, broker, dealer, registered transfer agent, registered clearing agency, registered securities information processors, national securities exchanges and national securities associations shall require each of its partners, directors, officers, and employees to be fingerprinted and submit those fingerprints (or cause the fingerprints to be submitted) to the Attorney General of the United States (''Attorney General'') for identification. Section 17(f)(2) explicitly directs the Attorney General to provide self-regulatory organizations (''SROs'') designated by the Commission with access to criminal history record information. Further, SEC Rule 17f–2 authorizes SROs to store criminal record information received from the FBI, which maintains on behalf of the Attorney General a database of fingerprint-based criminal history records.[6]

While existing LTSE Rule 1.180 meets the requirements of section 17(f)(2) of the Act, it contemplates only the use of fingerprint ''cards,'' is not tailored to the Exchange's organizational structure, and has a substantive error.[7] Accordingly, the Exchange proposes to adopt the fingerprinting rule of the NYSE, with minor differences described below.

Proposed LTSE Rule 1.180(a) would be identical to NYSE Rule 28(a) with the exception of the phrase ''and its principal subsidiaries.'' This phrase is proposed to be omitted because the Exchange does not have any subsidiaries; the Exchange is a wholly-owned subsidiary of LTSE Group. The phrase ''each of'' also would be omitted to make the first sentence of the proposed rule grammatically correct.

Proposed LTSE Rule 1.180(b) would be identical to NYSE Rule 28(b) with the exception of the sentence that states ''The Exchange, however, may provide a subsidiary with access to information from background checks based on fingerprints obtained from that subsidiary.'' Again, the Exchange proposes to omit that sentence because it does not have subsidiaries.

Proposed LTSE Rule 1.180(c) and Supplementary Material .01 would be identical to NYSE Rule 28(c) and Supplementary Material .10. Finally, the Exchange proposes to amend the title of Rule 1.180 to be identical to the title of NYSE Rule 28, which is a more accurate description of the rule.

In addition, consistent with the practice at NYSE and other national securities exchanges, the Exchange intends to utilize a Live-Scan[8] electronic system to capture and transmit fingerprints directly to the FBI. The capture and transmittal function, and corresponding receipt of criminal history information from the FBI, would be handled directly by Exchange personnel and/or an FBI-approved ''Channel Partner''[9] who would maintain and operate, on behalf of the Exchange, a LiveScan and/or other electronic system(s) for the submission of fingerprints to the FBI; receive and maintain criminal history record information from the FBI; and disseminate such information, through secure systems, to a limited set of approved reviewing officials within the Exchange. The Exchange believes that Rule 1.180 allows for the retention of a Channel Partner for these purposes.

The Exchange believes that the foregoing interpretation is consistent with the Exchange's authority under Section 17(f)(2) of the Act, as amended by the Dodd-Frank Act,[10] which requires, *inter alia,* that employees of exchanges be fingerprinted and that exchanges ''shall submit such fingerprints, or cause the same to be submitted, to the Attorney General of the United States for identification and appropriate processing.''

The Exchange accordingly believes that under LTSE Rule 1.180 (as adopted and as proposed) and applicable statutes, the Exchange has the authority to engage an FBI-approved Channel Partner for some or all of the fingerprinting processes described in the Rule. Finally, the Exchange believes that this proposed interpretation would ensure the Exchange's continued compliance with its Rules and applicable state and federal law.[11]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

Continuing to run fingerprint-based background checks is imperative for the Exchange, as this process helps to identify persons with criminal history records who may pose a threat to the safety of Exchange personnel and/or the security of Exchange facilities and records. This identification and screening process thus enhances business continuity, workplace safety, and the security of the Exchange's operations. The use of an FBI-approved Channel Partner in some or all phases of this process is consistent with LTSE Rule 1.180 and applicable state and federal law, and in furtherance of the important objectives described herein. Additionally, the use of a Channel Partner is consistent with the fingerprinting method currently employed by other SROs.[14] For all these

[5] *See* 15 U.S.C. 78q(f)(2); Dodd-Frank Act, Public Law 111–203, 929S, 124 Stat. 1376, 1867 (2010).

[6] *See* 17 CFR 240.17f–2(d).

[7] The rule was copied verbatim from IEX Rule 1.180, with changes only to reflect the different names of the exchanges. LTSE Rule 1.180(c) also erroneously references FINRA as the source of background information from the fingerprints, instead of the Attorney General of the United States or his or her designee.

[8] Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Live-Scan technology captures and transfers images to a central location and/or interface for identification processing.

[9] FBI-approved Channel Partners receive the fingerprint submission and relevant data, collect the associated fee(s), electronically forward the fingerprint submission with the necessary information to the FBI Criminal Justice Information Services Division (''CJIS'') for a national Criminal History Summary check, and receive the electronic summary check result for dissemination to the authorized employer entity. *See* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66). The Exchange would retain ultimate legal responsibility for the fulfillment of its statutory and self-regulatory obligations under the Act, including compliance with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.

[10] *See* 15 U.S.C. 17(f)(2); Dodd-Frank Act, Public Law 111–203, 929S, 124 Stat. 1376, 1867 (2010).

[11] Access to the FBI's fingerprint-based database of criminal records is permitted only when authorized by law. Section 17(f)(2) of the Act explicitly directs the Attorney General to provide SROs designated by the Commission (*e.g.,* the Exchange) with access to such criminal history record information. Further, as amended by the Dodd-Frank Act, Section 17(f)(2) specifically requires, *inter alia,* that employees of national securities exchanges be fingerprinted. New York's General Business Law also requires SROs to fingerprint employees ''as a condition of employment,'' as well as certain non-employee service providers. N.Y. Gen. Bus. Law § 359–e (McKinney).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] *See e.g.,* NYSE Rule 28; Chicago Board Options Exchange (''CBOE'') Rule 15.10. *See generally* Securities Exchange Act Release No. 76422 (November 10, 2015), 80 FR 71868 (November 17,

Continued

reasons, the proposal is also designed to protect investors as well as the public interest.

Additionally, the proposed rule is nearly identical to NYSE Rule 28 [15] and corrects an erroneous reference to FINRA in LTSE Rule 1.180(c).[16]

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 proposed rule change is not intended to address competitive issues but rather update its existing fingerprint rule to match, with only minor differences, NYSE Rule 28, and to allow the use of an FBI-approved Channel Partner as described above.[17]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor 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 [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [20] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [21] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to amend its fingerprinting rule to be accurate, tailored to the Exchange, and substantially similar to NYSE Rule 28 and to begin utilizing the services of an FBI-approved Channel Partner as soon as practicable. The minor differences noted herein do not raise substantive or novel issues.[22] Thus the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposed rule change operative upon filing.[23]

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.

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–LTSE–2020–05 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–LTSE–2020–05. 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–LTSE–2020–05 and should be submitted on or before April 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

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2015) (SR–NYSE–2015–45) (citing Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667, 76668 n. 12 (December 18, 2013) (SR–ISE–2013–66) (noting that ''[a]n FBI-approved Channel Partner simply helps expedite the delivery of Criminal History Summary information on behalf of the FBI'', and that the ''process for making a request through an FBI-approved Channel Partner is consistent with FBI submission procedures'')).

[15] *See supra* text accompanying note 4.

[16] *See* supra note 7.

[17] *See supra* text accompanying note 8 [sic].

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *See supra Background and Proposed Rule Change.*

[23] 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).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88391; File No. SR–NYSEAMER–2020–18]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Fee Schedule

March 16, 2020.

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 March 12, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 amend the NYSE American Options Fee Schedule (''Fee Schedule'') regarding the Professional Step-Up Incentive program and rebates for initiating a Customer Best Execution (''CUBE'') Auction. The Exchange proposes to implement the fee change effective March 12, 2020. The proposed 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 purpose of this filing is modify the Fee Schedule regarding the Professional Step-Up Incentive program and rebates for initiating a Customer Best Execution (''CUBE'') Auction.

In brief, the proposed changes are designed to encourage ATP Holders to increase their Electronic volume in the ''Professional'' range as well as to submit initiating CUBE Orders.[4] Specifically, the Exchange proposes to modify the Professional Step-Up Incentive, which offers discounted rates on monthly Professional volume, and to offer a new rebate on initiating CUBE volume for those ATP Holders that meet certain Professional volume requirements and increase their initiating CUBE volume by a specified amount, as described further below.

The Exchange proposes to implement the rule changes on March 12, 2020.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [5]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[6] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the fourth quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[7]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

In response to this competitive environment, the Exchange has established various pricing incentives designed to encourage increased Electronic volume executed on the Exchange, including (but not limited to) the American Customer Engagement (''ACE'') Program and the Professional Step-Up Program. The Exchange also offers an ACE Initiating Participant Rebate to participants in the ACE Program that initiate CUBE Auctions. The Exchange is proposing to modify the Professional Step-Up program to continue to encourage Professional volume and to introduce an alternative to the ACE Initiating Participant Rebate that would enable non-ACE Program participants to qualify for a rebate on certain initiating CUBE Orders provided they meet certain Professional volume requirements and increase their initiating CUBE volume. To the extent that these incentives succeed, the increased liquidity on the Exchange would result in enhanced market quality for all participants.

Proposed Rule Change

Professional Step-Up Incentive

Section I.H. of the Fee Schedule sets forth the Professional Step-Up Incentive program (the ''Professional Incentive''), which is comprised of Tiers A, B, and C, and offers discounted rates on monthly Professional volume for ATP Holders that increase their Professional volume by specified percentages of TCADV over their August 2019 volume—or, for new ATP Holders that increase such volume by a specified percentages of TCADV above 10,000 contracts ADV) (the ''Qualifying Volume'').[8] Under the current Fee Schedule, ATP Holders that qualify for Tiers B and C of the Professional Incentive are also eligible to receive certain ACE Program, Tier 1 credits.[9]

The Exchange proposes to modify the Professional Incentive program as shown in the table below. (Proposed text is italicized, while text to be deleted is in brackets).[10]

[4] For purposes of this filing, ''Professional'' Electronic volume includes: Professional Customer, Broker Dealer, Non-NYSE American Options Market Maker, and Firm (the ''Professional volume'').

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[6] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/market-data/volume/default.jsp.*

[7] Based on OCC data, *see id.,* the Exchange's market share in equity-based options declined from 9.82% for the month of January 2019 to 8.08% for the month of January 2020.

[8] *See* Fee Schedule, Section I.H., Professional Step-Up Incentive, *available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[9] *See id. See also* Fee Schedule, Section I.E. (describing the ACE Program and associated credits). The Exchange notes that under the current Fee Schedule participants that qualify for Tier B of the Professional Incentive do not receive all of the benefits that inure to ATP Holders that qualify for ACE Tier 1; they are solely entitled to the reduce rates on Customer Electronic Volume. *See* Fee Schedule, Section I.H., Professional Step-Up Incentive.

[10] *See* proposed Fee Schedule, Section I.H., Professional Step-Up Incentive.

PROFESSIONAL STEP-UP INCENTIVE

	Qualifying volume as a % of TCADV	Per contract Penny Pilot rate	Per contract non Penny Pilot rate	ACE benefits
Tier A	[0.04] *0.06*	[$0.42] *0.45*	[$0.65] *0.70*	N/A.
Tier B	[0.07] *0.08*	0.35	[0.55] *0.60*	[Tier 1 Customer Credits only (per Section I.E.)] *N/A.*
Tier C	[0.09] *0.10*	0.25	0.50	Tier 1 [Customer Credits (per Section I.E.), plus ACE Initiating Participant Rebate—All issues (per Section I.G.)].

As shown in the table above, the Exchange proposes to increase the Qualifying Volume requirement for each of the Tiers A, B and C to 0.06%, 0.08% and 0.10% (up from 0.04%, 0.07% and 0.09%), respectively. For Tier A, the Exchange also proposes to increase the rate per contract to $0.45 (up from $0.42) for Penny Pilot issues, which would still be a discounted rate, and $0.70 (up from $0.65) for non-Penny Pilot Issues, which would still be a discounted rate.[11] For Tier B, the Exchange proposes to increase the rate per contract to $0.60 (up from $0.55) for non-Penny Pilot issues, which would still be a discounted rate, and to remove the ACE Program ''Tier 1 Customer only credits.''[12] The Exchange proposes to remove the ACE benefit from Tier B as it did not incent Professional Customer order flow as anticipated, likely because the ACE benefits were limited to Customer transactions and thus did not incent increased Professional volume. The Exchange believes that a better incentive is the Alternative Initiating Participant Rebate, as described below. Because the Exchange is removing the limited ACE Benefit for Tier B participants, it proposes to streamline the description of ACE Benefits available in the preamble of Section I.H. and regarding Tier C to simply read: ''Tier 1,'' which the Exchange believes would make the Fee Schedule easier to navigate and comprehend.[13]

CUBE Auction Fees & Credits: Alternative Initiating Participant Rebate

Section I.G. of the Fee Schedule sets forth the rates for per contract fees and credits for executions associated with a CUBE Auction. The Exchange currently offers ATP Holders that qualify for Tiers 1–5 of the ACE Program a ($0.12) per contract rebate for up to 5,000 Customer contracts per CUBE Order executed in a CUBE Auction (the ''ACE Initiating Participant Rebate.'')[14] The Exchange proposes to offer an alternative to the ACE Initiating Participant Rebate, which would be a ($0.10) per contract rebate for all issues that would likewise apply to first 5,000 Customer contracts per CUBE Order executed in a CUBE Auction, provided the ATP Holder met certain volume requirements (the ''Alternative Initiating Participant Rebate'').[15]

Specifically, to qualify for the Alternative Initiating Participant Rebate, an ATP would have to execute:

- A minimum of 10,000 contracts average daily volume (''ADV'') in the ''Professional range, as defined in Section I.H.'' of the Fee Schedule, (*i.e.,* in the Professional Incentive program); and
- Increase their Initiating CUBE Orders by the greater of 20% over their August 2019 volume or 10,000 contracts ADV.[16]

The proposed Alternative Initiating Participant Rebate would be payable in addition to the Initiating Participant Credit for both Penny and non-Penny Pilot issues, which provide per contract credits of ($0.30) and ($0.70), respectively. However, an ATP Holder that qualifies for both the ACE Initiating Participant Rebate (which is ($0.12)) and the Alternative Initiating Participant Rebate (which is ($0.10)) would be entitled only to the greater of the two rebates (*i.e.,* the ACE Initiating Participant Rebate).[17]

The Exchange's fees are constrained by intermarket competition, as ATP Holders may direct their order flow to any of the 16 options exchanges, including those with similar incentive programs.[18] Thus, ATP Holders have a choice of where they direct their order flow. The proposed modification to the Professional Incentive program as well as the Alternative Initiating Participant Rebate are designed to encourage ATP Holders to increase the amount of Professional volume directed to and executed on the Exchange. In addition, the proposed Alternative Initiating Participant Rebate is designed to increase incentives for submission of CUBE Orders, which should maximize price improvement opportunities for Customers. The Exchange notes that all market participants stand to benefit from increased volume, as increased liquidity promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

The Exchange cannot predict with certainty whether any ATP Holders would avail themselves of this proposed fee change. Assuming historical behavior can be predictive of future behavior, however, the Exchange believes that at present participation rates, between two and four firms may be able to qualify for Professional Incentive program and between two and four firms may qualify for the Alternative Initiating Participant Rebate on initiating CUBE volume.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[20] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly

[11] *See* Fee Schedule, Section I. A., *supra* note 8 (setting forth options transactions rates for Electronic Professional volume of $0.50 and $0.75 for Penny and Non-Penny issues respectively; except that Firm execution in Penny issues are charged $0.47 per contract).

[12] *See id.*

[13] *See* proposed Fee Schedule, Section I. H, Professional Step-up Incentive (citing only ACE ''Tier 1'' in the preamble to Section I.H. and Tier C, thus removing the now extraneous references to—and verbiage regarding—ACE ''Section I.E.'' Customer credits and ''Section I.G.'' CUBE Initiating Participant Rebate.''

[14] *See* Section I.G. of the Fee Schedule, CUBE Auction Fees & Credits, note 2, *see supra* note 8.

[15] *See* proposed Section I.G. of the Fee Schedule, CUBE Auction Fees & Credits, note 2.

[16] *See id.*

[17] *See id.*

[18] *See e.g.,* MIAX Options fee schedule, Section 1.a.iv, Professional Rebate Program, *available here, https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_01142020.pdf* (setting forth per contract credits on volume submitted for the account of Public Customers that are not Priority Customers, Non-MIAX Market Makers, Non-Member Broker Dealers, and Firms (collectively, Professional for purposes of MIAX program), provided the Member achieves certain Professional volume increase percentage thresholds (set forth in the schedule) in the month relative to the fourth quarter of 2015).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(4) and (5).

discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [21]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[22] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the fourth quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[23]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes that the proposed modifications to the existing Professional Incentive program are reasonable because, although the proposed volume requirements and associated fees would increase, the rates would still be discounted and the Program would continue to be designed to incent ATP Holders to increase the amount of Professional order flow directed to the Exchange. The Exchange also notes that with the Alternative Initiating Participant Rebate, it is offering participants another means of achieving a rebate based on Professional volume, which should provide additional incentive to direct such order flow to the Exchange. The Exchange proposes to remove the ACE benefit from Tier B of the Professional Incentive program because it did not increase Professional order flow as anticipated, likely because the ACE benefits were limited to Customer transactions and thus did not incent increased Professional volume. Instead, the Exchange believes that the Alternative Initiating Participant Rebate may better incent ATP Holder's to increase Professional volume.

The Exchange also believes that the proposed Alternative Initiating Participant Rebate for initiating CUBE volume is reasonable because it may encourage ATP Holders that choose to participate in the CUBE to direct order flow, including initiating CUBE volume to the Exchange. The Exchange notes that all market participants stand to benefit from increased Electronic transaction volume, as such increase promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants that do not participant in (or qualify for) the Professional Incentive program or the Alternative Initiating Participant Rebate. The Exchange believes that the baseline of 10,000 ADV Professional volumes for new ATP Holders is reasonable because these volumes are comparable to trading volumes in August 2019 for those firms that were active on the Exchange and eligible to increase their CUBE initiating volume by 20% to qualify for the Alternative Initiating Participant Rebate. Moreover, the proposed Alternative Initiating Participant Rebate provides another avenue (outside of the ACE Program) for participants to avail themselves of a rebate for initiating CUBE Auctions.

The Exchange cannot predict with certainty whether any ATP Holders would avail themselves of this proposed fee change. Assuming historical behavior can be predictive of future behavior, however, the Exchange believes that at present participation rates, between two and four firms may be able to qualify for Professional Incentive program and between two and four additional firms may qualify for the Alternative Initiating Participant Rebate on initiating CUBE volume.

Finally, to the extent the proposed pricing incentives continue to attract volume and liquidity, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule changes are a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors. The proposed rule changes are designed to continue to incent ATP Holders to direct liquidity to the Exchange in Electronic executions, similar to other exchange programs with competitive pricing programs, thereby promoting market depth, price discovery and improvement and enhancing order execution opportunities for market participants.[24]

On the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange and ATP Holders can opt to avail themselves of these incentives or not. Moreover, the proposals are designed to encourage ATP Holders to aggregate their executions at the Exchange as a primary execution venue. To the extent that the proposed changes attract more Professional and Customer volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule changes would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed modifications would be available to all similarly-situated market participants on an equal and non-discriminatory basis. ATP Holders would continue to have the option of availing themselves of the still-reduced rates available under the Professional Incentive program and

[21] *See* Reg NMS Adopting Release, *supra* note 5, at 37499.

[22] *See supra* note 6.

[23] Based on OCC data, *see supra* note 7, the Exchange's market share in equity-based options declined from 9.82% for the month of January 2019 to 8.08% for the month of January 2020.

[24] *See, e.g., supra* note 18 (regarding MIAX Professional Rebate Program).

would have increased opportunity to qualify for rebates based on their Professional volume with the Alternative Initiating Participant Rebate. The Alternative Initiating Participant Rebate also offers participants that choose to participate in the CUBE, but do not qualify for the ACE Initiating Participant Program to be eligible to receive a rebate on initiating CUBE volume. The Exchange believes that this proposal should incent ATP Holders to direct volume to the Exchange, which would increase liquidity on the Exchange to the benefit of all market participants.

The proposals are based on the amount and type of business transacted on the Exchange and ATP Holders are not obligated to try to achieve either of the incentive pricing options. Rather, the proposals are designed to encourage participants to utilize the Exchange as a primary trading venue (if they have not done so previously) or increase Electronic volume sent to the Exchange. To the extent that the proposed changes attract more executions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule changes would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [25]

Intramarket Competition. The proposed change is designed to continue to attract order flow to the Exchange by offering competitive rates and credits (via the Professional Incentive program and the Alternative Initiating Participant Rebate) based on increased volumes on the Exchange, which would enhance the quality of quoting and may increase the volumes of contracts trade on the Exchange. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[26] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the fourth quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[27]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to continue to encourage ATP Holders to direct trading interest to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar pricing incentives, by encouraging additional orders to be sent to the Exchange for execution.[28]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [29] of the Act and subparagraph (f)(2) of Rule 19b–4 [30] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–

[25] *See* Reg NMS Adopting Release, *supra* note 5, at 37499.

[26] *See supra* note 6.

[27] Based on OCC data, *supra* note 7, the Exchange's market share in equity-based options declined from 9.82% for the month of January 2019 to 8.08% for the month of January 2020.

[28] *See, e.g., supra* note 18 (regarding MIAX Professional Rebate Program).

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(2).

[31] 15 U.S.C. 78s(b)(2)(B).

NYSEAMER–2020–18 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 No. SR–NYSEAMER–2020–18. 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 No. SR–NYSEAMER–2020–18, and should be submitted on or before April 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–05849 Filed 3–19–20; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:30 p.m. on Tuesday, March 24, 2020.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: March 17, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–06012 Filed 3–18–20; 11:15 am]

BILLING CODE 8011–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Revocation of Approvals

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: December 1–31, 2019.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, that have been revoked for the time period specified above:

Revocation of Approvals by Rule—Issued Under 18 CFR 806.22(f):

1. XPR Resources, LLC; Pad ID: Resource Recovery Well #1; ABR–201010059.R1; Snow Shoe Township, Centre County, Pa.; Revocation of Approval Date: December 24, 2019.
2. Seneca Resources Company, LLC; Pad ID: Gamble Pad G; ABR–201906005; Gamble Township, Lycoming County, Pa.; Revocation of Approval Date: December 26, 2019.
3. Seneca Resources Company, LLC; Pad ID: C09–E; ABR–201512009; Shippen Township, Cameron County, Pa.; Revocation of Approval Date: December 26, 2019.
4. Chief Oil & Gas, LLC; Pad ID: Andrus Drilling Pad #1; ABR–201101023.R1; Franklin and Granville Townships, Bradford County, Pa.; Revocation of Approval Date: December 30, 2019.

(Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808)

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05873 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Grandfathering (GF) Registration Notice

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: February 1–29, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above: *Grandfathering Registration Under 18 CFR part 806, subpart E:*

1. Elmhurst Country Club, GF Certificate No. GF–202002083, Roaring Brook Township, Lackawanna County, Pa.; Wells 1 and 2; Issue Date: February 3, 2020.

2. Weaverland Valley Authority—Terre Hill Water System, GF Certificate No. GF–202002084, Terre Hill Borough and East Earl Township, Lancaster County, Pa.; Wells 1 and 3; Issue Date: February 3, 2020.

3. Williamsport Country Club Inc.—Williamsport Country Club, GF Certificate No. GF–202002085, Loyalsock Township, Lycoming County, Pa.; Wells 1 and 2, and consumptive use; Issue Date: February 18, 2020.

4. Town of Kirkwood—Public Water Supply System, GF Certificate No. GF–202002086, Town of Kirkwood, Broome County, N.Y.; Well 1; Issue Date: February 24, 2020.

5. Pennsylvania Fish & Boat Commission—Bellefonte State Fish Hatchery, GF Certificate No. GF–202002087, Benner Township, Centre County, Pa.; the Spring, and Wells 1 and 2; Issue Date: February 24, 2020.

6. Pennsylvania Fish & Boat Commission—Benner Spring State Fish Hatchery, GF Certificate No. GF–202002088, Benner Township, Centre County, Pa.; Benner Spring and Spring Creek; Issue Date: February 24, 2020.

7. Tunkhannock Borough Municipal Authority—Public Water Supply System, GF Certificate No. GF–202002089, Tunkhannock Borough, Wyoming County, Pa.; Well 1 (Hill Well 1) and Well 4 (Ravine); Issue Date: February 24, 2020.

(Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808)

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05877 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at March 13, 2020, Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on March 13, 2020, in Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects, and took additional actions, as set forth in the Supplementary Information below.

DATES: March 16, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary, telephone: (717) 238–0423, ext. 1312, fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address. See also Commission website at *www.srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: (1) Resolution 2020–01 adopting the Commission's Fiscal Year 2021 Budget Reconciliation; (2) ratification/approval of contracts/grants; (3) Resolution 2020–02 adopting Final Rulemaking regarding consumptive use mitigation and adopting *Consumptive Use Mitigation Policy;* (4) Resolution 2020–03 adopting *Guidance For The Preparation Of A Metering Plan & A Groundwater Elevation Monitoring Plan For Withdrawals, Consumptive Uses And Diversions (''Metering Plan Guidance'');* and (5) Regulatory Program projects.

Project Applications Approved

1. Project Sponsor and Facility: ARD Operating, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.340 mgd (peak day) (Docket No. 20160301).

2. Project Sponsor and Facility: EQT Production Company (Wilson Creek), Duncan Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20160305).

3. Project Sponsor and Facility: New Holland Borough Authority, New Holland Borough, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.860 mgd (30-day average) from Well 5.

4. Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Oakland Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20160310).

5. Project Sponsor and Facility: SWN Production Company, LLC (Tunkhannock Creek), Lenox Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 1.218 mgd (peak day) (Docket No. 20160311).

6.. Project Sponsor and Facility: Towanda Municipal Authority, Albany Township, Bradford County, Pa. Application for groundwater withdrawal of up to 0.551 mgd (30-day average) from the Eilenberger Spring.

7. Project Sponsor: York Haven Power Company, LLC. Project Facility: York Haven Hydroelectric Project, Londonderry Township, Dauphin County; Conoy Township, Lancaster County; and York Haven Borough and Newberry Township, York County, Pa. Application for approval of an existing hydroelectric facility.

Project Approved Involving a Diversion

1. Project Sponsor: Gas Field Specialists, Inc. Project Facility: Wayne Gravel Products Quarry, Ceres Township, McKean County, Pa. Application for renewal of an into-basin diversion from the Ohio River Basin of up to 1.170 mgd (peak day) (Docket No. 20160312).

Commission Initiated Project Approval Modifications

1. Project Sponsor and Facility: Susquehanna Valley Country Club, Monroe Township, Snyder County, Pa. Conforming the grandfathering amount with the forthcoming determination for a groundwater withdrawal up to 0.162 mgd (30-day average) from the Front Nine Well (Docket No. 20020814).

2. Project Sponsor and Facility: New Morgan Borough Utilities Authority, New Morgan Borough, Berks County, Pa. Modification to remove expired Well PW–3 and to recognize the interconnection with Caernarvon Township Authority. Well PW–3 automatically expired consistent with Condition 25 of the approval due to lack of commencement of withdrawal (Docket No. 20141207).

In addition, as a part of Resolution 2020–02, which was adopted, the Executive Director has the authority necessary to carry out the implementation of the final rulemaking and policy, including where necessary approving any Commission-initiated modifications to consumptive use

approvals to modify the mitigation requirements for evaporative losses from ponds and other on-site structures that meet the mitigation standard in Policy No. 2020–01. As such, notice is hereby given that the Executive Director is initiating such modifications. A list of modifications under review by Commission staff and date for public comment on those modifications can be found at the Commission's website at *www.srbc.net, https://www.srbc.net/about/meetings-events/meeting-comment/default.aspx?type=9&cat=29.*

Authority: Pub.L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05872 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: December 1–31, 2019

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (f)(13) and 18 CFR 806.22 (f) for the time period specified above:

Water Source Approval—Issued Under 18 CFR 806.22(f)

1. Repsol Oil & Gas USA, LLC; Pad ID: Wilcox #1; ABR–20090803.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 0.9999 mgd; Approval Date: December 9, 2019.
2. Repsol Oil & Gas USA, LLC; Pad ID: KLEIN (01 014) R; ABR–20090810.R2; Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: December 9, 2019.
3. Seneca Resources Company, LLC; Pad ID: B09–I; ABR–201912001; Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 10, 2019.
4. Chief Oil & Gas, LLC; Pad ID: Polovitch Unit #1H; ABR–20090826.R2; Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: December 20, 2019.
5. Range Resources—Appalachia, LLC; Pad ID: Roup 1H–2H; ABR–201407018.R1; Mifflin Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: December 20, 2019.
6. Chesapeake Appalachia, L.L.C.; Pad ID: Doss; ABR–20091109.R2; Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 23, 2019.
7. Chesapeake Appalachia, L.L.C.; Pad ID: CSI; ABR–20091112.R2; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 23, 2019.
8. Chief Oil & Gas, LLC; Pad ID: Kuziak B Drilling Pad; ABR–201409004.R1; Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: December 23, 2019.
9. Cabot Oil & Gas Corporation; Pad ID: WeissM P1; ABR–201407003.R1; Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: December 31, 2019.
10. SWN Production Company, LLC; Pad ID: Greenzweig (GU C Pad); ABR–201407004.R1; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 31, 2019.
11. SWN Production Company, LLC; Pad ID: NR–20–COLWELL–PAD; ABR–201407010.R1; Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 31, 2019.

(Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808)

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05875 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: January 1–31, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (f)(13) and 18 CFR 806.22 (f) for the time period specified above:

Water Source Approval—Issued Under 18 CFR 806.22(f):

1. Cabot Oil & Gas Corporation; Pad ID: BrooksW P1; ABR–20090701.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 14, 2020.
2. Cabot Oil & Gas Corporation; Pad ID: HullR P1; ABR–20090702.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 14, 2020.
3. Cabot Oil & Gas Corporation; Pad ID: Heitsman P1A; ABR–20090703.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 14, 2020.
4. Cabot Oil & Gas Corporation; Pad ID: Gesford P2; ABR–20090705.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 14, 2020.
5. SWN Production Company, LLC; Pad ID: Carrar Pad Site; ABR–20090725.R2; Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: January 14, 2020.
6. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 002); ABR–20090811.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: January 14, 2020.
7. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 004); ABR–20090812.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd;

Approval Date: January 14, 2020.
8. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 017); ABR–20090932.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: January 14, 2020.
9. Chief Oil & Gas, LLC; Pad ID: Teel Unit #1H; ABR–20091115.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 14, 2020.
10. Range Resources—Appalachia, LLC; Pad ID: Cornwall 6H–8H; ABR–201407017.R1; Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 14, 2020.
11. Chief Oil & Gas, LLC; Pad ID: S. A. Wilson Drilling Pad; ABR–201411001.R1; Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: January 14, 2020.
12. Cabot Oil & Gas Corporation; Pad ID: Teel P7; ABR–20090704.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 15, 2020.
13. Cabot Oil & Gas Corporation; Pad ID: LaRueC P1; ABR–20090706.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 15, 2020.
14. Cabot Oil & Gas Corporation; Pad ID: SmithR P2; ABR–20090707.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 15, 2020.
15. SWEPI LP; Pad ID: 212 1H; ABR–20090727.R2; Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 16, 2020.
16. SWEPI LP; Pad ID: 235A 1H; ABR–20090728.R2; Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 16, 2020.
17. SWEPI LP; Pad ID: Courtney 129 1H–2H; ABR–20090729.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 17, 2020.
18. SWEPI LP; Pad ID: Courtney H 255–1H; ABR–20090730.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 17, 2020.
19. Rockdale Marcellus, LLC; Pad ID: Palmer 112; ABR–20091006.R2; Canton Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 17, 2020.
20. SWEPI LP; Pad ID: Neal 134D; ABR–20090731.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 20, 2020.
21. SWEPI LP; Pad ID: Kipferl 261–1H; ABR–20090732.R2; Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 20, 2020.
22. Cabot Oil & Gas Corporation; Pad ID: GrimsleyJ P1; ABR–20090805.R2; Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: January 20, 2020.
23. Rockdale Marcellus, LLC; Pad ID: Fitch 115–1H; ABR–20091005.R2; Union Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 20, 2020.
24. Repsol Oil & Gas USA, LLC; Pad ID: KOHLER (02 191); ABR–202001001; Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: January 20, 2020.
25. Rockdale Marcellus, LLC; Pad ID: Bear Claw; ABR–202001002; McIntyre Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 20, 2020.
26. EXCO Resources (PA), LLC; Pad ID: Bower Unit #1H Drilling Pad; ABR–20090815.R2; Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 22, 2020.
27. BKV Operating, LLC; Pad ID: Procter & Gamble Mehoopany Plant 2 1H; ABR–20091104.R2; Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 22, 2020.
28. BKV Operating, LLC; Pad ID: Procter and Gamble Mehoopany Plant 1V; ABR–20091014.R2; Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 22, 2020.
29. Cabot Oil & Gas Corporation; Pad ID: ColwellA P1; ABR–201408004.R1; Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: January 22, 2020.
30. EXCO Resources (PA), LLC; Pad ID: Warburton Unit #1H Drilling Pad; ABR–20090816.R2; Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 28, 2020.
31. ARD Operating, LLC; Pad ID: COP Tr 678 #1000H; ABR–20090820.R2; Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 28, 2020.
32. ARD Operating, LLC; Pad ID: COP Tr 678 #1001H & #1002H; ABR–20090821.R2; Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 28, 2020.
33. ARD Operating, LLC; Pad ID: Tx Gulf B #1H; ABR–20090822.R2; Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: January 28, 2020.
34. SWN Production Company, LLC; Pad ID: NR–23–FOUR BUCKS–PAD; ABR–201408005.R1; Great Bend Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 28, 2020.
35. Seneca Resources Company, LLC; Pad ID: D09–M; ABR–202001003; Jones Township, Elk County; and Sergeant Township, McKean County; Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: January 28, 2020.
36. SWEPI LP; Pad ID: Smith 253 1H; ABR–20090825.R2; Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 29, 2020.
37. Cabot Oil & Gas Corporation; Pad ID: FontanaC P1; ABR–201408009.R1; Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: January 29, 2020.
38. Cabot Oil & Gas Corporation; Pad ID: DysonW P1; ABR–201408010.R1; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: January 29, 2020.
39. Cabot Oil & Gas Corporation; Pad ID: LernerG P1; ABR–201408011.R1; Ararat Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: January 29, 2020.

(Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808)

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05874 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Minor Modifications

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the minor modifications approved for a previously approved project by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: February 1–29, 2020.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists previously approved projects, receiving approval of minor modifications, described below, pursuant to 18 CFR 806.18 for the time period specified above:

Minor Modifications Issued Under 18 CFR 806.18

1. New York State Canal Corporation, Docket No. 20191210, Towns of DeRuyter and Cazenovia, Madison

County, and Town of Fabius, Onondaga County, N.Y.; approval to extend docket conditions (Special Conditions 14 and 15) in regard to the submittal of a comprehensive metering and monitoring plan and a final intake design; Approval Date: February 3, 2020.

2. Lancaster County Solid Waste Management Authority, Docket No. 20180908, Conoy Township, Lancaster County, Pa.; approval to correct a typographical error in Section 3 referencing the related special condition number; Approval Date: February 19, 2020.

(Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808)

Dated: March 16, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–05876 Filed 3–19–20; 8:45 am]

BILLING CODE 7040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2020–0013]

Request for Comments Concerning the Extension of Particular Exclusions Granted Under the June 2019 Product Exclusion Notice From the $34 Billion 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: Notice and request for comments.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process in July 2018 and granted multiple sets of exclusions. He granted the fifth set of exclusions in June 2019, which are scheduled to expire on June 4, 2020. The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in June 2019. The Office of the U.S. Trade Representative (USTR) invites public comment on whether to extend particular exclusions.

DATES: April 1, 2020 at 12:01 a.m. ET: The public docket on the web portal at *https://comments.USTR.gov* will open for parties to submit comments on the possible extension of particular exclusions. April 30, 2020 at 11:59 p.m. ET: To be assured of consideration, submit written comments on the public docket by this deadline.

ADDRESSES: You must submit all comments through the online portal: *https://comments.USTR.gov.*

FOR FURTHER INFORMATION CONTACT: Assistant General Counsels Philip Butler or Benjamin Allen at (202) 395–5725.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 45821 (August 30, 2019), 84 FR 69447 (December 18, 2019), and 85 FR 3741 (January 22, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders can request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the U.S. Trade Representative periodically would announce decisions. The U.S. Trade Representative granted multiple sets of exclusions. He granted the fifth set of exclusions in June 2019, which are scheduled to expire on June 4, 2020. *See* 84 FR 25895 (June 4, 2019) (June 2019 notice).

B. Possible Extensions of Particular Product Exclusions

The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in the June 2019 notice. Accordingly, USTR invites public comments on whether to extend particular exclusions granted in the June 2019 notice.

USTR will evaluate the possible extension of each exclusion on a case-by-case basis. The focus of the evaluation will be whether, despite the first imposition of these additional duties in July 2018, the particular product remains available only from China. In addressing this factor, commenters should address specifically:

- Whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.
- Any changes in the global supply chain since July 2018 with respect to the particular product or any other relevant industry developments.
- The efforts, if any, the importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, USTR will continue to consider whether the imposition of additional duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.

C. Procedures To Comment on the Extension of Particular Exclusions

To submit a comment regarding the extension of a particular exclusion granted in the June 2019 notice, commenters must first register on the portal at *https://comments.USTR.gov.* As noted above, the public docket on the portal will be open from April 1, 2020, to April 30, 2020. After registration, the commenter may submit an exclusion extension comment form to the public docket.

Fields on the comment form marked with an asterisk (*) are required fields. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, parties will be able to upload documents and indicate whether the documents are BCI or public. Commenters will be able to review the public version of their comments before they are posted.

In order to facilitate the preparation of comments prior to the April 1 opening of the public docket, a facsimile of the exclusion extension comment form to be used on the portal is annexed to this notice. Please note that the color-coding of public fields and BCI fields is not visible on the attached facsimile, but will be apparent on the actual comment form used on the portal.

Set out below is a summary of the information to be entered on the exclusion extension comment form.

- Contact information, including the full legal name of the organization making the comment, whether the commenter is a third party (*e.g.,* law firm, trade association, or customs broker) submitting on behalf of an organization or industry, and the name of the third party organization, if applicable.
- The number and product description for the exclusion on which you are commenting as provided in the Annex of the **Federal Register** notice granting the exclusion.
- Whether the product or products covered by the exclusion are subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.
- Whether you support or oppose extending the exclusion and an explanation of your rationale. Commenters must provide a public version of their rationale, even if the commenter also intends to submit a more detailed business confidential rationale.
- Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or in third countries. Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.
- The efforts you have undertaken since July 2018 to source the product from the United States or third countries.
- The value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018, the first half of 2018, and the first half of 2019. Whether these purchases are from a related company, and if so, the name of and relationship to the related company.
- Whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties.
- The value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018, the first half of 2018, and the first half of 2019.
- If applicable, the commenter's gross revenue for 2018, the first half of 2018, and the first half of 2019.
- Whether the Chinese-origin product of concern is sold as a final product or as an input.
- Whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.
- Any additional information in support of or in opposition to extending the exclusion.

Commenters also may provide any other information or data that they consider relevant.

D. Submission Instructions

To be assured of consideration, you must submit your comment between the opening of the public docket on the portal on April 1, 2020 and the April 30, 2020 submission deadline. Parties seeking to comment on two or more exclusions must submit a separate comment for each exclusion.

By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

E. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, the Office of Management and Budget (OMB) assigned control number 0350–0015, which expires January 31, 2023.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

BILLING CODE 3290–F0–P

ANNEX

OMB Control Number: 0350-0015

Expiration Date: January 31, 2023

Exclusion Extension Comment Form

1. Submitter Information

Full Organization Legal Name **(Public)**	
Commenter First Name **(BCI)**	
Commenter Last Name **(BCI)**	
Commenter Phone Number **(BCI)**	
Commenter Mailing Address **(BCI)**	
Contact Email Address **(BCI)**	

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? **(Public)**

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**	
Third Party First Name **(BCI)**	
Third Party Last Name **(BCI)**	
Third Party Phone Number **(BCI)**	
Third Party Mailing Address **(BCI)**	
Third Party Email Address **(BCI)**	

2. a) From the Annex of the Federal Register notice granting the exclusion, please provide the number and product description for the exclusion you are commenting on. Click the magnifying glass in the box below to search for and select the number and product description applicable to your comment. You may search by the HTS code or key words in the exclusion. **(Public)**

b) Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? (Public)

3. Do you support extending the exclusion (yes or no)? Please explain your rationale. (You must provide a public version of your rationale.) (Public)

4. Please explain whether the products covered by the exclusion, or comparable products, are available from sources in the United States? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product or any other relevant industry developments.) (Public)

5. Please explain whether the products covered by the exclusion, or a comparable products, are available from sources in third countries? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.) (Public)

6. a.) Please provide the value in USD and quantity (with units) of the Chinese-origin product covered by the specific exclusion that you purchased in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
First Six Months of 2018 Value:		**First Six Months of 2018 Quantity:**	
First Six Months of 2019 Value:		**First Six Months of 2019 Quantity:**	

Are the provided figures estimates? (BCI)

Are any of these purchases from a related company? (BCI)

Please list the name and relationship of the related company. (BCI)

Name: **Relationship:**

b.) Please discuss whether Chinese suppliers have lowered their prices for products covered by the exclusion following imposition of the duties. (BCI)

7. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from any third-country source in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
First Six Months of 2018 Value:		**First Six Months of 2018 Quantity:**	
First Six Months of 2019 Value:		**First Six Months of 2019 Quantity:**	

Are the provided figures estimates? (BCI)

8. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from domestic sources in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
First Six Months of 2018 Value:		**First Six Months of 2018 Quantity:**	
First Six Months of 2019 Value:		**First Six Months of 2019 Quantity:**	

Are the provided figures estimates? (BCI)

9. Please discuss any efforts you have undertaken since July 2018 to source this product from United States or third countries. (BCI)

10. Please provide information regarding your company's gross revenue in USD for 2018, the first half of 2018, and the first half of 2019. (BCI)

2018 Gross Revenue:

First Half (Jan-Jun) 2018:

First Half (Jan-Jun) 2019:

Are the provided gross revenue figures estimates? (BCI)

11. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? (BCI)

12. Please comment on whether the imposition of additional duties on the product(s) covered by the exclusion you are seeking an extension for, will result in severe economic harm to your company or other U.S. interests. (BCI)

13. Please provide any additional information in support of your comment, taking account of the instructions provided in Section B of the Federal Register notice. (BCI)

14. You may upload additional attachments in support of your comment. Please specify whether the attachment is Public or contains Business Confidential Information. (Submitter Determines Public or BCI)

[FR Doc. 2020–05890 Filed 3–19–20; 8:45 am]

BILLING CODE 3290–F0–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2020–10]

Petition for Exemption; Summary of Petition Received; ATK Launch Systems, 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 April 9, 2020.

ADDRESSES: Send comments identified by docket number FAA–2019–1058 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: Jake Troutman, (202) 683–7788, 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 March 16, 2020.

Brandon Roberts,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–1058.

Petitioner: ATK Launch Systems, Inc.

Section(s) of 14 CFR Affected: part 21, Subpart H §§ 43.7; 43.11; 45.29; 61.113(a) & (b); 91.9(b)(2) & (c); 91.105; 91.109; 91.121; 91.203(a) & (b); 91.403; 91.405(a); 91.407(a)(1); 91.409(a)(1) & (2); & 91.417(a) & (b).

Description of Relief Sought: Pursuant to 49 U.S.C. 44807, the proposed exemption, if granted, would allow the petitioner to facilitate sensory and payload testing with the Dakota unmanned aircraft systems (UAS) in support of programs operated by the Space Dynamics Lab at Utah State University. A grant would allow operation of the Dakota UAS, with a maximum gross weight of 265 pounds, manufactured by Geneva Aerospace/L–3 Communications, in the area including and adjacent to their privately-owned airstrip near Promontory, Utah, or as otherwise prescribed in an Air Traffic Organization issued Certificate of Waiver or Authorization. All operations will occur in the daytime within visual line of sight. The aircraft will be launched and recovered by conventional runway takeoff and landing. Its power plant is a two-cylinder, two cycle, gasoline-powered engine. The aircraft also uses a CloudCap Piccolo SL autopilot and ground station. The UAS will not be operated over 95 knots groundspeed.

[FR Doc. 2020–05983 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Release of Airport Property Acquired With Airport Improvement Program (AIP) Assistance at the Prattville Grouby Field Airport, Prattville, Alabama.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: The FAA is considering a request from the Prattville Airport Authority to waive the requirement that 1.35± acres of airport property located at the Prattville Grouby Field Airport in Prattville, Alabama, be used for airport development.

DATES: Comments must be received on or before April 20, 2020.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office Attn: Luke Flowers, Program Manager, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Prattville Grouby Field Airport, Attn: Mr. Paul Gardner, Chairman, Prattville Airport Authority, 1450 Aviation Way, Prattville, AL 36067.

FOR FURTHER INFORMATION CONTACT: Luke Flowers, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9898. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Prattville Airport Authority to release approximately 1.35 acres, more or less of airport property (portion of Exhibit A parcel 27) at Prattville Grouby Field Airport (1A9) under the provisions of Title 49, U.S.C. Section 47107(h)(2). The sale of the subject property will result in the land at Prattville Grouby Field Airport (1A9) being released from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. The FAA determined that the request to release property at Prattville Grouby Field Airport (1A9) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner

than thirty days after the publication of this notice. The 1.35± acres of property is not contiguous to the airfield or located within the runway protection zone and located on the east quadrant of airport property adjacent to Autauga County Highway 29. A deed restriction or easement for obstruction clearing will remain on the 1.35± acres. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project at Prattville Grouby Field Airport (1A9).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Prattville Grouby Field Airport (1A9).

Issued in Jackson, Mississippi on March 3, 2020.

William J. Schuller,

Acting Manager, Jackson Airports District Office Southern Region.

[FR Doc. 2020–05922 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0281]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Certification of Repair Stations, Part 145 of Title 14, CFR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collection is required to receive the benefit of obtaining an FAA Air Agency Certificate, known as a certificated repair station. The collection involves the applicant entering information onto and submitting the FAA Form 8310–3. Application for Repair Station Certificate/and or Rating to the appropriate FAA field office. Persons requesting to obtain an initial Air Agency Certificate to operate as an FAA certificated repair station or request changes to an existing repair station (air agency) certificate do so by submitting the request through the submission of the FAA Form 8310–3. This form is available to the applicant/respondent via *www.faa.gov,* email, in person, or by mail.

The FAA Form 8310–3, Application for Repair Station Certificate and/or Ratings captures information such as, but not limited to; official name of repair station, location where business is conducted, official mailing address, any doing business as name, changes in ratings, or if initial certification, ratings sought, changes in location or housing and facilities, change in name or ownership, or any other purpose for which the applicant requests, including a request for approval to contract maintenance functions to outside entities.

The FAA has identified an inaccuracy in how burden calculations are determined associated with initial repair station certifications and subsequent changes to an existing repair station certificate. The FAA has identified that the information collected through the FAA Form 8310–3 does not capture the entire repair station certification activities or changes to an existing certificate. OMB Control Number 2120–0682 is not only authorizing the Agency to receive information collected on the FAA Form 8310–3, but should also encapsulate the entire calculation burden associated with repair station certification and subsequent changes to an existing certificate.

Once burden calculations associated with repair station certification activities are properly assessed, the FAA will publish a new notice to the **Federal Register** capturing the entire burden calculation for repair station certification and subsequent changes to an existing certificate.

DATES: Written comments should be submitted by

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Patricia K. Williams, Federal Aviation Administration, AFS–340, 950 L'Enfant Plaza N SW, Washington, DC 20024.

By fax: 202–267–1812.

FOR FURTHER INFORMATION CONTACT: Susan Traugott Ludwig, by email at: *susan.traugott.ludwig@faa.gov;* phone: 202–267–1684.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0682.

Title: Certification of Repair Stations, Part 145 of Title 14, CFR.

Form Numbers: FAA Form 8310–3.

Type of Review: Clearance of a renewal of an information collection.

Background: The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. Rulemaking was promulgated under the authority described in title 49, subtitle VII, part A, subpart III, section 44701, General requirements, and section 44707, Examining and rating air agencies. Under section 44701, the FAA may prescribe regulations and standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances. The FAA may also prescribe equipment and facilities for, and the timing and manner of, inspecting, servicing, and overhauling these items. Under section 44707, the FAA may examine and rate repair stations. 14 Part 145 is within the scope of section 44707.

14 CFR part 145 prescribes the requirements for the issuance of repair station certificates. The FAA Form 8310–3, Application for Repair Station Certificate and/or Rating is available to the applicant who wishes to obtain initial repair station certification or submit changes to an existing air agency certificate. The applicant voluntarily submits the application to the appropriate FAA office by mail or email for review and acceptance. The applicant enters the information required for certification or changes to the existing certificate, which consists of; official name of repair station, location where business is conducted, official mailing address, any doing business as name, changes in ratings, or if initial certification, ratings sought, changes in location or housing and facilities, change in name or ownership, or any other purpose for which the applicant requests, including a request

for approval to contract maintenance functions to outside entities. Once the FAA reviews the submitted application and finds the applicant has the ability to comply with the 14 CFR part 145 requirements for certification, an air agency certificate and ratings is issued. The FAA retains a copy of the application in the FAA office that issued the certificate for an indefinite time or a time-period specified by the Agency's Records Management Order 1350.14B, mandated by the Federal Records Act of 1950, as amended. The applicant is not required to retain a copy of the form. The FAA does not provide other persons or entities with information contained in the form.

Respondents: There were a total of 129 applications submitted to the FAA in fiscal year (FY) 2019. Out of the 129 applications, 64 applications were for submitted for initial certification.

Frequency: Information is collected on occasion. One time for initial certification and when or if an existing certificated repair station request changes to their certificate.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 32.25 hours annual burden for FY2019. There is no requirement for a respondent to submit this form annually.

Issued in Washington, DC, on March 17, 2020.

Susan Traugott Ludwig,

Federal Aviation Administration, Office of Safety Standards, Aircraft Maintenance Division, Repair Station Branch, AFS–340.

[FR Doc. 2020–05893 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0004–N–4]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On December 20, 2019, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before April 20, 2020.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular ICR by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Toone, Information Collection Clearance Officer, Office of Administration, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On December 20, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which it is now seeking OMB approval. *See* 84 FR 70265. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Services.

OMB Control Number: 2130–0593.

Abstract: This collection of information is necessary to enable FRA to garner customer and stakeholder feedback in an efficient, timely manner, consistent with its commitment to improving service delivery. The information collected from FRA's customers and stakeholders will help ensure users have an effective, efficient, and satisfying experience with FRA's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early indicator of issues with service, and focus attention on areas where communications, training or changes in operations might improve delivery of products or services. This collection will allow ongoing, collaborative, and actionable communications between FRA and its customers and stakeholders. It also allows feedback to contribute directly to the improvement of program management.

Type of Request: Extension without change of a current information collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Governments.

Frequency of Submission: Once per request.

Total Estimated Annual Responses: 2,100.

Total Estimated Annual Burden: 354 hours.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2020–05941 Filed 3–19–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been removed from the SDN List. Their property and interests in property are no longer blocked, and U.S. persons are no longer generally prohibited from engaging in transactions with them. OFAC is also publishing an update to the identifying information of persons currently included in the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website. (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

A. The Office of Foreign Assets Control designated the persons below pursuant to Executive Order 13582, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria'' (E.O. 13582; 3 CFR 264). On March 17, 2020, OFAC determined that circumstances no longer warrant the inclusion of the following persons on the SDN List under this authority. These persons are no longer subject to the blocking provisions of E.O. 13582.

Entities

1. BLUEMARINE SA, (a.k.a. BLUE MARINE SHIPPING AGENCY S.A.; a.k.a. BLUEMARINE AG; a.k.a. BLUEMARINE LTD), Lindenstrasse 2, Baar 6340, Switzerland [SYRIA] [FSE–SY]
2. SKIRRON HOLDING SA (a.k.a. SKIRRON HOLDING AG), Lindenstrasse 2, Baar 6340, Switzerland [SYRIA]

Individuals

3. IOANNOU, Ioannis; DOB 29 NOV 1954; POB Cyprus; nationality Cyprus; Passport E386670 (Cyprus); Identification Number 502128 (Cyprus) (individual) [SYRIA]
4. VAINSHTEIN, Arkadiy (a.k.a. VAINSHTEIN, Arkadiy Mikhailovich); DOB 30 Dec 1941; Supervisory Board Member, Tempbank (individual) [SYRIA] (Linked To: TEMPBANK)

B. The Office of Foreign Assets Control designated the persons below pursuant to Executive Order 13608, ''Prohibiting Certain Transactions With and Suspending Entry Into the United States of Foreign Sanctions Evaders With Respect to Iran and Syria'' (E.O. 13608; 3 CFR 252). On March 17, 2020, OFAC determined that circumstances no longer warrant the inclusion of the following persons on the Foreign Sanctions Evaders List under this authority. These persons are no longer subject to the blocking provisions of E.O. 13608.

Entity

1. BLUEMARINE SA, (a.k.a. BLUE MARINE SHIPPING AGENCY S.A.; a.k.a. BLUEMARINE AG; a.k.a. BLUEMARINE LTD), Lindenstrasse 2, Baar 6340, Switzerland [SYRIA] [FSE–SY]

C. On March 17, 2020, OFAC updated the following entries on the SDN List:

1. NICOLAOU, Nicos; DOB 06 Apr 1965; POB Cyprus; nationality Cyprus (individual) [SYRIA] (Linked To: PIRUSETI ENTERPRISES LTD; Linked To: KHURI, Mudalal).
2. EZEGOO INVESTMENTS LTD, 1 Logothetou, Lemesos 4043, Cyprus; National ID No. C310521 (Cyprus) [SYRIA] (Linked To: KHURI, Mudalal; Linked To: NICOLAOU, Nicos; Linked To: PRIMAX BUSINESS CONSULTANTS LIMITED).

Dated: March 17, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–05931 Filed 3–19–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons who have been removed from the list of Specially Designated Nationals and Blocked Persons (SDN List). Their property and interests in property are no longer blocked, and U.S. persons are no longer generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

OFAC previously determined on June 15, 2018 that the entity listed below met one or more of the criteria under Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,'' 82 FR 60839, 3 CFR, 2017 Comp., p. 399 (E.O. 13818).

On March 17, 2020, the Director of OFAC determined that circumstances no longer warrant the inclusion of the following entity on the SDN List under this authority. This entity is no longer subject to the blocking provisions of Section 1(a) of E.O. 13818.

Entity

1. INTERLOG DRC (a.k.a. INTERLOG S.P.R.L.; f.k.a. ''BSD GROUP''; f.k.a. ''BSD S.P.R.L.''), 532 Av. Chemin Public, Commune Annexe, Lubumbashi, Congo, Democratic Republic of the; 4013 Route Du Golf, Lubumbashi, Congo, Democratic Republic of the; Route CDM, Industrial Zone, Lubumbashi, Congo, Democratic Republic of the; Cassumbalessa Border, Congo, Democratic Republic of the; Industrial Quarter, Lusaka, Zambia; National ID No. 6–71–N7269D (Congo, Democratic Republic of the) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Dated: March 17, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–05929 Filed 3–19–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (the SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is publishing the names of one or more persons that have been removed from the SDN List. Their property and interests in property are no longer blocked, and U.S. persons are no longer generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On March 3, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. SANYATWE, Anselem Nhamo, Zimbabwe; Tanzania; DOB 21 Jan 1956; Gender Male; Passport 290060361Y34 (Zimbabwe) expires 23 Jun 2024 (individual) [ZIMBABWE].

Designated pursuant to section 1(a)(iv) of Executive Order 13469 of July 25, 2008, ''Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe,'' 73 FR 43841, 3 CFR, 2009 Comp., p. 216, (E.O. 13469) for being responsible for, or having participated in, human rights abuses related to political repression in Zimbabwe.

2. NCUBE, Owen, Zimbabwe; DOB 17 Apr 1968; Gender Male (individual) [ZIMBABWE].

Designated pursuant to section 1(a)(iv) of E.O. 13469 for being responsible for, or having participated in, human rights abuses related to political repression in Zimbabwe.

B. The President identified the individuals below in the Annex to Executive Order 13288, ''Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe'' (E.O. 13288). The Annex to E.O. 13288 was replaced and superseded by the Annex to Executive Order 13391 of November 22, 2005, ''Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe'' (E.O. 13391), and the individuals below were also identified in the Annex to E.O. 13391. On March 3, 2019, OFAC determined that circumstances no longer warrant the inclusion of the following persons on the SDN List under this authority. These persons are no longer subject to the blocking provisions of Section 1(a) of E.O. 13288, as amended by E.O. 13391.

Individuals

1. KAUKONDE, Ray Joseph, Private Bag 7706, Causeway, Harare, Zimbabwe; DOB 04 Mar 1963; Mashonaland East Provincial Governor (individual) [ZIMBABWE].

2. MAHOFA, Shuvai Ben; DOB 04 Apr 1941; Passport AD000369 (Zimbabwe); Member of Parliament for Gutu South (individual) [ZIMBABWE].

3. MATHUTHU, Sithokozile; Matabeleland North Provincial Governor & Deputy Secretary for Transport and Social Welfare (individual) [ZIMBABWE].

4. NDLOVU, Naison K.; DOB 22 Oct 1930; Politburo Secretary for Production and Labor (individual) [ZIMBABWE].

Dated: March 11, 2020.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2020–05902 Filed 3–19–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Intake/Interview & Quality Review Sheets

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the standardized list of required intake and quality review questions.

DATES: Written comments should be received on or before May 19, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–6009 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Intake/Interview & Quality Review Sheets.

OMB Number: 1545–1964.

Form Numbers: 13614–C, 13614–C (SP), 13614(AR), 13614(CN–S), 13614(CN–T), 13614(HT), 13614(KR), 13614(PL), 13614(PT), 13614(TL), and, 13614(VN).

Abstract: Forms 13614–C, 13614–C (SP), 13614(AR), 13614(CN–S), 13614(CN–T), 13614(HT), 13614(KR), 13614(PL), 13614(PT), 13614(TL), and, 13614(VN) contain a standardized list of required intake questions to guide volunteers in asking taxpayers basic questions about themselves. The intake sheet is an effective tool ensuring that critical taxpayer information is obtained and applied during the interview process.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, and not-for-profit institutions, and Federal Government.

Estimated Number of Responses: 3,700,000.

Estimated Time per Response: 17 min.

Estimated Total Annual Burden Hours: 616,803.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection

of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 2020.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2020–05852 Filed 3–19–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Relating to Low-Income Housing Credit—Carryover Allocations, Binding Agreement, & Utility Allowances

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning carryover allocations and other rules relating to the low-income housing credit, and the section 42 utility allowance regulations concerning the low-income housing tax credit.

DATES: Written comments should be received on or before May 19, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Pieger, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Low-income housing credit—carryover allocations, binding agreement, & utility allowances.

OMB Number: 1545–1102.

Regulation Project Number: TD 9420.

Abstract: This collection covers regulations that amend the utility allowances regulations concerning the low-income housing tax credit. The regulations update the utility allowance regulations to provide new options for estimating tenant utility costs. The regulations affect owners of low-income housing projects who claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

Current Actions: There is no change to the burden previously approved by OMB. This request is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,430.

Estimated Time per Respondent: 1 hour, 50 min.

Estimated Total Annual Burden Hours: 4,008.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 16, 2020.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2020–05917 Filed 3–19–20; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 85 Friday,

No. 55 March 20, 2020

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Take of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Hampton Roads Bridge-Tunnel Expansion Project, Hampton-Norfolk, Virginia; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA053]

Take of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Hampton Roads Bridge-Tunnel Expansion Project, Hampton-Norfolk, Virginia

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 renewals.

SUMMARY: NMFS has received a request from the Hampton Roads Connector Partners (HRCP) for an authorization to take marine mammals incidental to the pile driving activities associated with the Hampton Roads Bridge-Tunnel (HRBT) Expansion Project. 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 authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than April 20, 2020.

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.Egger@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: 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. Under the MMPA, ''take'' is defined as meaning to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

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 review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

These actions are 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 preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On September 18, 2019, NMFS received a request from the HRCP for an IHA to take marine mammals incidental to impact and vibratory pile driving activities associated with the HRBT, in Hampton and Norfolk, Virginia for one year from the date of issuance. The application was deemed adequate and complete on February 4, 2020. The HRCP request is for take of a small number of five species of marine mammals by Level A and B harassment. Neither the HRCP nor NMFS expects injury, serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. The proposed activities are part of a larger project and the applicant has requested rulemaking and a letter of authorization for the other components of this project.

Description of Proposed Activity

Overview

The HRCP is working with the Virginia Department of Transportation (VDOT) and Federal and state agencies to advance the design, approvals, and multi-year construction of the Interstate (I)-64 HRBT Expansion project. The

overall project will widen I–64 for approximately 9.9 miles along I–64 from Settlers Landing Road in Hampton, Virginia to the I–64/I–564 interchange in Norfolk, Virginia. The project will create an eight-lane facility with six consistent use lanes. The project will include full replacement of the North and South Trestle Bridges, two new parallel tunnels constructed using a Tunnel Boring Machine (TBM), expansion of the existing portal islands, and widening of the Willoughby Bay Trestle Bridges, Bay Avenue Trestle Bridges, and Oastes Creek Trestle Bridges. Also, upland portions of I–64 will be widened to accommodate the additional lanes, the Mallory Street Bridge will be replaced, and the I–64 overpass bridges will be improved. The proposed activities below are part of the overall project (see the applicant for additional details on the overall project). Only the activities relevelant to the Incidental Harassment Authorization (IHA) requested by HRCP are discussed below. This includes the following components:

- TBM Platform at the South Island;
- Conveyor Trestle at the South Island;
- Temporary trestles for jet grouting at the South Island;
- Temporary trestle for bridge construction at the North Shore;
- Mooring piles at the South Trestle (located at the South Island), North Island, and Willoughby Bay; and
- Installation and removal of piles for test pile program.

Pile installation methods will include impact and vibratory driving, jetting, and drilling with a down-the-hole (DTH) hammer. Pile removal techniques for temporary piles will include vibratory pile removal or cutting below the mud line. Installation of steel pipe piles could be 24-, 36-, or 42-inches (in) in diameter to support temporary work trestles, platforms, and moorings. Test piles would consist of 30-in square concrete or 54-in concrete cylinder piles. Only load test piles will be removed under this IHA. In-water pile installation using impact and vibratory driving, and drilling with a DTH hammer, and pile removal using a vibratory hammer, have the potential to harass marine mammals acoustically and could result in incidental takes of individual marine mammals. Jetting is not likely to result in take. During jetting, high-pressure water is sprayed out of the bottom of the pile to help penetrate dense sand layers and to allow pile driving with lower hammer impact energies (Caltrans 2015). The pressurized fluid would be used to temporary loosen soils thus reducing the resistance of the pile to sinking into the ground. Jetting woul be conducted at the surface of the seabed but rather at depth once sufficient resistance to pile driving has been met. Jetting would not be used to remove or displace surface sediments. The caisson will be driven using a vibratory hammer and the sediment and sand removed from the caisson prior to driving the permanent concrete pile. Vibratory hammering is accounted for takes of marine mammals.

Dates and Duration

The IHA application is requesting take that may occur from the pile driving and removal activities for one year after issuance. Work could occur at any point during the year, and will occur during the day. Pile installation may extend into evening or nighttime hours as needed to accommodate pile installation requirements (*e.g.,* once pile driving begins—a pile will be driven to design tip elevation). The overall number of anticipated days of pile installation is 312, based on a 6-day work week for one year. Pile installation can occur at variable rates, from a few minutes to several hours. The HRCP anticipate that 1 to 10 piles could be installed per day. In order to account for inefficiencies and delays, the HRCP have estimated an average installation rate of six piles per day for most components.

Specific Geographic Region

The HRBT is located in the waterway of Hampton Roads adjacent to the existing bridge and island structures of the HRBT in Virginia. Hampton Roads is located at the confluence of the James River, the Elizabeth River, the Nansemond River, Willoughby Bay, and the Chesapeake Bay (Figure 1). Hampton Roads is a wide marine channel that provides access to the Port of Virginia and several other deep water anchorages upstream of the project area (VDOT and FHWA 2016). Navigational channels are maintained by the U.S. Army Corps of Engineers within Hampton Roads to provide transit to the many ports in the region.

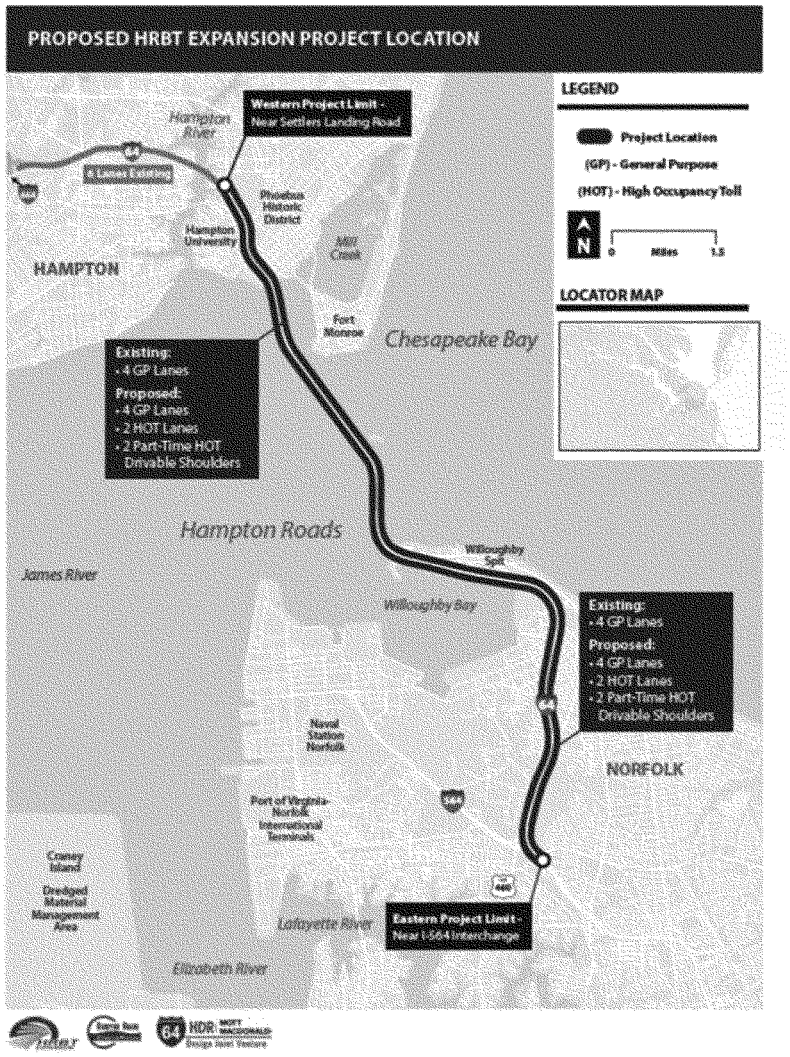

Figure 1. Project Area

The North Shore in Hampton contains estuarine intertidal sandy shore, estuarine intertidal reef, as well as submerged aquatic vegetation (SAV) in shallow estuarine open water. Along the North Trestle, there is estuarine open water with depths up to 15 feet below mean lower low water (MLLW).

The North Island is surrounded by estuarine intertidal sandy shore and rocky shore. There is a SAV bed to the east of the island. Estuarine open water depths are primarily less than 15 feet (ft) below MLLW, but drop to approximately 25 feet below MLLW near the southwest corner of the island expansion closer to the Hampton Creek Entrance Channel. The South Island is also surrounded by estuarine intertidal sandy shore and rocky shore, followed by estuarine open water. The proposed island expansion is mainly in deep water (15–30 ft below MLLW), with a pocket of deeper water approximately 35 ft below MLLW to the west.

The South Trestle is primarily located in estuarine open water with depths less than 15 ft below MLLW, with the exception of deep water (15–30 ft below MLLW) near the South Island approach. There is an estuarine intertidal sandy shore along the South Shore in Norfolk.

Willoughby Bay contains an estuarine intertidal sandy shore, with emergent and scrub/shrub wetlands along the shores. The bay between the shores is estuarine open water with depths up to 15 ft below MLLW.

Sediments in the project area are mostly fine and medium sands with various amounts of coarse sand and gravel, and low organic carbon content. In the Fort Wool Cove (a cove of the decommissioned island fortification located approximately 1 mile south of Fort Monroe in the mouth of Hampton Roads, which sits near Willoughby Beach and Willoughby Spit, adjacent to the HRBT), sediments are fine and very fine sands with various amounts of silt and clay. There is no naturally occurring rocky or cobble bottom present at or adjacent to the project.

Pile installation will occur in waters ranging in depth from less than 1 meter (m) (3.3 ft) near the shore to approximately 8 m (28 ft), depending on the structure and location. The majority of the piles will be in water depths of 3.6–4.6 m (12–15 ft).

Detailed Description of the Specific Activity

Three methods of pile installation are anticipated and expected to result in take of marine mammals. These include use of vibratory, impact, and DTH hammers. More than one installation method will be used within a day. Most piles will be installed using a combination of vibratory (ICE 416L or

similar) and impact hammers (S35 or similar). Overall, steel pipe piles at the North Shore Work Trestle, Jet Grouting Trestle, and TBM Platform would be installed using the vibratory hammer approximately 80 percent of the time and impact hammer approximately 20 percent of the time, while all mooring piles and steel pipe piles at Conveyor Trestle would be installed using the vibratory hammer approximately 90 percent and the impact hammer approximately 10 percent of the time. Depending on the location, the pile will be advanced using vibratory methods and then impact driven to final tip elevation. Where bearing layer sediments are deep, driving will be conducted using an impact hammer so that the structural capacity of the pile embedment can be verified. The pile installation methods used will depend on sediment depth and conditions at each pile location. Table 1 provides additional information on the pile driving operation including estimated pile driving times. The sum of the days of pile installation is greater than the anticipated number of days because more than one pile installation method will be used within a day.

Prior to installing steel pipe piles near shorelines protected with rock armor and/or rip rap (*e.g.,* South Island shorelines; North Shore shoreline), it will be necessary to temporarily shift the rock armoring that protects the shoreline to an adjacent area to allow for the installation of the piles. The rock armor should only be encountered at the shoreline and at relatively shallow depths below the mudline. The rock armor and/or rip rap will be moved and reinstalled near its original location following the completion of pile installation. Alternatively, the piles may be installed without moving the rock, by first drilling through the rock with a DTH hammer (*e.g.,* Berminghammer BH 80 drill or equivalent) to allow for the installation of the piles. A down-the-hole hammer uses both rotary and percussion-type drill devices. This device consists of a drill bit that drills through rock using both rotary and pulse impact mechanisms. This breaks up the rock to allow removal of the fragments and insertion of the pile. The pile is usually advanced at the same time that drilling occurs. Drill cuttings are expelled from the top of the pile using compressed air. It is estimated that a down-the-hole hammer will be used for approximately 1 to 2 hours per pile, when necessary. It is anticipated that approximately 5 percent of the North Shore Work Trestle piles, 10 percent of the Jet Grouting Trestle piles, 10 percent of the Conveyor Trestle piles, and 50 percent of the TBM Platform piles may require use of a down-the-hole hammer (Table 1).

Detailed descriptions of the project components for this IHA request are explained below.

Project Segments

The project design is divided into five segments (see also Figure 2) as follows:

- *Segment 1a (Hampton)* begins at the northern terminus of the Project in Hampton and ends at the north end of the north approach slabs for the north tunnel approach trestles. This segment has two interchanges and also includes improvements along Mallory Street to accommodate the bridge replacement over I–64. This segment covers approximately 1.2 miles along I–64;
- *Segment 1b (North Trestle-Bridges)* includes the new and replacement north tunnel approach trestles, including any approach slabs. This segment covers approximately 0.6 mile along I–64;
- *Segment 2a (Tunnel)* includes the new bored tunnels, the tunnel approach structures, buildings, the North Island improvements for tunnel facilities, and South Island improvements. This segment covers approximately 1.8 miles along I–64;
- *Segment 3a (South Trestle-Bridge)* includes the new South Trestle-Bridge and any bridge elements that interface with the South Island to the south end of the south abutments at Willoughby Spit. This segment covers approximately 1.2 miles along I–64;
- *Segment 3b (Willoughby Spit)* continues from the south end of the south approach slabs for the south trestle and ends at the north end of the north approach slabs for the Willoughby Bay trestles. This segment includes a modified interchange connection to Bayville Street, and has a truck inspection station for the westbound tunnels. This segment covers approximately 0.6 mile along I–64;
- *Segment 3c (Willoughby Bay Trestle-Bridges)* includes the entire structures over Willoughby Bay, from the north end of the north approach slabs on Willoughby Spit to the south end of south approach slabs near the 4th View Street interchange. This segment covers approximately 1.0 mile along I–64;
- *Segment 3d (4th View Street Interchange)* continues from the Willoughby Trestle-Bridges south, leading to the north end of the north approach slabs of I–64 bridges over Mason Creek Road along mainline I–64. This segment covers approximately 1.0 mile along I–64;
- *Segment 4a (Norfolk-Navy)* goes from the I–64 north end of the north approach slabs at Mason Creek Road to the north end of the north approach slabs at New Gate/Patrol Road. There are three interchange ramps in this segment: westbound I–64 exit ramp to Bay Avenue, eastbound I–64 entrance ramp from Ocean Avenue, and westbound I–64 entrance ramp from Granby Street. The ramps in this segment are all on structure. This segment covers approximately 1.5 miles along I–64; and
- *Segment 5a (I–564 Interchange)* starts from the north end of the north approach slab of the New Gate/Patrol Road Bridge to the southern Project Limit. This segment runs along the Navy property and includes an entrance ramp from Patrol Road, access ramps to and from the existing I–64 Express Lanes, ramps to and from I–564, and an eastbound I–64 entrance ramp from Little Creek Road. This segment covers approximately 1.2 miles along I–64.

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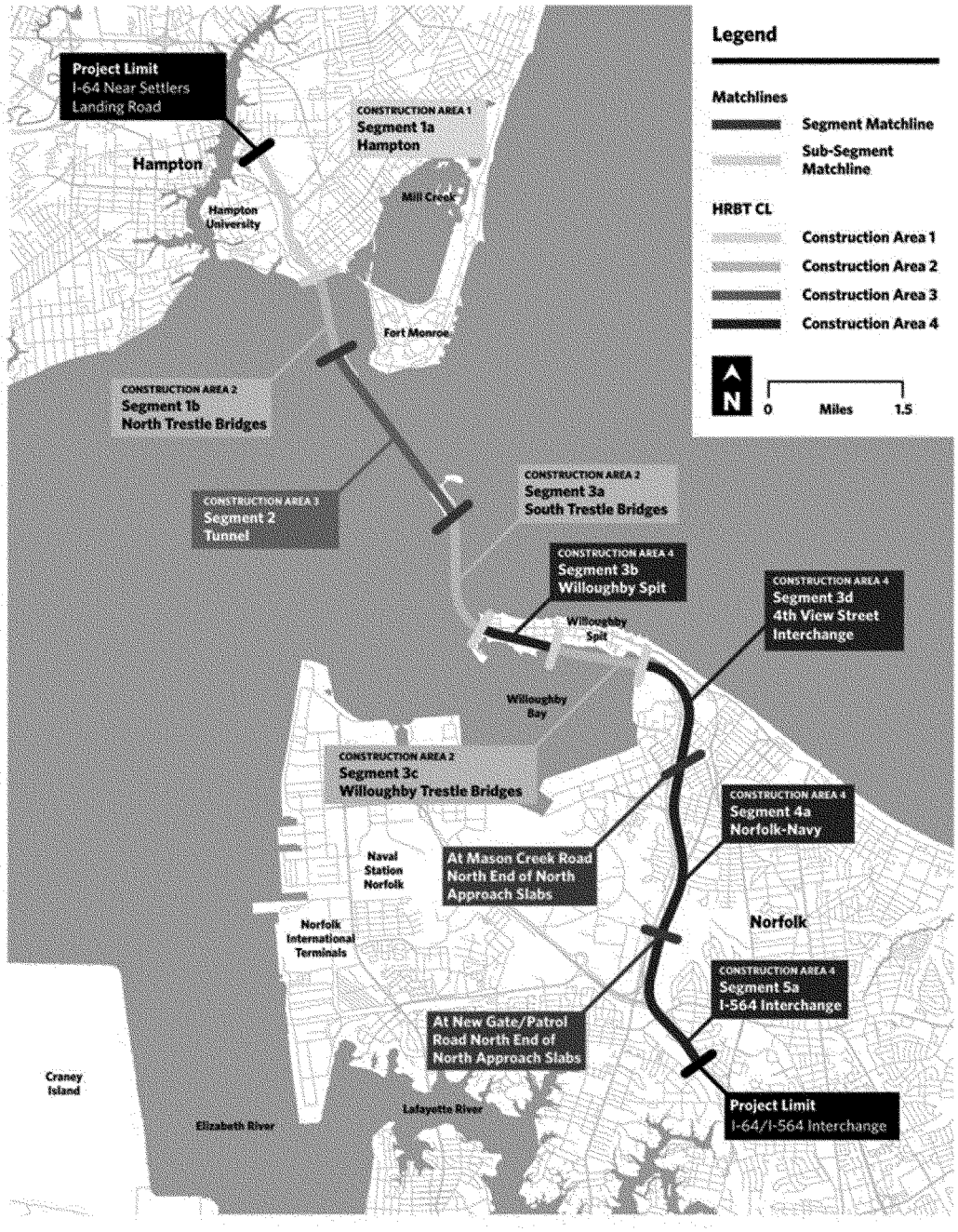

Figure 2-- HRBT Expansion Project Design Segments

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However, the only the proposed in-water marine construction activities that have potential to affect marine mammals and result in take would occur at the following locations in the following segments:

- North Trestle-Bridges (Segment 1b);
- Tunnel—North Island and South Island (Segment 2a);
- South Trestle-Bridge (Segment 3a); and
- Willoughby Bay Trestle-Bridges (Segment 3c).

Approximately, 1070 piles (of all sizes) would be installed (only some removed) under this IHA (Table 1). For 36-in steel piles, 698 piles would be installed. For 42-in steel piles, 257 piles would be installed. For 24-in piles, 66 piles would be installed. For 54-in concrete cylinder piles, 33 piles would be installed. For 24-in or 30-in concrete square piles, 16 piles would be installed. Removal would only occur for piles as part of the test pile program (Table 1). Project Components that are Likely to Result in Take of Marine Mammals.

Tunnel Boring Machine (TBM) Platform at the South Island (Segment 2a)

The HRCP is constructing the temporary TBM Platform or ''quay'' at the South Island to allow for the delivery, unloading, and assembly of the TBM components from barges to the Island. The large TBM components will

be delivered by barge and then transferred to the platform using a Self-Propelled Modular Transport, crawler crane, sheerleg crane and/or other suitable equipment. The TBM Platform will also allow barge delivery and storage of concrete tunnel segments as the boring operation progresses. The concrete tunnel segments will be offloaded and moved using a combination of crawler cranes and a gantry crane installed on the TBM Platform. The tunnel segments will be stored on the platform prior to delivery to the tunnel shaft for installation.

The TBM Platform is a steel structure founded on (216) 36-in diameter steel piles, with an overall area of approximately 0.40 acres (approximately 166 ft x 9 ft). The piles will be installed using a combination of vibratory and impact hammers except along the perimeter where down-the-hole hammering may be needed to install piles through the rock armor stone. The piles are 154 ft long and will have an average embedded length of approximately 140 ft. Table 1 provides additional information on the pile driving operation including estimated pile installation times and number of strikes necessary to drive a pile to completion.

The superstructure of the platform is set on top of the piles and consists of transverse and longitudinal beams below a 13/16-in-thick plate set on top of the beams. Rail beams will be installed on top of the plate and will support the gantry crane. A concrete slab may be placed on top of the steel plates or timber trusses.

Four mooring dolphins will be installed along the shoreline of the South Island in the areas adjacent to the TBM Platform. Each dolphin will consist of three 36-inch steel piles and will be installed with a combination of vibratory and impact hammers.

Conveyor Trestle at the South Island (Segment 2a)

Tunnel boring spoils and other related materials will be moved between the South Island and barges via a conveyor belt and other equipment throughout tunnel boring. The Conveyor Trestle will also be used for maintenance and mooring of barges and vessels carrying TBM materials and other project related materials.

The Conveyor Trestle is a steel structure founded on (84) 36-in diameter steel piles, with an overall area of approximately 0.42 acres (approximately 673 ft x 27 ft). The piles will be installed using a combination of vibratory (International Construction Equipment (ICE) 416L or similar) and impact hammers (S35 or similar). The piles are approximately 140 ft long and will have an average embedded length of approximately 100 ft. Table 1 provides additional information on the pile driving operation including estimated pile driving times and number of strikes necessary to drive a pile to completion.

Additionally, seven mooring dolphins will be installed along the outside edge of the Conveyor Trestle. Each dolphin will consist of (3) 36-in steel piles and will be installed with a combination of vibratory and impact hammers.

Temporary trestle for bridge construction at the North Shore Work Trestle (Segment 1b)

The temporary North Shore Work Trestle will support construction of the permanent eastbound North Trestle Bridge in the shallow water (< 4–6 ft MLW) closer to the North Shore, avoiding the need to dredge or deepen this area (which otherwise would have been required for barge access) and minimizing potential impacts to the adjacent submerged aquatic vegetation (SAV). The temporary North Shore Work Trestle is a steel structure founded on 194 36-in diameter steel piles with 30–40 ft spans sized to accommodate a 300-ton crane. The main portion of the work trestle will be approximately 1,130 ft long by 45 ft wide, with three approximately 80 ft x 30 ft fingers and an additional landing area approximately 150 ft x 45 ft, for a total overall approximate area of 1.49 acres.

Seven mooring dolphins will be installed at the southern end and along the outside edge of the work trestle. Each dolphin will consist of (3) 24-in steel piles. An additional (13) 42-in steel pipe piles will be installed along the outer edge of the work trestle to provide additional single mooring points for barges and vessels delivering material and accessing the trestle. The mooring dolphin piles and the single mooring point piles will be installed using a vibratory hammer.

Moorings at the North Island Expansion (Segment 2a)

Temporary moorings will be installed along the perimeter of the North Island Expansion area to support the construction of the Island expansion. Eighty 42-in steel pipe piles will be installed to provide mooring points for barges and vessels. The mooring point piles will be installed using a vibratory hammer.

Temporary Trestles for Jet Grouting at the South Island (Segment 2a)

Unconsolidated soil conditions at the western edge of the South Island—along the centerline and depth of the proposed tunnel alignment—require ground improvements to allow tunnel boring to proceed safely and efficiently. Ground improvements will be achieved using deep injection or jet grouting to stabilize and consolidate the sediments along the proposed tunnel alignment and tunnel depth.

Two temporary work trestles will be constructed along either side of the proposed tunnel alignment to support jet grouting activity. Each trestle will be approximately 40 ft wide and extend approximately 1,000 ft west of the South Island shoreline, for a total overall approximate area of 1.84 acres. Two temporary Jet Grouting Trestles will be constructed, each will be founded on (102) 36-in diameter steel piles (a total of 204 steel piles) with 25 +/- feet spans sized to accommodate a 35-ton drill rig and support equipment.

Moorings at the South Trestle (Segment 3a)

Temporary moorings will be installed in the area of the South Trestle to support the construction of temporary work trestles and permanent trestle bridges. Six mooring dolphins will be installed and each will consist of (3) 24-in steel piles for a total of (18) 24-in piles. An additional (41) 42-in steel pipe piles will be installed along what will become the outer edge of the work trestle to provide additional single mooring points for barges and vessels delivering material and accessing the trestle. The mooring dolphin piles and the single mooring point piles will be installed using a vibratory hammer.

Mooring at Willoughby Bay (Segment 3c)

Temporary moorings will be installed in Willoughby Bay to support the construction of temporary work trestles and permanent trestle bridges. Six mooring dolphins will be installed—each consisting of (3) 24-in steel piles. An additional (50) 42-in steel pipe piles will be installed along what will become the outer edge of the work trestle to provide additional single mooring points for barges and vessels delivering material and accessing the trestle. The mooring dolphin piles and the single mooring point piles will be installed using a vibratory hammer. A total of 68 steel pipe piles will be driven, (50) 42-in piles and (18) 24-in piles.

An additional (50) 42-in steel pipe piles will be installed in Willoughby

Bay to create moorings for additional staging of barges and safe haven for vessels in the event of severe weather. The moorings will be configured as (2) 2,000-ft long lines with a 42-in mooring pile every 80 ft. The piles will be installed using a vibratory hammer.

Installation and Removal of Piles for Test Pile Program (Segments 1b, 2a, 3a, and 3c)

The HRCP will perform limited pile load testing to confirm permanent concrete pile design during April through June 2020. Test piles will be installed at the North Trestle (1 load test pile, 10 production test piles), South Trestle (2 load test piles, 20 production test piles) and at Willoughby Bay (1 load test pile, 15 production test piles)—test piles will be 30-in square concrete or 54-in concrete cylinder piles (see Table 1). Test piles will be set using temporary steel templates designed to support and position the test pile while being driven. Concrete test piles will be driven using an impact hammer. Test pile templates will be positioned and held in place using spuds (one at each corner of the template). The test pile templates and pile load test frame and supports will be installed using a vibratory hammer and proofed using an impact hammer to confirm sufficient load capacity. Test piles will be cut below the mudline and removed. The temporary test pile templates and load test frame and supports will be removed using a vibratory hammer.

TABLE 1—PILE DRIVING AND REMOVAL ASSOCIATED WITH THE HRBT PROJECT THAT ARE LIKELY TO RESULT IN THE TAKE OF MARINE MAMMALS

Project component	Pile size/type and material	Total number of piles	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation	Number of days of installation
North Trestle (Segment 1b)											
North Shore Work Trestle.	36-inch Steel Pipe	194	100	10	120	184	50	40	3	162	65
Moorings	42-inch Steel Pipe	36	60			36	30		6	18	6
Moorings	24-inch Steel Pipe	30	60			30	30		6	15	5
Test Pile Program (Load Test Piles).	54-inch Concrete Cylinder Pipe.	1	140			1		2,100	1	2	1
Test Pile Program (Production Piles).	54-inch Concrete Cylinder Pipe.	10	140			10		2,100	1	20	10
North Island (Segment 2a)											
Moorings	42-inch Steel Pipe	80	60			80	30		6	40	13
Willoughby Bay (Segment 3c)											
Moorings	42-inch Steel Pipe	50	60			50	30		6	25	9
Moorings	24-inch Steel Pipe	18	60			18	30		6	9	3
Moorings (Safe Haven)	42-inch Steel Pipe	50	60			50	30		6	25	9
Test Pile Program (Load Test Piles).	24-inch or 30-inch Concrete Square Pipe.	1	140			1		2,100	1	2	1
Test Pile Program (Production Piles).	24-inch or 30-inch Concrete Square Pipe.	15	140			15		2,100	1	30	15
South Trestle (Segment 3a)											
Moorings	42-inch Steel Pipe	41	60			41	30		6	21	7
Moorings	24-inch Steel Pipe	18	60			18	30		6	9	3
Test Pile Program (Load Test Piles).	54-inch Concrete Cylinder Pipe.	2	140			2		2,100	1	4	2
Test Pile Program (Production Piles).	54-inch, Concrete Cylinder Pipe.	20	140			20		2,100	1	40	20
South Island (Segment 2a)											
TBM Platform	36-inch Steel Pipe	216	140	108	120	108	60	60	2	216	108
Jet Grouting Trestle	36-inch Steel Pipe	204	100	20	120	184	50	40	3	170	68
Conveyor Trestle	36-inch Steel Pipe	84	100	8	120	76	50	40	3	70	28
Total		1,070									

Proposed in-water marine construction activities that have potential to affect marine mammals will occur at the following locations in Construction Areas 2 and 3 (Figure 2):

- North Trestle-Bridges (Segment 1b);
- Tunnel—North Island and South Island (Segment 2a);
- South Trestle-Bridge (Segment 3a); and
- Willoughby Bay Trestle-Bridges (Segment 3c).

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Monitoring and Reporting* section).

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 or stocks for which take is expected and proposed to be authorized for this action, 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 (2019). 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 United States Atlantic and Gulf of Mexico Marine Mammal Stock Assessments (SARs). All values presented in Table 2 are the most recent available at the time of publication and are available in the draft 2019 SARs (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 2—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale [4]	*Megaptera novaeangliae*	Gulf of Maine	-,-; N	896 (.42; 896; 2012)	14.6	9.7
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops spp.*	WNA Coastal, Northern Migratory.	-,-; Y	6,639 (0.41; 4,759; 2011)	48	6.1–13.2
		WNA Coastal, Southern Migratory.	-,-; Y	3,751 (0.06; 2,353; 2011)	23	0–14.3
		Northern North Carolina Estuarine System.	-,-; Y	823 (0.06; 782; 2013)	7.8	0.8–18.2
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	79,833 (0.32; 61,415; 2011).	706	256
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	WNA	-; N	75,834 (0.1; 66,884, 2012).	2,006	345
Gray seal	*Halichoerus grypus*	WNA	-; N	27,131 (0.19, 23,158, 2016).	1,359	5,688

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] 2018 U.S. Atlantic 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.

As indicated above, all five species (with seven managed stocks) in Table 2, temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. All species that could potentially occur in the proposed project area are included in Table 3–1 of the application. While North Atlantic right whales (*Eubalaena glacialis*), minke whales (*Balaenoptera acutorostrata acutorostrata*), and fin whales (*Balaenoptera physalus*) have been documented in the area, the temporal and/or spatial occurrence of these whales is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Based on sighting data and passive acoustic studies, the North Atlantic right whale could occur off Virginia year-round (DoN 2009; Salisbury *et al.,* 2016). They have also been reported seasonally off Virginia during migrations in the spring, fall, and winter (CeTAP 1981, 1982; Niemeyer *et al.,* 2008; Kahn *et al.,* 2009; McLellan 2011b, 2013; Mallette *et al.,* 2016a, b, 2017, 2018a; Palka *et al.,* 2017; Cotter 2019). Right whales are known to frequent the coastal waters of the mouth of the Chesapeake Bay (Knowlton *et al.,* 2002) and the area is a seasonal management area (1 November–30 April) mandating reduced ship speeds out to approximately 20 nautical miles for the species; however, the project area is further inside the bay.

North Atlantic right whales have stranded in Virginia, one each in 2001, 2002, 2004, 2005: Three during winter (February and March) and one in summer (September) (Costidis *et al.,* 2017, 2019). In January 2018, a dead, entangled North Atlantic right whale was observed floating over 60 miles offshore of Virginia Beach (Costidis *et al.,* 2019). All North Atlantic right whale strandings in Virginia waters have occurred on ocean-facing beaches along Virginia Beach and the barrier islands seaward of the lower Delmarva Peninsula (Costidis *et al.,* 2017).

Due to the low occurrence of North Atlantic right whales in the project area,

NMFS is not proposing to authorize take of this species.

Fin whales have been sighted off Virginia (Cetacean and Turtle Assessment Program (CeTAP) 1981, 1982; Swingle *et al.,* 1993; DoN 2009; Hyrenbach *et al.,* 2012; Barco 2013; Mallette *et al.,* 2016a, b; Aschettino *et al.,* 2018; Engelhaupt *et al.,* 2017, 2018; Cotter 2019), and in the Chesapeake Bay (Bailey 1948; CeTAP 1981, 1982; Morgan *et al.,* 2002; Barco 2013; Aschettino *et al.,* 2018); however, they are not likely to occur in the project area. Sightings have been documented around the Chesapeake Bay Bridge Tunnel (CBBT) during the winter months (CeTAP 1981, 1982; Barco 2013; Aschettino *et al.,* 2018).

Eleven fin whale strandings have occurred off Virginia from 1988 to 2016 mostly during the winter months of February and March, followed by a few in the spring and summer months (Costidis *et al.,* 2017). Six of the strandings occurred in the Chesapeake Bay (three on eastern shore; three on western shore) with the remaining five occurring on the Atlantic coast (Costidis *et al.,* 2017. Documented strandings near the project area have occurred: February 2012, a dead fin whale washed ashore on Oceanview Beach in Norfolk (Swingle *et al.,* 2013); December 2017, a live fin whale stranded on a shoal in Newport News and died at the site (Swingle *et al.,* 2018); February 2014, a dead fin whale stranded on a sand bar in Pocomoke Sound near Great Fox Island, Accomack (Swingle *et al.,* 2015); and, March 2007, a dead fin whale near Craney Island, in the Elizabeth River, in Norfolk (Barco 2013).

Only stranded fin whales have been documented in the project area; no free-swimming fin whales have been observed. Due to the low occurrence of fin whales in the project area, NMFS is not proposing to authorize take of this species.

Minke whales have been sighted off Virginia (CeTAP 1981, 1982; Hyrenbach *et al.* 2012; Barco 2013; Mallette *et al.,* 2016a, b; McLellan 2017; Engelhaupt *et al.,* 2017, 2018; Cotter 2019), near the CBBT (Aschettino *et al.,* 2018) and in the project area although the sightings in the project area are known from strandings (Jensen and Silber 2004; Barco 2013; DoN 2009). In August 1994, a ship strike incident involved a minke whale in Hampton Roads (Jensen and Silber 2004; Barco 2013). It was reported that the animal was struck offshore and was carried inshore on the bow of a ship (DoN 2009). Twelve strandings of minke whales have occurred in Virginia waters from 1988 to 2016 (Costidis *et al.,* 2017). There have been six minke whale stranding from 2017 through 2020 in Virginia waters.

Because all minke whale occurrences in the project area are due to strandings, NMFS is not proposing to authorize take of this species.

Cetaceans

Humpback Whale

The humpback whale is found worldwide in all oceans. Humpbacks occur off southern New England in all four seasons, with peak abundance in spring and summer. In winter, humpback whales from waters off New England, Canada, Greenland, Iceland, and Norway migrate to mate and calve primarily in the West Indies (including the Antilles, the Dominican Republic, the Virgin Islands and Puerto Rico), where spatial and genetic mixing among these groups occurs.

Migrating humpback whales utilize the mid-Atlantic as a migration pathway between calving/mating grounds to the south and feeding grounds in the north (Hayes *et al.* 2019), but it may also be an important winter feeding area for juveniles. Since 1989, observations of juvenile humpbacks in the mid-Atlantic have been increasing during the winter months, peaking from January through March (Swingle *et al.,* 1993). Biologists theorize that non-reproductive animals may be establishing a winter feeding range in the mid-Atlantic since they are not participating in reproductive behavior in the Caribbean. Swingle *et al.* (1993) identified a shift in distribution of juvenile humpback whales in the nearshore waters of Virginia, primarily in winter months. Identified whales using the mid-Atlantic area were found to be residents of the Gulf of Maine and Atlantic Canada (Gulf of St. Lawrence and Newfoundland) feeding groups; suggesting a mixing of different feeding populations in the Mid-Atlantic region.

Humpback whales are the only large cetaceans that are likely to occur in the project area and could be found there at any time of the year. The project area is not within normal humpback whale feeding or migration areas; however, they could occur in the Project area in relatively small numbers seasonally during migrations (Aschettino *et al.,* 2017b). Sightings have been reported off Virginia during the fall and winter (CeTAP 1981, 1982; Swingle *et al.,* 1993; Barco *et al.,* 2002; McLellan 2011a; Engelhaupt *et al.,* 2014, 2015, 2016, 2017, 2018; Aschettino *et al.,* 2015, 2016, 2017a, 2018, 2019; Mallette *et al.,* 2016a, b, 2017, 2018a, b; McAlarney *et al.,* 2017, 2018; Northeast Fisheries Science Center and Southeast Fisheries Science Center (NEFSC and SEFSC) 2019) and most recently, the spring (Aschettino *et al.,* 2019; Cotter, 2019). Humpback whales are known to frequent the coastal waters of the mouth of the Chesapeake Bay during the winter months (Aschettino *et al,.* 2015, 2016, 2017a, b, 2018; Movebank, 2019), and on the rare occasion, inshore of the CBBT (Perkins and Beamish, 1979; Aschettino *et al.,* 2017b, 2018; Movebank, 2019). Humpback whales could use the Chesapeake Bay area year-round based off sighting and stranding data (DoN, 2009; Aschettino *et al.,* 2015, 2016, 2017a, 2018, 2019). Baseline occurrence and behavior data for humpback whales in the Hampton Roads mid-Atlantic region was collected via satellite tags; these data show site fidelity to the Chesapeake Bay area (Aschettino *et al.,* 2018, 2019) and movement in and around the project area (Movebank, 2019).

Vessel collisions and entanglements can cause serious injuries to humpback whales. Thirty-seven humpback whale strandings have occurred in Virginia from 1988 to 2016 (Costidis *et al.,* 2017). Humpback whale strandings or entanglements have been recorded in every month of the year with April having the highest number of strandings (Costidis *et al.,* 2017). Twenty-seven of the 37 strandings occurred on ocean-facing beaches; however, some have occurred within the lower Chesapeake Bay (Barco, 2013; Costidis *et al.,* 2017). Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida. The event has been declared a UME with 117 strandings recorded of which 23 strandings occurred in the waters of Virginia and seven of which occurred in or near the mouth of the Chesapeake Bay. Partial or full necropsy examinations have been conducted on approximately half of the known cases. A portion of the whales have shown evidence of pre-mortem vessel strike; however, this finding is not consistent across all of the whales examined so 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. More detailed information is available at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2019-humpback-whale-unusual-mortality-event-along-atlantic-coast.* Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006.

Bottlenose Dolphin

The bottlenose dolphin occurs in temperate and tropical oceans throughout the world, ranging in latitudes from 45° N to 45° S (Blaylock, 1985). In the western Atlantic Ocean there are two distinct morphotypes of bottlenose dolphins, an offshore type that occurs along the edge of the continental shelf as well as an inshore type. The inshore morphotype can be found along the entire United States coast from New York to the Gulf of Mexico, and typically occurs in waters less than 20 m deep (NOAA Fisheries, 2016a). Bottlenose dolphins found in Virginia are representative primarily of either the northern migratory coastal stock, southern migratory coastal stock, or the Northern North Carolina Estuarine System Stock (NNCES).

The northern migratory coastal stock is best defined by its distribution during warm water months when the stock occupies coastal waters from the shoreline to approximately the 20-m isobath between Assateague, Virginia, and Long Island, New York (Garrison *et al.,* 2017b). 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.,* 2017b). Historically, common bottlenose dolphins have been rarely observed during cold water months in coastal waters north of the North Carolina/Virginia border, and their northern distribution in winter appears to be limited by water temperatures. Overlap with the southern migratory coastal stock in coastal waters of northern North Carolina and Virginia is possible during spring and fall migratory periods, but the degree of overlap is unknown and it may vary depending on annual water temperature (Garrison *et al.,* 2016). When the stock has migrated in cold water months to coastal waters from just north of Cape Hatteras, North Carolina, to just south of Cape Lookout, North Carolina, it overlaps spatially with the Northern North Carolina Estuarine System (NNCES) Stock (Garrison *et al.,* 2017b).

The southern migratory coastal stock migrates seasonally along the coast between North Carolina and northern Florida (Garrison *et al.,* 2017b). During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. During April–June, the stock moves back north past Cape Hatteras, North Carolina (Garrison *et al.,* 2017b), where it overlaps, in coastal waters, with the NNCES stock (in waters ≤1 km from shore). During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay.

The NNCES stock is best defined as animals that occupy primarily waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. A community of NNCES dolphins are likely year-round Bay residents (E. Patterson, NMFS *pers. comm*).

Bottlenose dolphins are consistently seen in Virginia waters from May through October (Barco *et al.,* 1999; Costidis *et al.,* 2017; Cotter, 2019) and are regularly sighted from early spring through late fall with sightings and stranding events in Virginia waters all months of the year (Swingle *et al.,* 2010, 2011, 2012, 2013, 2014; DolphinWatch 2019). Sightings have been reported off Virginia and near the project area during the summer, fall, and winter (CeTAP,, 1981, 1982; Hohn 1997; Torres *et al.,* 2005; NEFSC and SEFSC 2012, 2013, 2016; Barco 2013, 2014; Garrison 2013; DiMatteo 2014; Roberts *et al.,* 2016; Engelhaupt *et al.,* 2014, 2015, 2016, 2017, 2018; Palka *et al.,* 2017; Mallette *et al.,* 2016a, b, 2017, 2018a, b; McAlarney *et al.,* 2017, 2018; DolphinWatch 2019).

Harbor Porpoise

The harbor porpoise is typically found in colder waters in the northern hemisphere. In the western North Atlantic Ocean, harbor porpoises range from Greenland to as far south as North Carolina (Barco and Swingle, 2014). They are commonly found in bays, estuaries, and harbors less than 200 meters deep (NOAA Fisheries, 2017c). Harbor porpoises in the United States are made up of the Gulf of Maine/Bay of Fundy stock. Gulf of Maine/Bay of Fundy stock are concentrated in the Gulf of Maine in the summer, but are widely dispersed from Maine to New Jersey in the winter. South of New Jersey, harbor porpoises occur at lower densities. Migrations to and from the Gulf of Maine do not follow a defined route (NOAA Fisheries, 2016c).

The inland waters of Virginia are considered to be part of the normal habitat of the harbor porpoise (Polacheck *et al.,* 1995; DoN 2009). Sightings have been reported off Virginia (DoN 2009; Hyrenbach *et al.,* 2012) and they regularly occur in the Chesapeake Bay (Prescott and Fiorelli 1980; Polacheck *et al.,* 1995; DoN 2009). A few sightings have occurred near the HRBT (M. Cotter, HDR Inc., pers. comm. May 2019 as cited in the application). There are documented sightings near the project area during the spring and winter, although, most of these sightings are known from stranding data (Polacheck *et al.,* 1995; Cox *et al.,* 1998; Morgan *et al.,* 2002; Swingle *et al.,* 2007; Barco 2013).

Pinnipeds

Harbor Seal

The harbor seal occurs in arctic and temperate coastal waters throughout the northern hemisphere, including on both the east and west coasts of the United States. On the east coast, harbor seals can be found from the Canadian Arctic down to Georgia (Blaylock, 1985). Harbor seals occur year-round in Canada and Maine and seasonally (September–May) from southern New England to New Jersey (NOAA Fisheries, 2016d). The range of harbor seals appears to be shifting as they are regularly reported further south than they were historically. In recent years, they have established haulout sites in the Chesapeake Bay including on the portal islands of the Chesapeake Bay Bridge Tunnel (CBBT) (Rees *et al.,* 2016, Jones *et al.,* 2018).

Harbor seals are the most common seal in Virginia (Barco and Swingle, 2014). Harbor seal presence in Virginia waters is seasonal, with individuals arriving in January and February (winter) and extending into April and May (spring) (Costidis *et al.,* 2017). They can be seen resting on the rocks around the portal islands of the CBBT from December through April. Seal observation surveys conducted at the CBBT recorded 112 seals during the 2014/2015 season, 184 seals during the 2015/2016 season, 308 seals in the 2016/2017 season and 340 seals during the 2017/2018 season. Smaller numbers of harbor seals have been known to occasionally haul out on the rocks near the HRBT (Danielle Jones, Naval Facilities Engineering Command Atlantic, pers. comm., April 2019 as cited in the application) and at Hopewell up the James River (Blaylock 1985; DoN 2009). Sightings have been reported off Virginia and near the project area during the winter and spring (Barco, 2013; Rees *et al.,* 2016; Jones *et al.,* 2018; Ampela *et al.,* 2019).

Gray Seal

The gray seal occurs on both coasts of the Northern Atlantic Ocean and is

divided into three major populations (NOAA Fisheries, 2016b). The western north Atlantic stock occurs in eastern Canada and the northeastern United States, occasionally as far south as North Carolina. Gray seals inhabit rocky coasts and islands, sandbars, ice shelves and icebergs (NOAA Fisheries, 2016b). In the United States, gray seals congregate in the summer to give birth at four established colonies in Massachusetts and Maine (NOAA Fisheries, 2016b). From September through May, they disperse and can be abundant as far south as New Jersey. The range of gray seals appears to be shifting as they are regularly being reported further south than they were historically (Rees *et al.,* 2016).

Gray seals are uncommon in Virginia and the Chesapeake Bay. Only 15 gray seal strandings were documented in Virginia from 1988 through 2013 (Barco and Swingle, 2014). They are rarely found resting on the rocks around the portal islands of the CBBT from December through April alongside harbor seals. Seal observation surveys conducted at the CBBT recorded one gray seal in each of the 2014/2015 and 2015/2016 seasons while no gray seals were reported during the 2016/2017 and 2017/2018 seasons (Rees *et al.,* 2016, Jones *et al.,* 2018). Sightings have been reported off Virginia and near the project area during the winter and spring (Barco 2013; Rees *et al.,* 2016; Jones *et al.,* 2018; Ampela *et al.,* 2019).

Marine Mammal Habitat

No ESA-designated critical habitat overlaps with the project area. A migratory Biologically Important Area (BIA) for North Atlantic right whales is found offshore of the mouth of the Chesapeake Bay but does not overlap with the project area. As previously described, right whales are rarely observed in the Bay and sound from the proposed in-water activities are not anticipated to propagate outside of the Bay to the area associated with the BIA.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 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.
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. Five marine mammal species (3 cetacean and 2 phocid pinniped) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, one is classified as low-frequency (humpback whale), one is classified as mid-frequency (bottlenose dolphin) and one is classified as high-frequency (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 by Incidental Harassment* section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis and Determination* section considers the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far. The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and

anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping 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 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.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving, vibratory pile removal, and drilling with a DTH hammer. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive. Impulsive sounds (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure with rapid rise time and rapid decay (ANSI 1986; NIOSH 1998; NMFS 2018). Non-impulsive sounds (*e.g.* aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with raid rise/decay time that impulsive sounds do (ANSI 1995; NIOSH 1998; NMFS 2018). 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).

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005). A DTH hammer is used to place hollow steel piles or casings by drilling. A DTH hammer is a drill bit that drills through the bedrock using a pulse mechanism that functions at the bottom of the hole. This pulsing bit breaks up rock to allow removal of debris and insertion of the pile. The head extends so that the drilling takes place below the pile. The pulsing sounds produced by DTH hammers were previously thought to be continuous. However, the Chesapeake Tunnel Joint Venture (CTJV) conducted sound source verification (SSV) monitoring and the most significant finding was that the DTH hammer created an impulsive sound as the equipment was employed at the Parallel Thimble Shoal Tunnel Project in Virginia Beach, Virginia (Denes *et al.* 2019).

The likely or possible impacts of HRCP's proposed activity on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors include effects of heavy equipment operation during pile installation.

Acoustic Impacts

The introduction of anthropogenic noise into the aquatic environment from pile driving is the primary means by which marine mammals may be harassed from CTJV's specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.* 2007). Exposure to in-water construction noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior) and/or lead to non-observable physiological responses such an increase in stress hormones ((Richardson *et al.* 1995; Gordon *et al.* 2004; Nowacek *et al.* 2007; Southall *et al.* 2007; Gotz *et al.* 2009). Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), the species, age and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.* 2004; Southall *et al.* 2007). Here we discuss physical auditory effects (threshold shifts), followed by behavioral effects and potential impacts on habitat.

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.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that HRCP's activities would result in such effects (see below for further discussion). NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal

temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.* 2014b), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.,* 1958, 1959; Ward, 1960; Kryter *et al.,* 1966; Miller, 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). PTS levels for marine mammals are estimates, as with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.,* 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2018).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2018). Based on data from cetacean TTS measurements (see Southall *et al.,* 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.,* 2000; Finneran *et al.,* 2000, 2002). As described in Finneran (2016), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, 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. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

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 five species of pinnipeds 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. No data are 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 Table 5 in NMFS (2018).

Behavioral Harassment—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. Disturbance may result in 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. Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). 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). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. 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 above, 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 seismic 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).

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,b). 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; 2005b, 2006; Gailey *et al.* 2007).

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.,* 2007b). 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 (*Eschrictius robustus*) are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic 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).

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). 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.,* pile driving, 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.

Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (*e.g.* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Busy ship channels traverse Thimble Shoal. Commercial vessels including container ships and cruise ships as well as numerous recreational frequent the area, so background sound levels near the project area are likely to be elevated, although to what degree is unknown.

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.,* 2007b; 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.

Underwater Acoustic Effects

Potential Effects of Pile Driving Sound

The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.* 1995; Gordon *et al.* 2003; Nowacek *et al.* 2007; Southall *et al.* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.* 2008). Potential effects from impulsive sound sources like impact pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.* 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. Note that PTS constitutes injury, but TTS does not (Southall *et al.* 2007).

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.* 2006; Southall *et al.* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause non-auditory physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. We do not expect any non-auditory physiological effects because of mitigation that prevents animals from approach the source too closely. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or 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 (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

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 potentially lead to effects on growth, survival, or reproduction include:

- Changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

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).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. 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 vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Airborne Acoustic Effects

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in

harassment as defined under the MMPA.

Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. The known harbor seal haulouts at CBBT are 9.3 km away from the project area; however, smaller numbers of harbor seals have been known to occasionally haul out on the rocks near the HRBT (Danielle Jones, Naval Facilities Engineering Command Atlantic, pers. comm., April 2019 as cited in the application).

We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water or when hauled out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. Animals that are hauled out would likely enter the water and be ''taken'' due to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals would already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Marine Mammal Habitat Effects

The area likely impacted by the project is relatively small compared to the available habitat for all impacted species and stocks, and does not include any ESA-designated critical habitat. As previously mentioned, no BIAs overlap with the project area. The HRCP's proposed construction activities would not result in permanent negative impacts to habitats used directly by marine mammals, but could have localized, temporary impacts on marine mammal habitat including their prey by increasing underwater SPLs and slightly decreasing water quality. Increased noise levels may affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During pile driving, elevated levels of underwater noise would ensonify areas near the project where both fish and mammals occur and could affect foraging success.

There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of 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 in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by impact, vibratory, and DTH pile installation in the project area. Physical impacts to the environment such as construction debris are unlikely.

In-water pile driving would also cause short-term effects on water quality due to increased turbidity.

In-Water Construction Effects on Potential Foraging Habitat

Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. In general, turbidity associated with pile installation is localized to about a 25-foot (7.6 m) radius around the pile (Everitt *et al.,* 1980). Large cetaceans are not expected to be close enough to the project activity areas to experience effects of turbidity, and any small cetaceans and pinnipeds could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals.

Essential Fish Habitat (EFH) for several species or groups of species overlaps with the project area including: Atlantic herring (*Clupea harengus*), King Mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), and black sea bass (*Centropristus striata*). Use of soft start procedure and bubble curtains (during impact pile driving of 36-in steel piles at the Jet Grouting Trestle in water depths greater than 20 ft) will reduce the impacts of underwater acoustic noise to fish from pile driving activities. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. 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.

In-water Construction Effects on Potential Prey (Fish)—Construction activities would produce continuous (*i.e.,* vibratory pile driving) and pulsed (*i.e.* impact driving, DTH) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution (summarized in Popper and Hastings 2009). Hastings and Popper (2005) reviewed several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented physical and behavioral 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). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality (summarized in Popper *et al.,* 2014).

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this 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.

In summary, given the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, 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.

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 determinations.

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).

Take of marine mammals incidental to HRCP's pile driving and removal activities could occur by Level A and Level B harassment, as pile driving has the potential to result in disruption of behavioral patterns for individual marine mammals. 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 for authorization 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 authorized take estimates for each IHA.

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, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. The HRCP's proposed activities include the use of continuous, non-impulsive (vibratory pile driving) and impulsive (impact pile driving; DTH hammer) 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 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 *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technicalguidance.* HRCP's proposed activity includes the use of impulsive (impact pile driving, DTH drilling) and non-impulsive (vibratory pile driving) sources.

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. There are source level measurements available for certain pile types and sizes from the similar environments recorded from underwater pile driving projects (*e.g.,* CALTRANS 2015) that were used to determine reasonable sound source levels likely result from the HRCP's pile driving and removal activities (Table 5). HRCP has proposed to employ bubble curtains during impact pile driving of 36-in steel piles at the Jet Grouting Trestle in water depths greater than 20 ft. Therefore, a 7dB reduction of the sound source level will be implemented (Table 5).

TABLE 5—PREDICTED SOUND SOURCE LEVELS FOR ALL PILE TYPES

Method and pile type				Sound source level at 10 meters	Source
Vibratory hammer				dB rms	
42-inch steel pile				168 [a]	City and Borough of Sitka Department of Public Works 2017.
36-inch steel pile				167 [b]	DoN 2015.
24-inch steel pile				161 [c]	DoN 2015.
Down-the-hole hammer	dB rms	dB SEL	dB peak		
All pile sizes	180	164	190		Denes *et al.,* 2019.
Impact hammer	dB rms	dB SEL	dB peak		
36-inch steel pile	193	183	210		Chesapeake Tunnel Joint Venture 2018.
36-inch steel pile, attenuated*	186	176	203		DoN 2015; Chesapeake Tunnel Joint Venture 2018.
54-inch concrete cylinder pile	176	174	192		MacGillivray *et al.,* 2007.
30-inch concrete square pile	176	174	192		MacGillivray *et al.,* 2007.
24-inch concrete square pile	176	166	188		Caltrans, 2015.

SEL = sound exposure level; dB peak = peak sound level; rms = root mean square; DoN = Department of the Navy.

*SSLs are a 7 dB reduction for the usage of a bubble curtain.

[a] The SPL rms value of 168 dB is within 2 dB of Caltrans (2015) at 170 dB rms for 42-in piles.

[b] The SPL rms value of 167 is within 3 dB of Caltrans (2015) at 170 dB rms; however, the DoN (2015) incorporates a larger dataset and is better suited to this project.

[c] There is no Caltrans (2015) data available for this pile size. Caltrans is 155 dB rms for 12-in pipe pile or 170 dB rms for 36-in steel piles. The value of 161 dB rms has been also used in previous IHAs (*e.g.,* 82 FR 31400, 83 FR 12152, 84 FR 22453, and 84 FR 34134).

During pile driving installation activities, there may be times when multiple construction sites are active and hammers are used simultaneously. For impact hammering, it is unlikely that the two hammers would strike at

the same exact instant, and therefore, the sound source levels will not be adjusted regardless of the distance between the hammers. For this reason, multiple impact hammering is not discussed further. For simultaneous vibratory hammering, the likelihood of such an occurrence is anticipated to be infrequent and would be for short durations on that day. In-water pile installation is an intermittent activity, and it is common for installation to start and stop multiple times as each pile is adjusted and its progress is measured. When two continuous noise sources, such as vibratory hammers, have overlapping sound fields, there is potential for higher sound levels than for non-overlapping sources. When two or more vibratory hammers are used simultaneously, and the sound field of one source encompasses the sound field of another source, the sources are considered additive and combined using the following rules (see Table 6): For addition of two simultaneous vibratory hammers, the difference between the two sound source levels (SSLs) is calculated, and if that difference is between 0 and 1 dB, 3 dB are added to the higher SSL; if difference is between 2 or 3 dB, 2 dB are added to the highest SSL; if the difference is between 4 to 9 dB, 1 dB is added to the highest SSL; and with differences of 10 or more decibels, there is no addition.

TABLE 6—RULES FOR COMBINING SOUND LEVELS GENERATED DURING PILE INSTALLATION

Hammer types	Difference in SSL	Level A zones	Level B zones
Vibratory, Impact	Any	Use impact zones	Use vibratory zone.
Impact, Impact	Any	Use zones for each pile size and number of strikes.	Use zone for each pile size.
Vibratory, Vibratory	0 or 1 dB	Add 3 dB to the higher source level	Add 3 dB to the higher source level.
	2 or 3 dB	Add 2 dB to the higher source level	Add 2 dB to the higher source level.
	4 to 9 dB	Add 1 dB to the higher source level	Add 1 dB to the higher source level.
	10 dB or more	Add 0 dB to the higher source level	Add 0 dB to the higher source level.

Source: Modified from USDOT 1995, WSDOT 2018, and NMFS 2018b.
Note: dB = decibels; SSL = sound source level.

For simultaneous usage of three or more continuous sound sources, such as vibratory hammers, the three overlapping sources with the highest SSLs are identified. Of the three highest SSLs, the lower two are combined using the above rules, then the combination of the lower two is combined with the highest of the three. For example, with overlapping isopleths from 24-, 36-, and 42-inch diameter steel pipe piles with SSLs of 161, 167, and 168 dB rms respectively, the 24- and 36-inch would be added together; given that 167 − 161 = 6 dB, then 1 dB is added to the highest of the two SSLs (167 dB), for a combined noise level of 168 dB. Next, the newly calculated 168 dB is added to the 42-inch steel pile with SSL of 168 dB. Since 168 − 168 = 0 dB, 3 dB is added to the highest value, or 171 dB in total for the combination of 24-, 36-, and 42-inch steel pipe piles (NMFS 2018b; WSDOT 2018). As described in Table 6, decibel addition calculations were carried out for all possible combinations of vibratory installation of 24-, 36- and 42-inch steel pipe piles throughout the project area (Table 7).

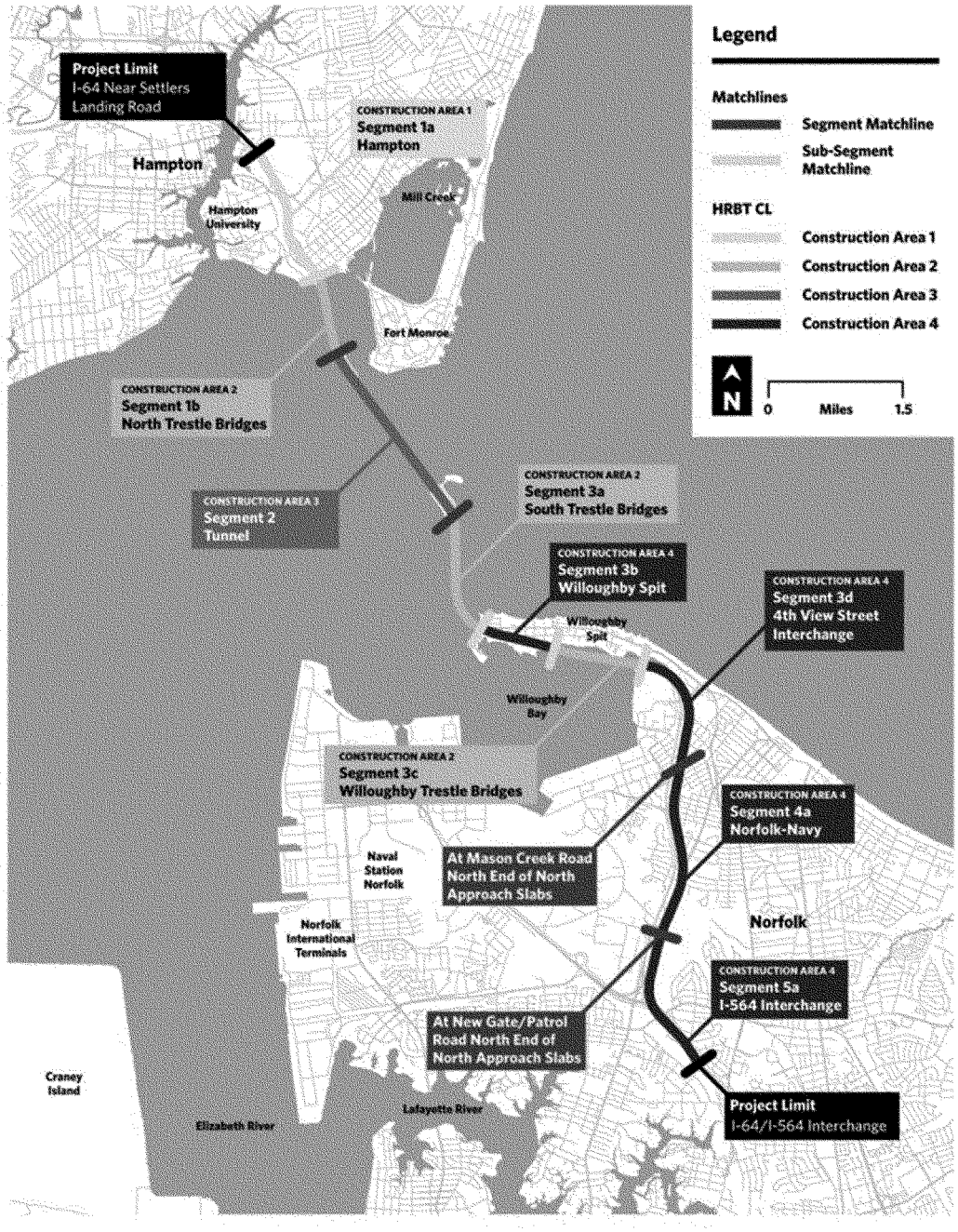

Figure 2-- HRBT Expansion Project Design Segments

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 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 incur PTS. Inputs used in the User Spreadsheet (Tables 8 through 10), and the resulting isopleths are reported below (Table 11).

In the chance that multiple vibratory hammers would be operated

simultaneously, to simplify implementation of Level A harassment zones, the worst-case theoretical scenarios were calculated for the longest anticipated duration of the largest pile size (42-in steel pile) that could be installed within a day (see Table 8). However, it would be unlikely that 6 sets of 3 piles could be installed in synchrony, but more likely that installations of piles would overlap by a few minutes at the beginning or end, throughout the day, so that during a 12-hour construction shift, there would be periods of time when 0, 1, 2, 3, or more hammers would be working.

TABLE 8—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING FOR ALL LOCATIONS

[User Spreadsheet Input—Vibratory Pile Driving Spreadsheet Tab A.1 Vibratory Pile Driving Used]

	24-in steel piles	36-in steel piles	36-in steel piles (at TBM platform)	42-in steel piles	42-in steel piles (multiple hammer event—3 hammers simultaneously)	42-in steel piles (multiple hammer event—2 hammers simultaneously)
Source Level (RMS SPL)	161	167	167	168	173	171
Weighting Factor Adjustment (kHz)	2.5	2.5	2.5	2.5	2.5	2.5
Number of piles within 24-hr period	6	6	2	6	*6	**9
Duration to drive a single pile (min)	30	50	60	30	30	30
Propagation (xLogR)	15	15	15	15	15	15
Distance of source level measurement (meters)	10	10	10	10	10	10

*(3 piles installed simultaneously, 6 piling events)
**(2 piles installed simultaneously, 9 piling events)

TABLE 9—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR IMPACT PILE DRIVING FOR THE JET GROUTING TRESTLE WITH AND WITHOUT A BUBBLE CURTAIN

[User Spreadsheet Input—Impact Pile Driving Spreadsheet Tab E.1–2 Impact Pile Driving Used for Jet Grouting Trestle]

	36-in steel piles	36-in steel piles (attenuated)
Source Level (SEL)	183	*176
Weighting Factor Adjustment (kHz)	2	2
Number of piles within 24-hr period	3	3
Number of strikes per pile	40	40
Propagation (xLogR)	15	15
Distance of source level measurement (meters)+	10	10

*The attenuated piles account for a 7dB reduction from the use of a bubble curtain.

TABLE 10—NMFS TECHNICAL GUIDANCE (2018) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR IMPACT PILE DRIVING AND DTH DRILLING

[User Spreadsheet Input—Impact Pile Driving Spreadsheet Tab E.1–2 Impact Pile Driving]

	North Trestle	North Trestle, Willoughby Bay, and South Trestle test pile program			South Island		DTH			
	36-in steel piles	24-in concrete square	30-in concrete square	54-in concrete cylinder	TBM Platform 36-in steel piles	Conveyor Trestle 36-in steel piles	TBM Platform 36-in steel piles	North Shore Work Trestle 36-in steel piles	Jet Grouting Trestle 36-in steel piles	Conveyor Trestle 36-in steel piles
Source Level (SEL)	183	166	174	174	183	183	180	180	180	180
Weighting Factor Adjustment (kHz)	2	2	2	2	2	2	2	2	2	2
Number of piles within 24-hr period	3	1	1	1	2	3	2	3	3	3
Number of strikes per pile	40	2,100	2,100	2,100	60	40	50,400	50,400	50,400	50,400
Propagation (xLogR)	15	15	15	15	15	15	15	15	15	15
Distance of source level measurement (meters)	10	10	10	10	10	10	10	10	10	10

TABLE 11—LEVEL A HARASSMENT ISOPLETHS FOR BOTH VIBRATORY AND IMPACT PILE DRIVING
[USER SPREADSHEET OUTPUT]

Pile Type/Activity	Sound source level at 10 m	PTS isopleths (meters)				PTS isopleths (km²)			
		Level A harassment				Level A harassment			
		Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid
Vibratory Pile Driving									
24-in steel pile installation (All Locations)	161 dB SPL	15	2	21	9	<0.01			
36-in steel pile installation (All Locations)	167 dB SPL	32	3	47	20	<0.01			
36-in steel pile installation (TMB Platform)	167 dB SPL	28	3	41	17	<0.01			
42-in steel pile installation (All Locations)	168 dB SPL	42	4	62	26	<0.10			
Impact Pile for the Jet Grouting Trestle									
36-in steel pile installation	183 dB SEL	243	9	290	130	0.11	<0.01	0.16	<0.10
36-in steel pile installation (attenuated)	176 dB SEL	83	3	99	45	0.014	<0.001	0.20	<0.01
Impact Pile Driving North Trestle									
36-in steel pile installation (North Shore Work Trestle).	183 dB SEL	243	9	290	130	0.19	<0.001	0.26	0.05
Impact Pile Driving for North Trestle, Willoughby Bay, and South Trestle Test Pile Program									
24-in concrete square pile installation/removal	166 dB SEL	121	5	144	65	0.05	<0.001	0.07	0.01
30-in concrete square pile installation/removal	174 dB SEL	412	15	490	221	0.53	<0.001	0.75	0.15
54-in concrete square pile installation/removal	174 dB SEL	412	15	490	221	0.53	<0.001	0.75	0.15
Impact Pile Driving for South Island									
36-in steel pile installation (TBM Platform)	183 dB SEL	243	9	290	130	0.11	<0.001	0.16	<0.10
36-in steel pile installation (Conveyor Trestle)	183 dB SEL	243	9	290	130	0.11	<0.001	0.16	<0.10
DTH Drilling									
36-in steel pile installation (TBM Platform)	180 dB SEL	1,171	42	1,395	627	2.437	<0.01	3.446	0.704
36-in steel pile installation (North Shore Work Trestle).	180 dB SEL	1,534	55	1,827	821	3.615	<0.01	4.790	1.548
36-in steel pile installation (Jet Grouting Trestle).	180 dB SEL	1,534	55	1,827	821	3.615	<0.01	5.908	1.548
36-in steel pile installation (Conveyor Trestle)	180 dB SEL	1,534	55	1,827	821	3.615	<0.01	5.908	1.548
Multiple Hammers—Vibratory Pile Driving (if occurs)*									
42-in steel pile installation (assumes 3 piles installed simultaneously, 6 piling events * 30 minutes each event in a 24-hr period).	173 dB SPL	89.6	7.9	132.5	54.5	0.025	0.0001	0.055	0.009
42-in steel pile installation (assumes 2 piles installed simultaneously, 9 piling events * 30 minutes each event in a 24-hr period).	171 dB SPL	86.4	7.7	127.8	52.5	0.023	0.0001	0.051	0.009

*SPLs were calculated by decibel addition as presented in Table 6 using the largest pile size (42-in steel piles) and possible combinations of two and three multiple hammer events. Please note: smaller piles may also have multiple hammer events; however, their SPLs would be smaller than the 42-in steel pipe pile scenarios so they are not presented here. The HRCP will be using the largest Level A isopleths calculated regardless of pile size during multiple hammering events.

For multiple hammering of 42-in steel pipe piles with a vibratory hammer on a single day, the calculated Level A harassment isopleth for the functional hearing groups would remain smaller than 100 m except for high-frequency cetaceans (*i.e.,* harbor porpoise). The Level A harassment isopleth for harbor porpoises would be 132.5 m and 127.8 m for the two scenarios (Table 11). It is unlikely that a harbor porpoise could accumulate enough sound from the installation of multiple piles in multiple locations for the duration required to meet these Level A harassment thresholds. Additionally, other combinations of pile sizes under multiple hammering with a vibratory hammer would result in Level A harassment thresholds smaller than 100 m. To be precautionary, a shutdown zone of 100 m would be implemented for all species for each vibratory hammer on days when it is anticipated that multiple vibratory hammers will be used regardless of pile size.

Level B Harassment

Utilizing the practical spreading loss model, underwater noise will fall below the behavioral effects threshold of 120 and 160 dB rms for marine mammals at the distances shown in Table 12 for vibratory and impact pile driving, respectively. Table 12 below provides all Level B harassment radial distances (m) and their corresponding areas (km²) during HRCP's proposed activities.

TABLE 12—RADIAL DISTANCES (METERS) TO RELEVANT BEHAVIORAL ISOPLETHS AND ASSOCIATED ENSONIFIED AREAS (SQUARE KILOMETERS (KM^2)) USING THE PRACTICAL SPREADING MODEL

Location and component	Method and pile type	Distance to Level B harassment zone (m)	Level B harassment zone (km^2)
Vibratory Hammer (Level B Isopleth = 120 dB)			
North Trestle			
Moorings	42-in steel piles	15,849	96.781
North Shore Work Trestle	36-in steel piles	13,594	85.525
Moorings	24-in steel piles	5,412	25.335
North Island			
Moorings	42-in steel piles	15,849	100.937
South Island			
TBM Platform	36-in steel piles	13,594	81.799
Conveyor Trestle	36-in steel piles	13,594	81.799
Jet Grouting Trestle	36-in steel piles	13,594	81.799
South Trestle			
Moorings	42-in steel piles	15,849	305.343
Moorings	24-in steel piles	5,412	55.874
Willoughby Bay			
Moorings	42-in steel piles	15,849	5.517
Moorings	24-in steel piles	5,412	5.517
Down-the-Hole Hammer (Level B Isopleth = 160 dB)			
North Shore Work Trestle	36-in steel piles	215	0.145
TBM Platform	36-in steel piles	215	0.087
Jet Grouting Trestle	36-in steel piles	215	0.087
Conveyor Trestle	36-in steel piles	215	0.087
Impact Hammer (Level B Isopleth = 160 dB)			
North Trestle			
North Shore Work Trestle	36-in steel piles	1,585	3.806
South Island			
TBM Platform	36-in steel piles	1,585	0.087
Conveyor Trestle	36-in steel piles	1,585	0.087
Jet Grouting Trestle with Bubble Curtain	36-in steel piles	* 541	* 0.012
North Trestle, South Trestle, Willoughby Bay			
Test Pile Program	54-in concrete cylinder piles	117	0.04
Test Pile Program	30-in concrete square piles	117	0.04
Test Pile Program	24-in concrete square piles	117	0.04

dB = decibels; km^2 = square kilometers; TBM = Tunnel Boring Machine.
* Values smaller than other 36-in steel piles due to usage of a bubble curtain, resulting in a 7 dB reduction in dB rms, dB peak, and dB SEL.

In some cases, particularly during DTH drilling and the test pile program, the calculated Level A harassment isopleths are larger than the Level B harassment zones. This has occurred due to the conservative assumptions going into calculation of the Level A harassment isopleths. Animals will most likely respond behaviorally before they are injured, especially at greater distances and unlikely to accumulate noise levels over a certain period of time that would likely lead to PTS.

When multiple vibratory hammers are used simultaneously, the calculated Level B harassment zones would be larger than the Level B harassment zones reported in above in Table 12 depending on the combination of sound sources due to decibel addition of multiple vibratory hammers as discussed earlier (see Table 7). Table 13 shows the calculated distances to the Level B harassment zone for decibel levels resulting from the simultaneous installation of piles with multiple vibratory hammers using the data provided in Table 7. However, the actual monitoring zones applied during multiple vibratory hammer use are discussed in the *Proposed Monitoring and Reporting* section.

TABLE 13—CALCULATED DISTANCES TO LEVEL B HARASSMENT ZONES FOR MULTIPLE HAMMER ADDITIONS

Combined SSL (dB)	Distance to Level B harassment zone (m)
163	7,356
164	8,577
165	10,000
166	11,659
167	13,594
168	15,849
169	18,478
170	21,544
171	25,119
172	29,286
173	34,145

Note: dB = decibels; SSL = sound source level.

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 will inform the take calculations. Potential exposures to impact and vibratory pile driving and removal for each acoustic threshold were estimated using local observational data. Take by Level A and B harassment is proposed for authorization.

Humpback whales

Humpback whales are more rare in the project area and density data for this species within the project vicinity are not available. Humpback whale sighting data collected by the U.S. Navy near Naval Station Norfolk and Virginia Beach from 2012 to 2015 (Engelhaupt *et al.* 2014, 2015, 2016) and in the mid-Atlantic (including the Chesapeake Bay) from 2015 to 2018 (Aschettino *et al.* 2015, 2016, 2017a, 2018) did not produce large enough sample sizes to calculate densities, or survey data were not collected during systematic line-transect surveys. Humpback whale densities have been calculated for populations off the coast of New Jersey, resulting in a density estimate of 0.000130 animals per square kilometer or one humpback whale within the area on any given day of the year (Whitt *et al.,* 2015), which may be similar to the density of whales in the project area. Aschettino *et al.* (2018) observed and tracked two individual humpback whales in the Hampton Roads area of the project area (Movebank, 2019). The HRCP is estimating up to two whales may be exposed to project-related noise every two months. Pile installation/removal is expected to occur over a 12-month period; therefore, a total of 12 instances of take by Level B harassment of humpback whales is proposed. Due to the low occurrence of humpback whales and because large whales are easier to sight from a distance, we do not anticipate or propose take of humpback whales by Level A harassment.

Bottlenose Dolphin

The expected number of bottlenose dolphins in the project area was estimated using daily sighting rates of marine mammals from vessel line-transect surveys near Naval Station Norfolk and adjacent areas near Virginia Beach, Virginia, from August 2012 through August 2015 (Engelhaupt *et al.,* 2016). Many of the data from the Engelhaupt *et al.* (2016) study were collected from the coastal region outside Chesapeake Bay, where bottlenose dolphin numbers are greater than in the project area. For this analysis, only bottlenose dolphin sightings located west of 76°10′ (76.16667°) were used, which includes the largest area that could be ensonified by project-related noise. Sighting rates (number of dolphins per day) were determined for each of the four seasons (Table 14). The number of sightings per season ranged from 5 in spring to 24 in fall; no bottlenose dolphins were sighted in the winter months. Bottlenose dolphin abundance was highest in the fall, with 24 sightings representing 245 individuals, followed by the spring (n = 156), and summer (n = 115). Therefore, the average daily sighting rate of bottlenose dolphins across spring, summer, and fall were averaged to estimate that 20.33 bottlenose dolphins per day potentially could be exposed to project-related noise (Table 14).

TABLE 14—AVERAGE DAILY SIGHTING RATES OF BOTTLENOSE DOLPHINS WITHIN THE PROJECT AREA

Season	Number of sightings per season	Average number of dolphins sighted per day
Spring, March–May	5	17.33
Summer, June–August	14	16.43
Fall, September–November	24	27.22
Winter, December–February	0	0.00
Average Dolphins: Spring, Summer, and Fall		20.33

Source: Engelhaupt *et al.,* 2016.

The number of days of pile installation is estimated to be 312 days. Therefore, the instances of take by Level B harassment proposed for this activity is 6,343 for bottlenose dolphins (20.33 bottlenose dolphins per day multiplied by 312 days). Because the Level A harassment zones are relatively small (a 55-m isopleth is the largest during DTH drilling of 36-in piles) and we believe the PSO will be able to effectively monitor the Level A harassment zones, we do not anticipate take by Level A harassment of bottlenose dolphins.

Harbor Seals

The expected number of harbor seals in the project area was estimated using systematic, land- and vessel-based survey data for in-water and hauled-out seals collected by the U.S. Navy at the CBBT rock armor and portal islands from November 2014 through May 2018 (Rees *et al.,* 2016; Jones *et al.,* 2018). The number of harbor seals sighted by month from 2014 through 2018, in the Chesapeake Bay waters, near the project area, ranged from 0 to 170 individuals (Table 15). Harbor seals are not expected to be present in the Chesapeake Bay during the months of June through October (Table 15 and Table 16).

TABLE 15—SUMMARY OF HISTORICAL HARBOR SEAL SIGHTINGS BY MONTH FROM 2014 TO 2018

Number of individual harbor seals						
Month	2014	2015	2016	2017	2018	Monthly average
January			33	120	170	107.7
February		39	80	106	159	96
March		55	61	41	0	39.3
April		10	1	3	3	4.3
May		3	0	0	0	0.8
June	Seals not expected to be present.					0
July	Seals not expected to be present.					0
August	Seals not expected to be present.					0
September	Seals not expected to be present.					0
October	Seals not expected to be present.					0
November	1	0	1	0		0.5
December	4	9	24	8		11.3

Source: Rees et al., 2016; Jones et al., 2018.
Note: Seal counts began in November 2014 and were collected for four field seasons (2014/2015, 2015/2016, 2016/2017, and 2017/2018) ending in May 2018. In January 2015, no surveys were conducted.

TABLE 16—AVERAGE NUMBER OF INDIVIDUAL HARBOR SEAL SIGHTINGS SUMMARIZED BY SEASON

Season	Average number of individuals per season
Spring (March–May)	45
Summer (June–August)	0
Fall (September–November)	1
Winter (December–February)	215
Total Harbor Seals Per Year	261

Note: Data presented is from Table 15.

Using the above data, the total instances of take by Level B harassment for harbor seals is 261. The largest Level A harassment isopleth calculated from DTH drilling of 36-in steel pipe piles for harbor seals is 821 meters (Table 11). The area of this Level A harassment zone is 1.55 km^2, which is larger than the area of the Level B harassment zone (0.015 km^2). The known harbor seal haulouts at CBBT are 9.3 km away from the project area; however, smaller numbers of harbor seals have been known to occasionally haul out on the rocks near the HRBT (Danielle Jones, Naval Facilities Engineering Command Atlantic, pers. comm., April 2019 as cited in the application). It is unlikely that harbor seals using the CBBT haulouts will approach the project area within 821 m of pile installation and potentially incur Level A harassment. On approximately 21 percent of the pile driving days, the calculated Level A harassment zone would exceed the size of the calculated Level B harassment zone during DTH drilling. To account for any seals that may haul out on the rocks near HRBT, particularly during DTH drilling, HRCP requests 55 instances of take by Level A harassment of harbor seals as part of the 261 total instances of take requested. If any seals are hauled out on rocks near the HRBT, it is likely they will enter the water and be taken from Level B harassment in-water. Therefore, we are not proposing any in-air harassment takes for harbor seals.

Gray Seals

The expected number of gray seals in the project area was estimated using systematic, land- and vessel-based survey data for in-water and hauled-out seals collected by the U.S. Navy at the CBBT rock armor and portal islands from 2014 through 2018 (Rees *et al.,* 2016; Jones *et al.,* 2018). Seasonal numbers of gray seals in the Chesapeake Bay waters in the vicinity of the project area in previous years have been low (Table 17). Gray seals are not expected to be present in the Chesapeake Bay during the months of June through October (Table 17 and Table 18).

TABLE 17—SUMMARY OF HISTORICAL GRAY SEAL SIGHTINGS BY MONTH FROM 2014 TO 2018

Number of individual gray seals						
Month	2014	2015	2016	2017	2018	Monthly average
January		0	0	0	0	0
February		1	1	0	1	0.8
March		0	0	0	0	0
April		0	0	0	0	0
May		0	0	0	0	0
June	Seals not expected to be present.					0

TABLE 17—SUMMARY OF HISTORICAL GRAY SEAL SIGHTINGS BY MONTH FROM 2014 TO 2018—Continued

Month	Number of individual gray seals					
	2014	2015	2016	2017	2018	Monthly average
July	Seals not expected to be present.					0
August	Seals not expected to be present.					0
September	Seals not expected to be present.					0
October	Seals not expected to be present.					0
November	0	0	0	0	.....	0
December	0	0	0	0	.....	0

Source: Rees et al., 2016; Jones et al., 2018.

TABLE 18—AVERAGE NUMBER OF INDIVIDUAL GRAY SEAL SIGHTINGS SUMMARIZED BY SEASON

Season	Average number of individuals per season
Spring (March–May)	0
Summer (June–August)	0
Fall (September–November)	0
Winter (December–February)	1

Note: Data generated from Table 17.

Gray seals are expected to be very uncommon in the project area. The historical data indicate that approximately one gray seal has been seen per year. To be conservative, HRCP requests three instances of take by Level B harassment of gray seals during each winter month (December through February). Therefore, HRCP estimate that nine instances of take by Level B harassment of gray seals could occur (three gray seals per month multiple by three months = nine gray seals). Because of the unlikely to low occurrence of gray seals in the project area, we do not anticipate take by Level A harassment of gray seals.

Harbor Porpoise

Harbor porpoises are known to occur in the coastal waters near Virginia Beach (Hayes *et al.* 2019), and although they have been reported on rare occasions in the Chesapeake Bay, closer to Norfolk, they are rarely seen in the project area. Density data for this species within the Project vicinity do not exist or were not calculated because sample sizes were too small to produce reliable estimates of density. Harbor porpoise sighting data collected by the U.S. Navy near Naval Station Norfolk and Virginia Beach from 2012 to 2015 (Engelhaupt *et al.,* 2014; 2015; 2016) did not produce enough sightings to calculate densities. One group of two harbor porpoises was seen during spring 2015 (Engelhaupt *et al.,* 2016). Based on this data, it estimated that one group of two harbor porpoises could be exposed to project-related in-water noise each month during the spring (March–May) for a total of 6 instances of take by Level B harassment (*i.e.,* one group of two individuals per month multiplied by three months = six harbor porpoises).

The largest calculated Level A harassment isopleth for high frequency cetaceans (*i.e.,* harbor porpoises) extends 1,827 m during DTH drilling of 36-in steel pipe piles. The area of this Level A harassment zone is 5.9 km^2, which is larger than the area of the Level B harassment zone (0.015 km^2). Because of this disparity in sizes of the calculated zones, and because harbor porpoises are relatively difficult to observe, it is possible they may occur within the calculated Level A harassment zone without detection. As such, HRCP requests a small number of takes by Level A harassment for harbor porpoises during the project. On approximately 21 percent of the pile driving days, the calculated Level A harassment zone would exceed the size of the calculated Level B harassment zone during DTH drilling. It is anticipated that two harbor porpoises may enter the calculated Level A harassment zone during this time. Therefore, we propose to authorize a total of 2 instances of take by Level A harassment.

Table 19 below summarizes the proposed authorized take for all the species described above as a percentage of stock abundance.

TABLE 19—PROPOSED TAKE BY LEVEL A AND B HARASSMENT AND AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Proposed Level A takes	Proposed Level B takes	Total Takes proposed for authorization	Percentage of stock
Humpback whale	Gulf of Maine	0	12	12	Less than 2 percent.
Harbor porpoise	Gulf of Maine/Bay of Fundy	2	4	6	Less than 1 percent.
Bottlenose dolphin	WNA Coastal, Northern Migratory [a]	0	3,063	3,063	46.13.
	WNA Coastal, Southern Migratory [a]	0	3,063	3,063	81.66.
	NNCES [a]	0	216	216	26.25.
Harbor seal	Western North Atlantic	55	206	261	Less than 1 percent.
Gray seal	Western North Atlantic	0	9	9	Less than 1 percent.

[a] Take estimates are weighted based on calculated percentages of population for each distinct stock, assuming animals present would follow same probability of presence in project area.

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 proposed), the likelihood of effective implementation (probability implemented as proposed), 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 included in the proposed IHAs:

Timing Restrictions

All work will be conducted during conditions of good visibility. If poor environmental conditions restrict full visibility of the shutdown zone, pile installation would be delayed.

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 activities, HRCP will establish shutdown zones for a marine mammal species which correspond to the Level A harassment zones (see Table 11). 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). HRCP will maintain a minimum 10 m shutdown zones for all pile driving activities where the calculated Level A harassment zone is less than 10 m as described in Table 11.

If multiple vibratory hammering occurs, a shutdown zone of 100 m would be implemented for all species for each vibratory hammer on days when it is anticipated that multiple vibratory hammers will be used regardless of pile size.

Bubble Curtain

HRCP would use an air bubble curtain system during impact pile driving of 36-in steel pipe piles for the Jet Grouting Trestle. Bubble curtains would meet the following requirements: The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. The lowest bubble ring must be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact. The bubble curtain must be operated such that there is proper (equal) balancing of air flow to all bubblers. HRCP would employ the bubble curtain during impact pile driving of all steel piles in water depths greater than 6 m (20 ft) at the Jet Grouting Trestle.

Soft Start

HRCP would use soft start techniques when impact pile driving. 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 would 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.

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 shutdown 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.

Based on our evaluation of the HRCP's proposed measures, NMFS has determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

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.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 min or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 min. 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 min. If the Level B harassment zone (*i.e.,* the monitoring zone) has been observed for 30 min 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 HRCP will establish monitoring zones for Level B harassment as presented in Table 12. The monitoring zones for this project are areas where SPLs are equal to or exceed 120 dB rms (for vibratory pile driving/removal) or 160 dB rms (for impact pile driving and DTH drilling). 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, and thus prepare for potential shutdowns of activity. The HRCP will also be gathering information to help better understand the impacts of their proposed activities on species and their behavioral responses. If the entire Level B harassment zone is not visible, Level B harassment takes will be extrapolated based upon the number of observed takes and the percentage of the Level B harassment zone that is not visible.

Multiple Hammer Level B Harassment Zones

Due to the likelihood of multiple active construction sites across the project area, it is possible that multiple vibratory hammers with overlapping sound fields may be in operation simultaneously during certain times throughout the duration of the Project. As described in the *Estimated Take* section, the decibel addition of continuous noise sources results in much larger zone sizes than a single vibratory hammer. Decibel addition is not a consideration when sound fields do not overlap. Willoughby Bay is largely surrounded by land, and sound will be prevented from propagating to other project construction sites (see Figure 1–1 and Figure 6–1 of the application). Therefore, Willoughby Bay will be treated as an independent site with its own sound isopleths and observer requirements when construction is taking place within the bay. Willoughby Bay is relatively small and will be monitored from the construction site by a single observer.

Additionally, the South Trestle is the only site where the sound will propagate into Chesapeake Bay (see Figure 6–1 of the application). Sound from other construction sites will not overlap with South Trestle and will not propagate into Chesapeake Bay. Therefore, the South Trestle also will be treated as an independent site with its own sound isopleths and observer requirements when construction is taking place. When the South Trestle site is active, an observer will be positioned on land to view as much of the Level B harassment zone as possible. If the entire Level B harassment zone is not visible, Level B harassment takes will be extrapolated based upon the number of observed takes and the percentage of the Level B harassment zone that is not visible.

If two or more vibratory hammers at the other three project sites (North Trestle, North Shore, South Island) are installing piles, there is potential for the sound fields to overlap when installation occurs simultaneously. If two piles that are 36-in or larger in diameter are simultaneously installed with vibratory hammers, the Level B Harassment zone can extend up to a 25 km radius to the southwest (see Figure 6–1, 171 dB isopleth of the application). However, the Level B harassment zones resulting from simultaneous use of multiple vibratory hammers are truncated in nearly all directions by the mainland and islands, which prevent propagation of sound beyond the confines of a core area (see Figure 11–1 (area outlined in red) of the application). The largest ensonified radii extend to the south into the James and Nansemond rivers, areas where marine mammal abundance is anticipated to be low and approaching zero. Therefore, HRCP will monitor a core area, called the Core Monitoring Area, during times when two or more vibratory hammers are simultaneously active at the other three project construction sites (North Trestle, North Shore, South Island). The Core Monitoring Area would encompass the area between the two bridge/tunnels, with observers positioned at key areas to monitor the geographic area between the bridges (see Figure 11–1 (area outlined in red) of the application). Depending on placement, the observers will be able to view west/southwest towards Batten Bay and the mouth of the Nansemond River. Marine mammals transiting the area will be located and identified as they move in and out of the Chesapeake Bay.

Visual Monitoring

Monitoring would be conducted 30 minutes before, during, and 30 minutes after all pile driving/removal activities. In addition, PSOs shall 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 thirty minutes.

Monitoring will be conducted by PSOs from land. The number of PSOs will vary from one or more, 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. Monitoring locations may vary based on construction activity and location of piles or equipment.

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 shall be conducted by qualified, NMFS-approved PSOs, who shall have no other assigned tasks during monitoring periods. The HRCP shall adhere to the following conditions when selecting PSOs:

- Independent PSOs shall 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 shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction; and
- The HRCP shall submit PSO CVs for approval by NMFS for all observers prior to monitoring. The HRCP 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.

Reporting of Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, HRCP shall report the incident to the Office of Protected Resources (OPR), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Final Report

The HRCP 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. PSO datasheets/raw sightings data would be required to be submitted with the reports. The HRCP shall provide a final report within 30 days following resolution of NMFS' comments on the draft report. Reports shall contain, at minimum, the following:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.,* impact or vibratory);
- Weather parameters and water conditions during each monitoring period (*e.g.,* wind speed, percent cover, visibility, sea state);
- The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting;
- Age and sex class, if possible, of all marine mammals observed;
- PSO locations during marine mammal monitoring;
- Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);
- Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level A and Level B harassment zones while the source was active;
- Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate);
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any;
- Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals;
- An extrapolation of the estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible; and
- Submit all PSO datasheets and/or raw sighting data (in a separate file from the Final Report referenced immediately above).

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 activities associated with the proposed HRCP project, as outlined previously, have the potential to disturb or displace marine mammals. The specified activities may result in take, in the form of Level B harassment (behavioral disturbance) or Level A harassment (auditory injury), incidental to underwater sounds generated from pile driving. Potential takes could occur if individuals are present in the ensonified zone when pile driving occurs. Level A harassment is only anticipated and proposed for harbor porpoises and harbor seals.

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the proposed mitigation measures. When impact pile driving is used, implementation of bubble curtains (during 36-in steel piles at the Jet Grouting Trestle in water depths greater than 20 ft), soft start and shutdown zones significantly reduce the possibility of injury. Given sufficient notice through use of soft starts (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious.

HRCP will use qualified PSOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury for most species. PSOs will be stationed to provide a relatively clear view of the shutdown zones and monitoring zones. These factors will limit exposure of animals to noise levels that could result in injury.

HRCP's proposed pile driving activities are highly localized. Only a relatively small portion of the Chesapeake Bay may be affected. Localized noise exposures produced by project activities may cause short-term behavioral modifications in affected cetaceans and pinnipeds Moreover, the proposed mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

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). Individual animals, even if taken multiple times, will most likely 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. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. Furthermore, many projects similar to this one are also believed to result in multiple takes of individual animals without any documented long-term adverse effects. Level B harassment will be minimized through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that small numbers of harbor porpoises and harbor seals may enter the Level A harassment zones undetected, particularly during times of DTH drilling when the Level A harassment zones are large. It is unlikely that the animals would remain in the area long enough for PTS to occur. If any animals did experience PTS, it would likely only receive 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 or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal's threshold would increase by a few dBs, which is not likely to meaningfully affect its ability to forage and communicate with conspecifics. 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.

The project is not expected to have significant adverse effects on marine mammal habitat. No important feeding and/or reproductive areas for marine mammals are known to be near the project area. Project activities would not permanently modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammal foraging opportunities in a limited portion of the foraging range. However, because of the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Limited Level A harassment exposures (harbor porpoises and harbor seals) are anticipated;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The specified activity and associated ensonifed areas are very small relative to the overall habitat ranges of all species and does not include habitat areas of special significance (BIAs or ESA-designated critical habitat); and
- The presumed efficacy of the proposed mitigation measures 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 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.

The proposed take of four of the five marine mammal species/stocks comprises less than one-third of the best available stock abundance, with the exception of the bottlenose dolphin stocks. There are three bottlenose dolphin stocks that could occur in the project area. Therefore, the estimated dolphin takes by Level B harassment would likely be portioned among the western North Atlantic northern migratory coastal stock, western North Atlantic southern migratory coastal stock, and NNCES stock. Based on the stocks' respective occurrence in the area, NMFS estimated that there would be 216 takes from the NNCES stock, with the remaining takes evenly split between the northern and southern migratory coastal stocks. Based on consideration of various factors described below, we have determined the numbers of individuals taken would likely comprise less than one-third of the best available population abundance estimate of either coastal migratory stock. Detailed descriptions of the stocks' ranges have been provided in *Description of Marine Mammals in the Area of Specified Activities.*

Both the northern migratory coastal and southern migratory coastal stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these two stocks it is unlikely that large segments of either stock would approach the project area and enter into the Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The northern migratory coastal stock is found during warm water months from coastal Virginia, including the Chesapeake Bay and Long Island, New York. The stock migrates south in late summer and fall. During cold water months dolphins may be found in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia. During January–March, the southern migratory coastal stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Bay and waters offshore of the mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be located in the vicinity of the Bay for relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~two months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur only within some small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July–August). Members of this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young, 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km^2, while the NNCES stock occupies over 8,000 km^2 (LeBrecque *et al.,* 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock would depart the North Carolina estuarine system and travel to the northern extent of the stock's range. However, recent evidence suggests that there is like a small resident community of NNCES dolphins that inhabits the Chesapeake Bay year-round (E. Patterson, NMFS, pers. comm.).

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (J. Mann, Potomac-Chesapeake Dolphin Project, pers. comm.). Multiple sightings of the same individual would considerably reduce the number of individual animals that are taken by Level B harassment. Furthermore, the existence of a resident dolphin population in the Bay would increase the percentage of dolphin takes that are actually re-sightings of the same individuals.

In summary and as described above, the following factors primarily support our preliminary determination regarding the incidental take of small numbers of the affected stocks of bottlenose dolphin:

- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it would be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Bay;
- The Bay represents the migratory boundary for each of the specified dolphin stocks and it would be unlikely to find a high percentage of any stock concentrated at such boundaries; and
- Many of the takes would likely be repeats of the same animals and likely from a resident population of the Bay.

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 the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed marine

mammals are expected or proposed for authorization. Therefore, NMFS has determined that consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposed to issue an IHA to the HRCP for pile driving activities associated with the HRBT Expansion Project in Hampton-Norfolk, Virginia for a period of one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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